



**Ministry of Attorney General  
Justice Services Branch  
Family Justice Services Division**

**Evaluation of the Family Justice Registry  
(Rule 5)  
Pilot Project  
  
Final Report**

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## EXECUTIVE SUMMARY

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### Background and Introduction

On December 1, 1998, the Ministry of Attorney General introduced new Provincial (Family) Court Rules, which made a number of procedural changes to the court process for family cases. The rules changes were made in response to the identification of a number of issues related to the accessibility and timeliness of the family court process as well as the complexity of the family justice system for parties seeking to use it.

Rule 5 was one of the new rules introduced as part of a dispute resolution track in provincial court.<sup>1</sup> The Rule 5 Initiative was designed to promote the reduction of provincial court utilization by parties dealing with issues that fall under the Family Relations Act (FRA) by promoting early settlement through the use of alternative (non-court) methods of dispute resolution.

Under Rule 5, applicants and respondents involved in a family case are required to meet with a Family Justice Counsellor (FJC) for triage prior to a first appearance before a judge. Policy requires that a triage appointment is made within five days after a party contacts the triage office, for regular Rule 5 cases, and on the same day the party contacts the office, for claims of urgency. At the first meeting, the FJC works with the client to clarify the issues and provides information about services and dispute resolution options available. At any point in the triage or Rule 5 mediation process, the parties can request a referral to court. Another rule change introduced as part of the dispute resolution track was the implementation of Family Case Conferences for the purpose of judicial dispute resolution. In the Family Case Conference, the judge can mediate any or all of the issues in dispute and decide issues that do not require evidence.

Rule 5 was implemented on a test basis at five pilot sites: Robson Square, Surrey, Nelson, Castlegar and Rossland. Five comparison sites were also identified for the purposes of the evaluation: Abbotsford, Richmond, North Vancouver, Victoria, and Cranbrook. A sixth pilot site was added in May 2001, the Kelowna court registry. Data were also collected at Kamloops, an additional non-Rule 5 site.

This report provides a summary of the key highlights of the results of the *Summative Evaluation of the Family Justice Registry (Rule 5) Pilot Project*.

### Exemptions from Rule 5

The new rules provide for exemptions from Rule 5. One exemption from Rule 5 occurs with cases where an applicant applies for child support and signs her/his rights to child support over to the government under BC Employment and Assistance legislation.<sup>2</sup> A second exemption from Rule 5 occurs if an applicant is seeking a restraining or a no contact order under s. 37 or s. 38 of the FRA. In these cases court registry staff book an appearance

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<sup>1</sup> Other rules changes included the introduction of applicant driven service procedures, 30 day reply period for the respondent, Family Case Conferences, Trial Preparation Conferences and fixed trial dates.

<sup>2</sup> If the respondent files a claim as part of a reply, then he or she is not exempt.

before a judge on the same or next day. Similarly, cases that present urgent and exceptional circumstances can also be granted an exemption from Rule 5 by a judge.<sup>3</sup>

### **Evaluation Objectives and Approach**

The purpose of the evaluation is to assess changes attributable to Rule 5. Given the overall goals of the initiative, the primary objectives of the evaluation are as follows:

1. To identify the extent to which Rule 5 has been effective in terms of diverting FRA cases from court to alternative dispute resolution processes (i.e., Family Justice Centres).
2. For those cases that do go to court, identify the extent to which the courts operate more efficiently and effectively in terms of court usage, resolution of issues, means of resolution, and level of client preparation subsequent to Rule 5 triage sessions.<sup>4</sup>

A number of research activities were undertaken to ensure a balance of qualitative and quantitative information would be collected.

#### ➤ *Qualitative Research:*

- 39 in-depth, semi-structured key informant interviews with staff associated with the FRA-related court process;
- a client satisfaction survey with 297 clients who had received triage;
- brief follow-up interviews with court registry staff; and,
- researcher observations.

In the Rule 5 pilot sites, key informants included members of the judiciary, FJCs and court registry staff. At the comparison sites, members of the judiciary and court registry staff were interviewed.

#### ➤ *Quantitative Research:*

For the case file review component of the research, only those court registry files that contained an FRA application (i.e., application for a new order or application to change or cancel an order) were included. The following research activities were completed:

- identification of court registry files opened during the evaluation periods that contained an FRA application;
- an extensive case file review (2,817 files and 3,361 applications overall) at each of the court registries included in the evaluation (the review was based on a census of applications contained in court registry files opened during the two evaluation periods);
- cross-referencing of case files in the Rule 5 sites with triage client tracking data in an attempt to determine triage outcomes<sup>5</sup>.

The evaluation was designed to enable an examination of incremental changes that can be attributed to Rule 5 in isolation from the effects of other rules that were introduced at the

<sup>3</sup> Application where the applicant is seeking an order under s.37 or s.38 of the FRA or cases that present urgent and exceptional circumstances are referred to as "claims of urgency" in the remainder of the report. The Rules pertaining to these types of cases are contained in Appendix A.

<sup>4</sup> The efficiency and effectiveness of the courts were not measured, rather, what was measured was how effectively cases were resolved through the court process (versus court operations).

<sup>5</sup> The triage tracking data was only minimally useful due to issues of reliability in recording methods used.

same time and other family justice programs introduced recently at some sites. Comparative analyses were applied to determine the effects of Rule 5 on court activity. Comparisons were made between the two evaluation periods (pre and post-implementation) and between Rule 5 and non-Rule 5 sites.

### **Review of Site Characteristics and Business Processes**

The evaluation framework included a component to review the characteristics and business processes of Rule 5 and non-Rule 5 sites. The intent was to determine the comparability of Rule 5 court registries with non-Rule 5 court registries.

Due to the uniqueness of individual court registries, it was determined that comparative analyses would be best if they were based on the aggregate results for Rule 5 pilot sites in comparison with the aggregate results of the non-Rule 5 sites, rather than on a site-by-site basis. The underlying rationale for aggregating the results was that the comparison sites as a group more closely resembled the Rule 5 sites as a group than they would resemble each other in one-to-one comparisons. The Kelowna site was examined independently of the other sites due to the time differential for program implementation and the introduction of a second pilot project at the Kelowna Family Justice Centre.

### **Key Highlights**

Although general references to Rule 5 sites in the following highlights include Kelowna, the statistics cited in the text are those associated with the original Rule 5 sites. Kelowna results are included as footnotes to demonstrate that Kelowna results replicated those of the original sites, validating the results obtained from the analysis of the original sites.

#### **Diversion from Court**

##### ***Results suggest that Rule 5 has been successful in diverting cases from the courts.***

The results of the case file review indicate that Rule 5 had an effect on court usage. Comparison of the difference in applications for which there was no court activity after filing an application in Rule 5 and non-Rule 5 sites between the pre- and post-implementation period controlled for changes created by the other rules introduced at the same time as Rule 5.

The proportion of cases with no court activity recorded after filing an application increased in Rule 5 sites from 3% to 29% as compared to an increase in non-Rule 5 sites from 2% to 17%.<sup>6</sup> The increase observed in the Rule 5 sites was approximately 60% larger than the increase in the non-Rule 5 sites.<sup>7</sup> Stated another way, prior to the introduction of Rule 5, 97% of cases opened in Rule 5 sites proceeded to some form of court activity, however, in the post-implementation period, only 71% of applications filed in Rule 5 sites had any court activity. In contrast, in the post-implementation period, 83% of cases opened in the non-

<sup>6</sup> A summary of the results for cases identified as having no further activity (court or otherwise) and no discernable case is contained in Table E-5 in Appendix E.

<sup>7</sup> The proportion of cases in Kelowna where there was no further activity and no court activity increased from 3% to 27%.

Rule 5 sites proceeded to court. The results, therefore, can be considered evidence that Rule 5 is diverting cases from court.

It is important to note that, in fact, a higher proportion of cases could have been diverted from the courts. Case files that were opened prior to the evaluation period also attended triage but were not reviewed as part of this evaluation. In addition, court registry staff at many Rule 5 sites routinely refer people to triage without the parties first submitting an application.

### Court Activity/Usage

***The rate of court activity per application decreased by 41% in Rule 5 sites compared to a decrease of 17% in comparison sites.***

Between the pre-implementation and post-implementation periods, the rate of court activity per application declined significantly in non-Rule 5 sites, from 1.61 to 1.33 appearances and hearings per application (0.28 fewer activities per application); a 17% decrease. The rate of court activities per application also declined significantly in Rule 5 sites from 2.12 to 1.26 activities per application (0.86 fewer activities per application); a 41% decrease. The difference in the decreases observed at the Rule 5 and the non-Rule 5 sites (i.e. 0.28 vs. 0.86) is significant.<sup>8</sup>

It is particularly noteworthy that the rate of court activity in the Rule 5 sites decreased from a rate 32% higher than in the non-Rule 5 sites in the pre-implementation period to a rate that was 5% lower than the non-Rule 5 sites in the post-implementation period.

### Preparation of Parties

***Triage clients receive a number of benefits from the services.***

Information collected in the key informant interviews provide evidence that parties receive a number of benefits through triage. Triage clients who go before the court appear to be better prepared than parties who do not receive triage.

The main themes that emerged from the interviews include:

- Triage serves to educate and inform clients about the family justice process and alternative methods of dispute resolution.
- Meeting with an FJC helps parties to clarify and/or narrow issues, and consider the other party's issues prior to court or a Family Case Conference.
- Triage has a "diffusing" effect, addressing the charged emotions that often characterize family justice cases.

Members of the judiciary indicated that parties are "better prepared" for court or a Family Case Conference as they have a better understanding of the issues, know what to expect in court, know what they have to prove and know what documents to bring.

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<sup>8</sup> The average rate of court activities in Kelowna was 1.60 in the pre-implementation period and 0.92 in the post-implementation period, a decrease of 42%.

***Interviews with members of the judiciary revealed a number of benefits associated with using Family Case Conferences as a judicial tool for dispute resolution.***

In general, judges indicated that Family Case Conferences had a number of qualities as an alternative to court for the resolution of family related issues. These qualities include:

- Judges can have more impact with parties in the judicial dispute resolution process through Family Case Conferences than through the adversarial court process.
- Family Case Conferences provide parties with a personal forum for discussion that mitigates the threats to family relationships between parties.
- Parties are provided an opportunity to gain a clearer focus of the issues and reach some consent as a participant in the mediation process.
- Family Case Conferences greatly reduce or even eliminate the subsequent use of court appearances or hearings.

Case Settlement Patterns

***Fewer court orders were identified as the final outcome for post-Rule 5 applications than for non-Rule 5 and pre-Rule 5 applications.***

In the pre-implementation period, the proportion of applications that concluded with orders made by a judge in court order was similar in Rule 5 and non-Rule 5 sites (40% and 44%, respectively). In the post-implementation period, the proportion of cases concluding with orders made by the judge in court increased in the non-Rule 5 sites (from 44% to 48%) but decreased in Rule 5 sites (from 40% to 35%).<sup>9</sup> The decrease in orders made by a judge in court in the Rule 5 sites is consistent with the results that reveal a decline in court usage (i.e., a diversion of cases from the courts) in the Rule 5 sites<sup>10</sup>. That is, by diverting cases from the courts at the outset, parties whose problems were better served by other, non-court services were eliminated from the pool of final outcomes thereby reducing the proportion of orders made by a judge in court.

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<sup>9</sup> These proportions are based on the total number of applications excluding those where the outcome was identified as “no further activity” and those where there was no apparent resolution or outcome discernable from the case file information or FJC tracking sheet.

<sup>10</sup> In Kelowna, the proportion of outcomes identified as orders generated in court fell from 53% in the pre-implementation period to 39% in the post-implementation period.

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## SECTION 1. BACKGROUND AND EVALUATION FRAMEWORK

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This section of the *Final Report of the Evaluation of the Family Justice Registry (Rule 5) Pilot Project* provides an introduction and a brief description of changes to the provincial family court rules introduced in 1998, presents the program goals and objectives of Rule 5 and describes Rule 5 procedures. Also included is an overview of the evaluation, consisting of background information, methodology, performance indicators and operational definitions.

Information is provided under the following headings:

- **Background**
  - Rule 5 Goals and Objectives
  - Triage and the Role of the Family Justice Counsellor
  - Exemptions from Rule 5
- **Research Background**
- **Evaluation Objectives and Design**
- **Performance Indicators**
- **Research Issues: Kelowna and Kamloops**

### 1.1 **Background**

On December 1, 1998, the Ministry of Attorney General introduced new provincial family court rules, which made a number of procedural changes to the court process for family cases. The rules changes were made in response to the identification of a number of issues related to the accessibility and timeliness of the family court process as well as the complexity of the family justice system for parties seeking to use it.

In general, the rules changes were designed to provide for better case management and early settlement opportunities within the family justice system. For example, one of the new rules requires the applicant to be responsible for serving the respondent with the relevant forms/documentation. Upon service, the respondent can file a reply within 30 days. This provides the respondent an opportunity to consider the application and consent or make a reply. Parties can identify which matters are at issue prior to the first appearance and, in some cases, by-pass an appearance before the court altogether (i.e., request a desk order). Another rule change was the introduction of Family Case Conferences for the purpose of judicial dispute resolution. In the Family Case Conference, the judge can mediate any or all of the issues in dispute and decide issues that do not require evidence.

Rule 5 was one of the new rules introduced as part of a dispute resolution track in provincial court.<sup>11</sup> Unlike the other rules changes, which were introduced at all of BC's provincial court registries, Rule 5 was implemented on a test basis at five pilot sites: Robson Square, Surrey, Nelson, Castlegar and Rossland. In May 2001, Rule 5 was also introduced at a sixth site, namely, the Kelowna court registry.

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<sup>11</sup> Other rules changes included the introduction of Trial Preparation Conferences and fixed trial dates.

### 1.1.1 Rule 5 Goals and Objectives

The Rule 5 Initiative was designed to promote the reduction of provincial court utilization by parties dealing with issues that fall under the Family Relations Act (FRA) by promoting early settlement through the use of alternative (non-court) methods of dispute resolution. Specifically, Rule 5 was designed to meet three broad goals<sup>12</sup>:

1. To increase the appropriate use of non-adversarial dispute resolution.
2. To promote early dispute resolution.
3. To reduce the number and complexity<sup>13</sup> of Family Relations Act trials.

Four program objectives were identified as key to achieving the goals associated with Rule 5. The program objectives are as follows<sup>14</sup>:

- provide all parties with appropriate and timely information regarding their options for resolving custody, access, and maintenance-related issues;
- provide access to resources which can assist parties in resolving their family issues;
- provide opportunities to parties to clarify their issues prior to any appearance before a judge; and,
- provide the court with information regarding the outcomes of any dispute resolution referrals which will assist the court in addressing any outstanding issues.

### 1.1.2 Triage and the Role of the Family Justice Counsellor

The applicants and respondents involved in a family case that commences at one of the six Rule 5 sites are required to meet with a Family Justice Counsellor (FJC) for a triage appointment prior to a first appearance before a judge. The applicant and respondent are each responsible for making an appointment with the FJC. Procedure requires that a triage appointment is made within five days after a party contacts the triage office, for regular Rule 5 cases, and on the same day the party contacts the office, for applications with urgent and exceptional circumstances.<sup>15</sup>

At the first meeting, the FJC helps clients clarify the issues and provides information about services and dispute resolution options available. In some cases, the FJC will assist an applicant with a claim of urgency or assist a respondent with a reply form. During triage, the applicant or respondent may seek referral to a number of different services where available, including: Child Support Clerks, Parenting After Separation, Rule 5 mediation, regular family justice mediation, private mediation, or to any other service or agency in the community that could be beneficial.

<sup>12</sup> Ministry of Attorney General, 1998. *Rule 5 Family Justice Pilot Project: Policy and Procedures*.

<sup>13</sup> Case complexity can be defined in terms of the number of issues to be addressed, the ability of the parties to focus on the issues at hand, the level of conflict between the parties and the number of parties involved. The more complex the cases, the more complex the trial.

<sup>14</sup> Ministry of Attorney General, 1998. *Rule 5 Family Justice Pilot Project: Policy and Procedures*.

<sup>15</sup> These types of applications generally contain a request for a restraining order (i.e., s. 37 or s. 38) and/or present an immediate threat or concern to the applicant and/or the children involved (e.g., removing the children from the province/country) at the time of the application. Appendix A contains the applicable Rules (Rule 5 and Rule 2) that clarify the type of cases that go before a judge in urgent and exceptional matters.

At any point in the triage or Rule 5 mediation process, parties can request a referral to court, at which time the FJC provides the party/parties with a Form 6. Form 6 is a request for a referral to court that the applicant and/or respondent presents at the court registry indicating that triage services were received, referrals made to other services, any issues that have been resolved, and issues that remain outstanding. The party submitting the form is responsible for completing most of the information.

### 1.1.3 Exemptions from Rule 5

The new rules do provide for exemptions from Rule 5. One exemption from Rule 5 occurs with cases where an applicant applies for child support and signs her/his rights to child support over to the government under BC Employment and Assistance (BCEA) legislation. In such cases, non-child support issues are not exempt from Rule 5. A second exemption from Rule 5 occurs if an applicant is seeking a restraining or a no contact order under s. 37 or s. 38 of the FRA. In these cases court registry staff book an immediate appearance before a judge.

Similarly, cases that present urgent and exceptional circumstances<sup>16</sup> can also be granted an exemption from Rule 5 by a judge. In such cases, parties or their lawyers indicate an immediate need to go before a judge, thereby avoiding the delay required to schedule and attend a triage appointment with the FJC. Claims of urgency that do not involve s. 37 or s. 38 where the party does not have legal representation are referred to an FJC for a same-day appointment, with or without first filing an application. In such cases, the role of the FJC is to assist the applicant in assessing whether the circumstances of the case are "urgent and exceptional" and, as such, exempt from Rule 5.<sup>17</sup> If, on the other hand, the applicant decides not to proceed with the claim of urgency, the FJC can suggest other resources that could address the applicant's concern.

In non-Rule 5 sites, applicants also request immediate court appearances under claims of urgency. In these situations, the applicant can be exempted from the requirement to serve the other party and allow the 30 days for a reply (ex parte hearings/orders). That is, the principle that both parties must be given the opportunity to appear before the judge is set aside because of the immediacy of danger or other circumstances. Note that most judges are reluctant to set aside this fundamental principle of procedural fairness and, therefore, are quite vigilant in assessing the need for an ex parte hearing.

## 1.2 Research Background

Rule 5 was initially introduced as a pilot project at five court registries across British Columbia: at Robson Square in Vancouver, Surrey, Castlegar, Nelson, and Rossland. For the purposes of the evaluation, five other court registries were identified to serve as comparison sites: North Vancouver, Richmond, Victoria, Abbotsford, and Cranbrook.

A preliminary analysis of Rule 5 implementation in the five pilot sites was completed in March, 2000.<sup>18</sup> The research methodology and evaluation approach developed for the

<sup>16</sup> Such cases are often referred to as "claims of urgency" in the family justice system. For the sake of simplicity, the term "claim(s) of urgency" will be used in the remainder of the report to refer applications with urgent and exceptional circumstances.

<sup>17</sup> FJCs are trained to look for issues of family violence in claims of urgency.

<sup>18</sup> Ministry of Attorney General, 2000. *Family Justice Registry (Rule 5) Pilot Project: Implementation Report*.

current evaluation project address key methodological issues that were identified in the Implementation Report. The issues identified included:

- the need to solicit greater input/feedback from court staff, FJC counsellors, and the judiciary. Given the problems associated with utilizing only the file review process to assess program utilization and effectiveness that were identified in the preliminary implementation review, it was important that the evaluation include an appropriate balance of qualitative data provided by court staff, FJC counsellors, and the judiciary with respect to the Rule 5 project;
- the need to examine each court registry on a site-by-site basis. It was noted that due to the specific circumstances, operations, and business processes of each site, it would be necessary, in the final evaluation, to examine each site to identify the extent to which the site had adopted some/all of the activities associated with the Rule 5 initiative. Of equal importance was the identification of “quasi” Rule 5 practices adopted in the non-Rule 5 sites; and,
- the need for a longer time period for review. Given the relatively short amount of time that the Rule 5 initiative had been in place at the time of the preliminary study, and problems implementing the initiative, it was noted that a longer time frame would be required to fully assess the system benefits of the Rule 5 Pilot Project. The final evaluation covered files opened in the post-implementation period from April 1, 2000 through March 31, 2001.

Since the original implementation of Rule 5 in the original five pilot sites in December 1998, the initiative has been subsequently introduced at the Kelowna court registry. Rule 5 was implemented at the Kelowna court registry on May 4, 2001. Consistent with the original research design, Kamloops was identified as a sixth comparison site to correspond with Kelowna.

The evaluation framework applied to the final evaluation incorporated a balanced approach that applied both qualitative and quantitative research methodologies to data collection and data analysis activities. This report provides a summary of the key highlights of the final results of the *Evaluation of the Family Justice Registry (Rule 5) Pilot Project*.

### **1.3 Evaluation Objectives and Design**

The purpose of the evaluation is to assess changes in dispute resolution patterns attributable to the Rule 5 Initiative. Given the overall goals of the initiative, the primary objectives of the evaluation are as follows:

1. To identify the extent to which Rule 5 has been effective in terms of diverting FRA cases from court to alternative dispute resolution processes (e.g., Family Justice Centres).
2. For those cases that do go to court, identify the extent to which the courts operate more efficiently and effectively in terms of court usage, resolution of issues, means of resolution, and level of client preparation subsequent to Rule 5 triage sessions.

The evaluation was designed to enable an examination of incremental changes attributable to Rule 5 in isolation from the effects of other rules that were concomitantly introduced and other family justice programs introduced recently at some sites (e.g., Mandatory Parenting After Separation). Two types of comparisons have been made: 1) pre- and post-implementation; and, 2) pilot and comparison sites. For the longitudinal analysis (i.e., pre-

and post-implementation), court activities subsequent to the implementation of Rule 5 were compared to a baseline of court activities. The comparative analysis entailed a cross sectional review of the five original Rule 5 pilot sites and other similar sites that have not implemented Rule 5.

Summarized below are the evaluation framework and performance indicators used in the research (the full evaluation matrix is contained in Appendix B). The operational definitions applied in the research are presented in Appendix C. Research activities and the scope of work completed are described in Section 2: Technical Aspects.

The evaluation framework was designed to assess system changes through the application of both qualitative and quantitative methods. Changes in court utilization will be evidenced through quantitative data (e.g., number of court appearances/hearings per application)<sup>19</sup> and qualitative information (e.g., judges' perceptions as to how the introduction of Rule 5 has changed court processes). This balanced approach to the evaluation ensures a comprehensive and defensible analysis of the efficacy of the Rule 5 Initiative.

The **qualitative** component consisted of in-depth key informant interviews with staff associated with the FRA-related court processes and a triage client satisfaction survey. In the Rule 5 pilot sites, key informants included members of the judiciary, FJCs and court registry staff. In the comparison sites, members of the judiciary and court registry staff were interviewed. These interviews provided anecdotal evidence of changes in settlement patterns, client reaction to mandatory triage, client preparedness for court, case complexity, use and impact of Family Case Conferences, and other changes in services (e.g., changes attributable to the introduction of other new family court rules implemented at all sites). The interviews were used to determine business processes employed at each of the sites in order to identify practices that resemble Rule 5 and to identify site-specific characteristics.

Triage clients were provided an opportunity to complete a brief satisfaction survey upon receiving triage services. Survey results provide an indication of client satisfaction with mandatory triage services. It should be noted, however, that the results of the client exit survey cannot be generalized to all triage clients as the survey was administered on a voluntary basis only.<sup>20</sup> Researcher observations were also used to provide information regarding site characteristics, to a limited extent.

In addition to the qualitative component of the evaluation, the benefits of Rule 5 were assessed by a number of **quantitative** performance measures. These measures are as follows:

- a comparison of court usage (i.e., proportion of cases heard in court, and rate of appearances per application) of regular Rule 5 eligible cases for pre- and post-implementation, and for Rule 5 and non-Rule 5 sites;
- a comparison of outcomes (i.e., number of consents/agreements) for regular Rule 5 eligible cases pre- and post-implementation, and for Rule 5 and non-Rule 5 sites; and,

<sup>19</sup> It should be noted that the original research design included a time measure component (i.e., duration of appearance/hearing or FCC) which was rejected for the current research. The rationale for excluding a time measure as an indicator of court utilization was that increases or decreases in court utilization as measured by appearance/hearing duration would be difficult to interpret in terms of being a positive or negative effect. For example, Rule 5 may divert simpler cases, leaving only more complex cases for the courts. Such cases would be expected to require more time per case or, with fewer cases in total, judges could choose to spend more time per case for those they do deal with.

<sup>20</sup> Protection of privacy issues did not allow a random process (e.g., random sampling) to be employed in selecting individuals to participate in the survey.

- a comparison of the number of FRA-related claims of urgency that go through the courts pre- and post-pilot implementation, and across Rule 5 and non-Rule 5 sites.

Quantitative analyses consisted mainly of case file reviews and, to a limited extent, a triage data-tracking tool. Supplementary information regarding estimated changes in court outcomes was gathered through the key informant interviews as well.

The evaluation framework included a component to review the site characteristics and business processes of Rule 5 and non-Rule 5 sites. The intent underlying the site review was to determine the comparability of Rule 5 court registries with non-Rule 5 court registries. Case characteristics were also explored for court registry files at all sites and for triage cases at the Rule 5 sites. Information about site characteristics and business practices conducted at the court registries was collected through in-person interviews with members of the judiciary, court registry staff, and FJCs. Researcher observations also provided some information based on general patterns that emerged in the case file activities. Site characteristics are also described quantitatively in terms of case complexity and triage case features.

#### **1.4 Performance Indicators**

In order to assess the system benefits/drawbacks generated by the introduction of Rule 5, a number of performance indicators were identified as measures of program impact. These indicators and a brief explanation of each are presented below:

- ***number of applications for new orders for regular Rule 5 eligible cases that are diverted from the court system:*** provides a measure of the degree to which Rule 5 has diverted regular applications from the court system through triage services. This indicator has been measured both longitudinally and across comparison/pilot sites.
- ***number and type of claims of urgency that enter the court system:*** measures the degree to which Rule 5 helps to assess claims of urgency and refer cases that are not truly urgent to more appropriate services. This indicator has been measured both longitudinally and across comparison/pilot sites.
- ***usage of Family Case Conferences:*** provides an indication of the level of preparation of parties following triage. This measure is partially dependent on judicial preference and/or on typical business practices of each particular site. Family Case Conferences have been compared post implementation at Rule 5 and comparison sites. Changes in the use of FCCs cannot be measured longitudinally as it was introduced at the same time as Rule 5 (i.e., it did not exist as an option prior to Rule 5). Differences related to Family Case Conferences have been measured quantitatively (i.e., frequency of use) and qualitatively (through interviews).
- ***average rate of court activity per Rule 5 eligible application:*** provides an indication of changes in court usage on average, including applications with no appearances for diverted cases. This indicator has been assessed both longitudinally and across comparison/pilot sites.
- ***changes in the proportion of claims of urgency:*** provides an indication of changes in court usage for claims of urgency that proceed through the court system. This indicator has been assessed both longitudinally and across comparison/pilot sites.

- **case settlement patterns:** measures the proportion of Rule 5 eligible cases resolved by consent, withdrawn from the process, or resolved through alternative methods or by court order. This analysis has been conducted both longitudinally and comparatively.
- **triage client satisfaction:** provides an indication of client satisfaction with the triage services received. The survey consisted of six questions on a card and was completed by triage clients on a voluntary basis after receiving triage. The method used to administer the survey could be biased in that, often self-selected samples result in responses that are either very positive or very negative. Alternative methods could not be employed due to concerns about client confidentiality and problems associated with participation rates.

## 1.5 Research Issues: Kelowna and Kamloops

A time differential of more than two years existed between the implementation of Rule 5 in the five original pilot sites and the implementation of the initiative in Kelowna. As a result, a later post-implementation period was defined for data collection in Kelowna and Kamloops (i.e., May 4, 2001 to April 30, 2002) than the post-implementation period defined for the original Rule 5 and non-Rule 5 sites (i.e., April 1, 2000 through March 31, 2001)<sup>21</sup>. A further discrepancy was imposed by the timing of the final evaluation phase for Kelowna and Kamloops (i.e., March through August, 2002) and the length of time that an application could be tracked. In Kelowna and Kamloops applications were tracked for 15.5 months after the start of the post-implementation period, whereas court activities in the original pilot and comparison sites were tracked for 20 months after the start of the post-implementation period. Also, in Kelowna and Kamloops, the post-implementation period began immediately after implementation of Rule 5 in Kelowna, whereas in the original sites, post-implementation period data were not collected until a 16-month “start-up” period had elapsed.

Due to these differences, it was determined that the time differential between the Kelowna site and the original pilot sites could introduce influencing factors that could not be controlled by the research design. As a result, it was decided that aggregating the data collected in the case file reviews for Kelowna and Kamloops with the data collected in the original sites could negatively affect the integrity of the results.<sup>22</sup> Hence, the data collected in the case file review in Kelowna was not combined with the data collected in the original sites for statistical analysis.<sup>23</sup>

In Kamloops, not only was the time differential of concern, initial analyses revealed that Kamloops was anomalous to the original non-Rule 5 sites and, in fact, appeared to more closely resemble Kelowna and the Rule 5 pilot sites rather than the five original comparison sites. Specifically, the rate of court activity at the Kamloops court registry between the pre- and post-implementation periods decreased in a manner similar to the Rule 5 sites. These results suggested that, between the pre-implementation and post-implementation periods a business practice resembling Rule 5 was adopted at the registry. Indeed, informant interviews confirmed that prior to and during the post-implementation period, court registry

<sup>21</sup> It should be noted, however, that the pre-implementation period defined for the evaluation was the same for all sites.

<sup>22</sup> Appendix F contains a discussion of the issues related to external validity taken into consideration with respect to the final analysis.

<sup>23</sup> In addition to the later implementation date of Rule 5, the Kelowna registry was also unique in that two other pilot projects were introduced to the Kelowna Family Justice Centre in 2002, the FMEP Outreach Program and the Comprehensive Child Support Services.

staff began to routinely refer applicants to the Family Justice Centre prior to court or prior to submitting an application. As a result, it was determined that the data collected in Kamloops would not be used in the final analysis.<sup>24</sup>

A key benefit of keeping the Kelowna results separate from the original Rule 5 site results is that Kelowna can be viewed, to a certain extent, as a replication of the pilot project in the five original Rule 5 sites. Because Rule 5 was introduced in Kelowna two years after the initiative was implemented in the original sites, the results of the Kelowna analysis can be used to confirm or disconfirm the results for the original pilot sites. In the event that the Kelowna results are similar to those of the original pilot sites, the results can be viewed as further evidence of changes attributable to Rule 5. In fact, a comparison of the results for the Kelowna registry with the results from the original Rule 5 sites reveals that the sites do exhibit the same characteristics and patterns of change. A comparison of the results for Kelowna and the original Rule 5 sites is contained in Appendix E.

Based on the considerations and constraints of the research described in the discussion above, the general conclusions and key highlights reported herein refer to all Rule 5 sites, inclusive of Kelowna. However, the statistics cited in the text are those generated in the analysis of the original Rule 5 and non-Rule 5 sites. The corresponding statistics from the Kelowna analysis have been presented in accompanying footnotes. Note that, because of the differences between Kamloops and the original non-Rule 5 sites, references to non-Rule 5 sites are not inclusive of Kamloops.

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<sup>24</sup> Contained in Appendix F is a discussion of issues related to external validity, results of the initial analysis of the Kamloops data and a companion of the Kelowna original Rule 5 sites results.

## SECTION 2: TECHNICAL ASPECTS

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A number of different research activities were included in the evaluation. The following is a summary of the specific research activities undertaken by the Consultant as well as the components of the evaluation addressed through each research activity.

### 2.1 Key Informant Interviews

The Consultant developed interview guides for the key informant interviews. Interview questions differed depending on the position held by the interviewee (e.g., member of the judiciary, FJC, court registry staff).<sup>25</sup> The purpose of the key informant interviews were:

- to identify the business processes employed by the various sites;
- to determine the perceptions as to the impact of Rule 5 on court utilization, in isolation from the other Rules implemented;
- to determine the degree to which family justice staff perceive Rule 5 to be beneficial to clients and to the court process;
- to identify the strengths and weaknesses of Rule 5; and,
- to assess the use and impact of Family Case Conferences in Rule 5 and non-Rule 5 sites.

In-depth interviews were conducted at each of the 12 sites. A total of 39 semi-structured key informant interviews were completed with judges, FJCs, and court registry staff. Interviews were conducted between May 2001 and August 2002. Summarized in Table 2-1 are the interviews conducted for the evaluation.

**Table 2-1  
Key Informant Interviews Completed**

Family Justice Service Providers	Number of Interviews
<i>Members of the Judiciary</i>	
Rule 5 sites	5
Non-Rule 5 sites	4
<i>Family Justice Counsellors</i>	
Rule 5 sites	10
<i>Court Registry Staff</i>	
Rule 5 sites	11
Non-Rule 5 sites	9
<b>Total Completed Interviews</b>	<b>39</b>

A number of brief follow-up interviews were conducted with court registry staff during the last phase of the evaluation (i.e., May through August, 2002).

<sup>25</sup> Note that FJC interviews were conducted at Rule 5 sites only.

## **2.2 Case File Reviews**

A case file review data collection instrument was designed to reflect the required range of possible contents of a case file (e.g., s. 37 or s. 38 issues, claim of urgency, Form 1 application, Form 6, replies, orders/agreements, case/application withdrawn, etc.). A set of definitions and guidelines were developed, in consultation with court registry staff, to accompany the data collection instrument. In order to test how accurately researchers applied the guidelines, a test for reliability between the researchers was conducted. In the test, the researchers independently reviewed the same files and recorded case activities and outcomes on the data collection instrument. The results were then compared across the researchers to determine the number of agreements (“hits”) and disagreements (“misses”) for each case file. Agreement was generally above 82% and, in many cases, was 100%.

A review of FRA-related case files at the pilot and comparison court registries was undertaken to determine the eligibility of cases for Rule 5 and to identify case files containing a claim of urgency. The case files reviewed for the evaluation were those opened in each of the two evaluation periods: pre-implementation (December 1, 1997 to November 30, 1998) and post-implementation (April 1, 2000 to March 31, 2000).<sup>26</sup> The case file review also included recording information to determine the following:

- the degree to which Rule 5 has diverted regular applications from the court system;
- the degree to which Rule 5 helps direct claims of urgency to the most appropriate service (including the court);
- current usage of Family Case Conferences;
- changes in court use (i.e., rate of court activity per application); and,
- case settlement patterns.

Researchers conducted a census review of court registry files under the jurisdiction of the FRA that were opened during the implementation periods defined for the evaluation. For each application reviewed activities were tracked, where necessary, for a period of eight months after the end of the evaluation periods.

Summarized in Table 2-2 are the evaluation periods during which files were opened by filing of application, the end date of the application tracking period, and the range of time that elapsed during the life of the files opened from start to finish of the pre- and post-implementation periods.

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<sup>26</sup> Files opened prior to the evaluation periods were not included in the case file review.

**Table 2-2  
Evaluation Periods and Application Tracking**

<b>Evaluation Period</b>	<b>Application Filing Start Date (Range)</b>	<b>Application Tracking End Date</b>	<b>Elapsed Tracking Time (Range)</b>
<b>Pre-Implementation (All Sites)</b>	December 1, 1997 through November 30, 1998	July 30, 1999	8 – 20 months
<b>Post-Implementation (Original Sites)</b>	April 1, 2000 through March 31, 2001	November 30, 2001	8 – 20 months
<b>Post-Implementation (Kelowna &amp; Kamloops)</b>	May 4, 2001 through April 30, 2002	August 15, 2002	3.5 – 15.5 months

Case files containing an FRA application were identified in each court registry. Summarized in Table 2-3 is the total number of case files and applications reviewed for the evaluation by court registry and implementation period.

**Table 2-3  
Summary of Case File Reviews**

<b>Court Registry</b>	<b>Pre-Rule 5</b>		<b>Post-Rule 5</b>	
	<b>Total Files</b>	<b>Total Applications</b>	<b>Total Files</b>	<b>Total Applications</b>
<b>ORIGINAL SITES</b>				
<b>Rule 5 Sites</b>				
<b>Surrey</b>	332	386	363	445
<b>Robson Square</b>	244	279	277	347
<b>W. Kootenays</b>	56	59	52	67
<b>Total Original Rule 5</b>	<b>632</b>	<b>724</b>	<b>692</b>	<b>859</b>
<b>Non-Rule 5 Sites</b>				
<b>N. Vancouver</b>	99	122	89	107
<b>Richmond</b>	70	76	64	75
<b>Abbotsford</b>	131	161	151	168
<b>Victoria</b>	169	194	164	200
<b>Cranbrook</b>	29	31	46	51
<b>Total Original Non-Rule 5</b>	<b>498</b>	<b>584</b>	<b>514</b>	<b>601</b>
<b>Kelowna</b>	122	136	106	118
<b>Kamloops</b>	135	191	118	148
<b>GRAND TOTAL</b>	<b>1,387</b>	<b>1,635</b>	<b>1,430</b>	<b>1,726</b>

A total of 2,817 case files containing 3,361 applications were reviewed in the evaluation.

### 2.3 Site-by-Site Review

Differences in business processes applied across sites and individual site characteristics made it necessary to determine the nature of the practices and caseload at each of the sites in the evaluation.<sup>27</sup> This included:

- a review of the sites to determine the degree to which all of the sites differ from each other in terms of the business practices applied; and,
- a review of each site to determine any differences in the business practices used over time (i.e., differences that occur within a single site) not attributable to the implementation of the Rule 5 initiative.

As indicated in Section 1, due to the uniqueness of individual court registries, it was determined that comparative analyses would be best if they were based on the aggregated results for the five original Rule 5 pilot sites in comparison with the aggregated results of the original non-Rule 5 sites, rather than on a site-by-site basis. The underlying rationale for aggregating the results was that, as a whole, the comparison sites would more closely resemble the Rule 5 sites than they would resemble each other in one-to-one comparisons.

In some cases business processes at non-Rule 5 court registries and in the pre-implementation period at Rule 5 sites approximated Rule 5 activities to a certain extent. As a result, there was the potential for incremental effects of Rule 5 to be more difficult to detect because of the use of “quasi-Rule 5” practices in the comparison sites and/or in the pre-implementation period. However, results were strongly significant (refer to Appendix E: Quantitative Results and Analyses), despite the attenuating effect of quasi-Rule 5 practices on comparisons between post-Rule 5 results with pre-Rule 5 and non-Rule 5 results.

### 2.4 FJC Triage Data Tracking

At the beginning of the evaluation, the FJC Triage offices were provided a tracking instrument to maintain records of triage activities and outcomes. The form was designed to collect and record detailed information regarding the type of case, referrals made, case characteristics (e.g., original or variation application, prior contact with a Family Justice Counsellor, etc.), triage outcome, and the Rule 5 mediation outcome.

The data capture tool was also intended to provide information about some cases that otherwise could not be tracked, such as, claims of urgency referred to triage before an application is made. Some of these cases may have returned to the courts and others received more appropriate services. In such cases, while there would be no record of the activity in the court files, the FJC data capture tool would track the outcome. Unfortunately, a number of issues arose regarding the FJC Triage Data Tracking Tool used in the five original pilot sites.<sup>28</sup>

Originally, the Triage Data Tracking Tool was to be used to collect information that would permit an examination of settlement patterns and outcomes of cases that went to triage. However, service providers did not complete the form consistently, so the information could

<sup>27</sup> A description of the site characteristics and business processes is presented in Appendix D.

<sup>28</sup> Given the later implementation of Rule 5 at the Kelowna court registry and the method, a more reliable data tracking system was applied. A revised FJC tracking sheet was introduced at the Kelowna site with a set of complementary instructions and definitions to be applied. As a result, the case file-tracking tool was used in the Kelowna analysis.

only be tracked for a small proportion of cases reviewed in the case file review. In addition, a unique features data collection instrument was implemented at FJC Triage offices. The purpose of this instrument was to explore case complexity according to certain characteristics of the parties or issues involved. Here again, the data collection and definitions used were not standardized.

## **2.5 Client Satisfaction Exit Survey**

Clients who accessed triage services were requested to complete a brief exit survey (i.e., six questions) which was used as an indication of the level of client satisfaction with triage. Counsellors were asked to provide all their clients with the option of completing the confidential survey once a client received the Rule 5 intervention. A total of 297 completed surveys were submitted to the Consultant and analyzed as part of the evaluation.<sup>29</sup>

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<sup>29</sup> A response rate for the client exit survey cannot be calculated as the total number of triage clients during that time period is not known.

## SECTION 3. KEY HIGHLIGHTS

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The case file review component provided the main information of the effects of Rule 5 on court utilization and application outcomes. Detailed results of the case file reviews are provided in Appendix E and Appendix F, including statistical analyses conducted on the case file data.

Context for the interpretation of the case file results is provided by information collected through the client satisfaction survey and key informant interviews with members of the judiciary, FJCs and court registry staff in Rule 5 sites, and to a lesser degree, interviews with judges and court registry staff from non-Rule 5 sites. Researcher observations made during the case file review component of the evaluation were also used, as appropriate.

The key highlights of the research results presented below are based on a synthesis of the information collected through the different methods employed in the evaluation. As discussed in Section 1, two evaluation objectives were addressed.

*Objective 1: To identify the extent to which Rule 5 has been effective in terms of diverting FRA cases from court to alternative dispute resolution processes (e.g., Family Justice Centres).*

*Objective 2: For those cases that do go to court, identify the extent to which the courts operate more efficiently and effectively in terms of court usage, resolution of issues, means of resolution, and level of client preparation subsequent to Rule 5 triage sessions.*

Results are organized and presented under key themes that address the evaluation objectives. The themes and their corresponding evaluation objectives presented in this section are as follows:

- **Diversion from Court (Objective 1)**
- **Court Activities/Usage (Objective 2)**
- **Preparation of Parties (Objective 2)**
- **Case Settlement Patterns (Objective 2)**

### 3.1 Diversion from Court

***Family justice system service providers indicated a high degree of support for the diversion of cases to alternative, non-court methods of dispute resolution.***

Overall, the judges, court registry staff and FJCs interviewed were supportive of Rule 5 as a process for diverting non-urgent family cases away from the court for dispute resolution. When asked their opinion about referring parties involved with non-urgent cases to triage upon filing an application, service providers in the Rule 5 sites generally stated that it was “a good idea” or “essential”. Service providers associated with non-Rule 5 sites indicated that Rule 5 would be beneficial to parties who access their registries.

A main benefit of Rule 5 mentioned by the majority of key informants interviewed was that it increased the possibility that parties would resolve family issues outside of the court process. Judges, especially, commented on the need for a more personal approach to the resolution of family disputes than the adversarial, impersonal approach applied in the courtroom and cited their preference for referring parties to triage, regular FJC services, Family Case Conferences or other non-court forms of mediation. Judges offered a number of reasons for using alternatives or supplements to court. For example:

*“People are so uninformed about court and the law that everybody should have an opportunity to sit with an independent third party.”*

*“[Parties need] professional mediators with in-depth and specific training in dealing with custody issues. Judges are not always the best qualified.”*

*“The adversarial [court] process is the worst thing that can be done for family cases.”*

However, as some judges and other family justice service providers pointed out, there will always be cases where one or both parties want their “day in court”; some parties simply want a judge to make their decisions for them. In certain cases, a judge’s decision validates the view of one of the parties involved. In other cases, one or both parties refuse to work towards an agreement, therefore, the only solution is to appear before a judge and have a court order made.

***Results suggest that Rule 5 has been successful in diverting cases from the courts.***

Problems with data collection in the Family Justice Triage Centres made it difficult to identify all of cases that were successfully diverted from the courts as a result of receiving triage services. Despite this, the diversion of cases from the courts is evidenced both quantitatively and qualitatively.

The results of the case file review indicate that Rule 5 has been effective in decreasing court usage. The proportion of cases with no court activity recorded after filing an application increased in Rule 5 sites from 3% to 29% as compared to an increase in non-Rule 5 sites from 2% to 17%.<sup>30</sup> The increase observed in the Rule 5 sites was approximately 60% larger than the increase in the non-Rule 5 sites.<sup>31</sup> Stated a different way, prior to the introduction of Rule 5, 97% of cases opened in Rule 5 sites proceeded to some form of court activity, however, in the post-implementation period, only 71% of applications filed in Rule 5 sites had any court activity. In contrast, in the post-implementation period, 83% of cases opened in the non-Rule 5 sites proceeded to court. The results, therefore, can be considered evidence that Rule 5 is diverting cases from court.

Other supporting evidence of the success of Rule 5 in diverting cases away from the courts could be found, to some degree, in the FJC tracking sheet information and in the information collected in the key informant interviews.

- *FJC tracking sheet:* A large proportion of triage cases listed on the FJC tracking sheets belonged to parties who did not open a court registry case file (i.e., submit their first application) during the post-implementation period. Some of these triage clients could have been diverted from the courts without ever submitting an application, while other triage clients could include those with an existing court registry file opened prior to the

<sup>30</sup> A summary of the results for cases identified as having no further activity (court or otherwise) and no discernable case is contained in Table E-5 in Appendix E.

<sup>31</sup> The proportion of cases in Kelowna where there was no further activity and no court activity increased from 3% to 27%.

post-implementation period. Diverted cases from both of these groups of triage clients have not been captured by the present evaluation, therefore, it is likely that diversion away from the courts greater than indicated by the results of the case file review alone.<sup>32</sup>

- *Key informant interviews:* Information gathered through the interviews revealed that court registry staff and FJCs felt that cases were being diverted from the courts as a result of parties receiving triage and related services. Judges indicated that they had insufficient information to comment on the diversion of cases from the courts, although they assumed that cases were being diverted.

***The proportion of applications with a claim of urgency increased slightly in the Rule 5 sites since the pre-implementation period.***

In the pre-implementation period, the proportion of applications with a claim of urgency were similar in Rule 5 (9%) and non-Rule 5 (12%) sites.<sup>33</sup> There was a small difference in the change in proportion of claims of urgency between pre- and post-implementation periods for the original Rule 5 sites (from 9% to 10%, an increase of 1%) and non-Rule 5 sites (from 12% to 8%, a decrease of 4%).<sup>34</sup> That the proportion of claims of urgency increased slightly in the Rule 5 sites when it decreased slightly in the non-Rule 5 sites could be an indication of claims of urgency being used to avoid Rule 5. Alternatively, the changes in the amount of applications with a claim of urgency filed could be evidence that case complexity at Rule 5 sites has increased while it has decreased at non-Rule 5 sites.<sup>35</sup>

Both explanations are substantiated to some degree by information collected through the interviews. Specifically, some judges commented that they have been hearing more claims of urgency (non s. 37 and 38) that might have benefited from other means of dispute resolution and/or services. In addition, court registry staff and researcher observations noted that some lawyers seek to circumvent Rule 5 through the use of Notices of Motion, although court registry staff feel that this practice has decreased over time and lawyers have become more supportive of Rule 5. At the same time, however, court registry staff indicated that case complexity has increased, including the filing of applications with s. 37 and/or s. 38 issues.

### **3.2 Court Activity/Usage**

***The average rate of court activity per application decreased by 41% in the Rule 5 sites compared to a decrease of only 17% in the comparison sites***

In the pre-implementation period, the rate of court activity per application was higher in the Rule 5 sites (2.12 activities per application) than in the non-Rule 5 sites (1.61 activities per application): approximately 32% more court activities per application in Rule 5 sites than in non-Rule 5 sites.

<sup>32</sup> Triage outcomes for 65 cases in Kelowna with an application filed with the court registry could be tracked. These results are summarized in Appendix F.

<sup>33</sup> The proportions reported here do not include claims of urgency that are applications with s. 37 or s. 38 issues.

<sup>34</sup> The reader should be reminded that the proportions of claims of urgency that do not involve s. 37 or s. 38 of the FRA reported here are likely an underestimate. However, this does not imply that the change between the evaluation periods would differ significantly in Rule 5 sites compared to non-Rule 5 sites.

<sup>35</sup> When applications with s. 37 or s. 38 issues are included, there is a large increase between pre- and post-implementation periods in applications with urgent circumstances in the Rule 5 sites (an increase from 23% to 31%) as compared to the non-Rule 5 sites (a decrease from 24% to 19%). These results can be considered as further evidence that cases at Rule 5 sites have become more complex while cases have become less complex at non-Rule 5 sites.

Between the pre-implementation and post-implementation periods, the rate of court activity per application declined significantly in non-Rule 5 sites, from 1.61 to 1.33 appearances and hearings per application (0.28 fewer activities per application); a 17% decrease. The rate of court activities per application also declined significantly in Rule 5 sites from 2.12 to 1.26 activities per application (0.86 fewer activities per application); a 41% decrease. The difference in the decreases observed at the Rule 5 and non-Rule 5 sites (i.e. 0.28 vs. 0.86) is significant.<sup>36</sup>

Of particular note, is that court activity in the Rule 5 sites decreased from a rate that was 32% higher than in the non-Rule 5 sites during the pre-implementation period to a rate that was 5% lower than the non-Rule 5 sites during the post-implementation period.

***Triage helps parties to narrow the issues to be addressed in court.***

The extent to which original issues were narrowed through triage could not be directly measured through the case file review as the court records list all issues on the application for each appearance or hearing, and Form 6 is filled out by the parties and rarely includes information about issue resolution. Therefore, only information collected in the interviews was available to provide insight into the effect of triage on the number of issues involved in a case.

Interviews with FJCs revealed that they perceive there to be a reduction in the number of issues for a majority of parties who receive triage. Some of the Rule 5 judges interviewed indicated that while the complexity of issues that come before the court after triage has increased, the number of issues per case to be dealt with has decreased. This could be a reflection of triage assisting people to narrow the issues by eliminating or resolving less complicated issues prior to the parties appearing before a judge.

***There was no significant difference between Rule 5 and non-Rule 5 sites in the overall use of Family Case Conferences.***

The use of Family Case Conferences as an alternative method of dispute resolution to judges outside the adversarial court process is a matter of judicial preference. Summarized in Table 3-1 are the total number of Family Case Conferences held at each site and the average number of Family Case Conferences per application in Rule 5 and non-Rule 5 sites in the post-implementation period.<sup>37</sup>

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<sup>36</sup> The rate of court activity in Kelowna during the pre-implementation period was 1.60 and 0.92 in the post-implementation period. When comparing the rate of court activity between the pre- and post-implementation periods, Kelowna exhibited a decrease of 0.68 activities (a 43% decrease).

<sup>37</sup> Twenty FCCs had been completed with judges in Kelowna in the post-implementation period, an average rate of 0.17 FCCs per application.

**Table 3-1**  
**Total and Average Number of Family Case Conferences per Application**  
**by Rule 5 and Non-Rule Sites**

<b>Court Site</b>	<b>Total Number FCCs</b>	<b>Mean # FCCs Per Application</b>
<b><i>Rule 5</i></b>		
Robson Square	78	.22
Surrey	27	.06
West Kootenays	2	.03
<b>Total Rule 5</b>	<b>107</b>	<b>.12</b>
<b><i>Non-Rule 5</i></b>		
North Vancouver	18	.17
Richmond	9	.12
Abbotsford	9	.05
Victoria	13	.06
Cranbrook	5	.10
<b>Total Non-Rule 5</b>	<b>54</b>	<b>.09</b>

Interviews conducted with judges in Rule 5 and non-Rule 5 sites revealed a preference for using Family Case Conferences over hearing cases in court, however, some indicated that shortage of time reduced their ability to employ them.

***Interviews with members of the judiciary revealed a number of benefits associated with using Family Case Conferences as a judicial tool for dispute resolution.***

In general, judges indicated that Family Case Conferences had the following qualities as a useful alternative to court for the resolution of family related disputes:

- Judges can have more impact with parties in the judicial dispute resolution process through Family Case Conferences than through the adversarial court process.
- Family Case Conferences provide parties with a more personal or one-on-one forum for discussion that mitigates the threats to family relationships between parties and any children involved.
- Parties are provided with an opportunity to gain a clearer focus of the issues and reach some consent as a party in the process of mediation rather than as a party who is dictated an outcome by the court.

Judges indicated that Family Case Conferences greatly reduce and even eliminate the subsequent use of court appearances or hearings/trials to resolve a family related dispute.

### 3.3 Preparation of Parties

***Triage clients who go before the court appear to be better prepared than parties who do not receive triage.***

Judges were asked to consider whether parties who receive triage services are better prepared for court than are parties who do not receive triage. Their responses depended on how they defined “better prepared”.

Judges who used a broad definition of “better prepared” indicated that, after triage, parties have a better understanding of the issues, know what to expect in court, know what they have to prove and what documents to bring. In contrast, a judge who defined “better prepared” in the legal sense (i.e., knowledge of case law or legal procedures) did not consider triage to better prepare people for court and commented that educating parties about the law “is not what Rule 5 is about, the FJC is there to divert cases [from court]”.

***Triage clients receive a number of benefits from the services.***

Information collected in the key informant interviews provide evidence that parties receive a number of benefits through triage. This evidence is supported by the survey responses of triage clients who completed a client exit survey.

The main themes that emerged from the interviews include:

- Triage serves to educate and inform parties about the family justice process and alternative methods of dispute resolution.
- Meeting with an FJC for triage helps parties to clarify and/or narrow issues, and consider the other party’s issues.
- Functionally, triage has a “diffusing” effect, addressing the charged emotions that often characterize family justice cases.

Other triage-related benefits mentioned by judges included: emphasizing the children’s best interests rather than the interests of parents, being more attuned to discussion and to alternative concepts, and helping parties consider alternative points of view.

Members of the judiciary consider parties who have been to triage to be better informed, better focused and less emotional. In general, FJCs consider triage to serve as an educational type of service by providing information to clients about the courts and about alternative methods of dispute resolution. Specific comments made by key informants regarding the types of benefits triage clients receive include:

*“An increased level of awareness of alternative approaches to resolving issues and disputes – a kind of empowerment with more agency and control of the resolution process.”*

*“Reaching agreements through explaining how it helps them and [it] stems the conflict.”*

*“Almost 100% would benefit from exposure to dispute resolution.”*

Service providers interviewed at non-Rule 5 sites also indicated that providing parties with information about the court system and alternative methods of resolving disputes would be useful to those who access their registries. In non-Rule 5 sites, court registry staff consider themselves to be an information resource. A service provider at one court registry noted,

“[The parties] usually know nothing, that’s why we spend so much time with them, and I don’t know if that’s our role.”

One judge presiding in a non-Rule 5 court considers that Rule 5 would provide a filter and would likely decrease court lists significantly – “Right now there is no filtering, no questioning, cases are just stamped and put on the list.” Comments from court registry staff indicate that this practice was common in their registries before Rule 5 and changing it has been one way that Rule 5 has made the family justice system more efficient.

Results from the client exit survey also indicated strong support for triage and the information provided therein:

- 93% agreed or strongly agreed that going to the Family Justice Triage Centre was useful to them, and
- 96% agreed or strongly agreed that they were given useful information by the FJC.

In addition, client exit survey results revealed that the majority of clients agreed or strongly agreed that FJCs treated them with courtesy (98%) and listened to their concerns (97%).

***Educating parties about the alternative methods of resolution available outside the courts is considered to be a function that is essential to the public accessing court registries for FRA matters.***

Educating parties about alternatives to court for resolving disputes appears to be a very useful and necessary function of FJC triage. All court registry staff (both Rule 5 and non-Rule 5) perceive there to be a large proportion of parties seeking to file an application who are unaware of alternatives to the court system for addressing their disputes. Depending on the court site, estimates ranged from 50% to 99% of parties approaching the court registry about family matters as being unaware of their options. The majority of court registry staff interviewed consider about 80% of those served at the court registry counter to be unfamiliar with alternative methods of dispute resolution.

The large proportion of cases where parties are unaware of alternative methods of dispute resolution is noteworthy, given that 74% of triage clients who completed the client exit survey indicated that they would prefer to resolve their disputes without going to court.

### **3.4 Case Settlement Patterns**

Case settlement patterns were measured as the proportion of Rule 5 eligible cases resolved by consent, withdrawn from the process, dismissed or adjourned generally, resolved through alternative methods or by court order. Combinations of settlement patterns and possible case outcomes are summarized in Table 3-2.

**Table 3-2  
Settlement Patterns and Case Outcomes**

<b>Settlement Pattern</b>	<b>Related Case Outcome</b>
1. Court activity with a case settlement	-contested court order generated by a judge in court -consent order generated by a judge in court
2. Court activity without settlement and no settlement identified	-case withdrawn (formally/informally) after at least one court appearance -case dismissed or adjourned generally by the judge -parties drop out after at least one court appearance without formally or informally withdrawing the case/application (i.e., “no further activity” after attending court)
3. No court appearances with a case settlement	-alternate dispute resolution resulting in a written agreement or an informal agreement -consent order (desk order) generated outside of the court
4. No court activity without a case settlement and no settlement identified	-case withdrawn (formally/informally) prior to any court appearance -parties never appear before the court after submitting an application and there is no indication of case settlement in the court registry file (i.e., “no further activity” without going to court)

***Fewer court orders were identified as the final outcome for post-Rule 5 applications than for non-Rule 5 and pre-Rule 5 applications.***

In the pre-implementation period, the proportions of applications that resulted in a court order were similar for Rule 5 and non-Rule 5 sites: 40% in Rule 5 sites compared to 44% in non-Rule 5 sites. In the post-implementation period, the proportion of cases concluding with orders made by the judge in court increased in the non-Rule 5 sites (from 44% to 48%) but decreased in Rule 5 sites (from 40% to 35%).<sup>38</sup> The decrease in court orders in the Rule 5 sites is consistent with the results that reveal a decline in court usage (i.e., a diversion of cases from the courts) in the Rule 5 sites.<sup>39</sup> That is, by diverting cases from the courts at the outset, parties whose problems were better served by other, non-court services were eliminated from the pool of final outcomes thereby reducing the proportion of court generated orders.

Case files that contained only a written agreement were not included in the case file review unless there had also been an application filed. However, researcher observations revealed that many written agreements had been generated with the assistance of the FJC in Rule 5 sites in the post-implementation period. The proportion of case files that contained an application and a written agreement/desk order remained at 6% in Rule 5 sites in the pre-implementation and the post-implementation periods and increased slightly in the non-Rule 5 sites (from 4% to 5%). It should be noted that the written agreements contained in these

<sup>38</sup> These proportions are based on the total number of applications excluding those where the outcome was identified as “no further activity” and there was no apparent resolution or outcome discernable from the case file information or FJC tracking sheet (i.e., parties dropped out without formally or informally withdrawing the application).

<sup>39</sup> In Kelowna, the proportion of outcomes identified as orders generated in the courts fell from 53% in the pre-implementation period to 39% in the post-implementation period. Agreements and orders that were not generated in court increased in Kelowna from 3% to 13%.

case files could have been generated with the assistance of an FJC (in Rule 5 sites, post-implementation), a regular FJC, or a lawyer.

***There has been an increase in the proportion of applications that drop out of the family court process for both Rule 5 and non-Rule 5 sites.***

The increase in the proportion of cases recorded as “no further activity” provided evidence that Rule 5 successfully diverts a percentage of cases away from the courts once an application has been filed. However, the overall increase in the proportion of cases in both Rule 5 and non-Rule 5 sites can be explained, in part, by the implementation of the other new family court rules, particularly the change in the service process (i.e., the applicant’s responsibility to serve the respondent and the 30 day window for the respondent to submit a reply). This explanation is supported by information collected in interviews with court registry staff who explained that some applicants never return after filing an application once the service procedure was explained to them.

The proportion of cases that were formally withdrawn from the courts decreased between the pre- and post-implementation periods in both Rule 5 and non-Rule 5 sites, with more of a decrease occurring in non-Rule 5 sites (from 17% to 8%) than in Rule 5 sites (from 16% to 10%). There is no apparent explanation for the overall decrease in withdrawn applications or for the larger decrease in non-Rule 5 sites. It could simply be a reflection of business practices or judicial preference at the different sites, in that, at some sites, parties are encouraged to formally withdraw an application rather than just “dropping out”.

### **3.6 Summary of Key Findings**

To recap, the following are the key findings of the evaluation:

#### **Diversion from Court**

- Results suggest that Rule 5 has been successful in diverting family cases from the courts in all six of the Rule 5 sites.
- family justice staff and service providers indicated a high degree of support for the diversion of cases to alternative, non-court methods of dispute resolution.
- The proportion of claims of urgency has increased slightly in Rule 5 sites since the pre-implementation period. Two possible explanations are suggested: that claims of urgency are being employed to circumvent Rule 5 and/or that cases at Rule 5 registries have become more complex than cases at non-Rule 5 registries.

#### **Court Activity/Usage**

- The average rate of court activity per application decreased by 41% in the five original Rule 5 sites compared to a decrease of only 17% in the comparison sites.
- Triage helps parties to narrow the issues to be addressed in court.
- Interviews with members of the judiciary revealed a number of benefits associated with using Family Case Conferences as a judicial tool for dispute resolution, including a reduction in court activity.

### Preparation of Parties

- Triage clients who go before the court appear to be better prepared than parties who do not receive triage.
- Triage clients receive a number of benefits from the service.
- Education about the alternative methods of resolution available outside the court is considered to be a function that is essential for the public accessing court registries for FRA matters.

### Case Settlement Patterns

- Fewer court orders were identified as the final outcome for post-Rule 5 applications than for non-Rule 5 and pre-Rule 5 applications.
- There has been an increase in the proportion of applications that drop out of the family court process for both Rule 5 and non-Rule 5 sites.

**APPENDIX A:      RULE 2 AND RULE 5**

## **Rule 2 - Making And Filing An Application<sup>1</sup> (For Specified *FR* Orders)**

### **Applying to the court for an order**

(1) To apply to the court for any of the following orders under the *Family Relations Act*, a person must complete an application in Form 1 and file it, together with 3 copies of it, in a registry:

- (a) child custody, access or guardianship;
- (b) child, spousal or parental maintenance;
- (c) a restraining order under section 37 of the Act or an order prohibiting interference with a child under section 38 of that Act.

### **Applying to change or cancel an existing order**

(2) To apply to the court for any of the following orders, a person must complete an application in Form 2 and file it, together with 3 copies of it, in the registry where the order or agreement is filed unless a judge permits otherwise under rule 19 (1) or rule 19 (5) or (6) applies:

(a) to change or cancel an order that was made or registered under the *Family Relations Act*;

(b) to cancel or reduce arrears under a maintenance order that was made or registered under the *Family Relations Act*;

(c) to change or cancel an agreement that was filed under the *Family Relations Act*.

*[To file the application in another registry, see rule 19 concerning transfer of court files. Rule 19 (5) and (6) specifically concern transfer of files by the registry when the parties consent to the transfer or when only one of the parties resides in British Columbia and that party requests the transfer.]*

### **Personal service of application, not by the applicant**

(3) Unless a judge grants permission to use a different method of service under rule 9 (7), an applicant under subrule (1) or (2) must have a filed copy of the application served personally on the respondent by a person, other than the applicant, who is at least 19 years of age.

### **Documents to be included with the application**

(4) The following documents must be served with the filed copy of the application when it is served on the respondent:

- (a) a blank reply form (Form 3);
- (b) a blank financial statement form (Form 4), if the applicant seeks an order for child, spousal or parental maintenance or for variation of child, spousal or parental maintenance;
- (c) a filed copy of the applicant's financial statement and applicable documentation under rule 4 (2), if applicable.

### **Affidavit of service**

(5) If the respondent does not file a reply to the application in accordance with rule 3, the applicant must file with the registry an affidavit of personal service in Form 5.

*[To apply for enforcement of a custody order or for recognition of a custody order or an access order, see rule 16. To apply for enforcement of a maintenance order under the Family Maintenance Enforcement Act, see rule 17. To make any other type of application, see rule 12.]*

<sup>1</sup> Source: Provincial Court (Family) Rules (1998).

## **Rule 5 - Procedures In Family Justice Registries<sup>1</sup>**

### **Application of this rule**

(1) Subject to the exceptions set out in subrule (2), this rule applies to proceedings begun by an application under rule 2 (1) or (2)\* if

- (a) the application is filed in a family justice registry, or
- (b) the court file for the proceedings is transferred under rule 19 to a family justice registry.

*\*[Rule 2 is about applications for custody, access, guardianship, maintenance, restraining orders, orders prohibiting interference with a child and applications to change or cancel existing orders or agreements filed under the Family Relations Act.]*

### **Rule does not apply**

(2) This rule

(a) does not apply to the proceedings referred to in subrule (1) if the only applications in the matter concern maintenance and there has been an assignment of maintenance rights under the *BC Benefits (Income Assistance) Act*, the *BC Benefits (Youth Works) Act* or the *Disability Benefits Program Act*, and

(b) ceases to apply to the proceedings referred to in subrule (1) if the court file for the proceedings is transferred under rule 19 to a registry that is not a family justice registry.

### **First referral by a clerk**

(3) Before setting a date for the parties' first appearance before a judge, a clerk must refer the applicant and each respondent who has filed a reply to a family justice counsellor.

*[For exemption from this subrule in urgent and special circumstances, see subrule (8).]*

### **Options for parties**

(4) To assist the parties in resolving any part of their dispute, each party must meet with the family justice counsellor and may seek referral from the family justice counsellor to one or more of the following persons, programs or services:

- (a) a person designated by the Attorney General to provide specialized maintenance assistance;
- (b) a program, approved by the Attorney General, designed to help parties identify and consider post-separation issues involving children;
- (c) mediation with a family justice counsellor;
- (d) mediation with a private mediator;
- (e) any other service or agency that may assist the parties.

### **Subsequent referral to a judge**

(5) At any time after meeting with the family justice counsellor, a party may do any of the following:

- (a) ask to appear before a judge on one or more issues in the case by filing in the registry a referral request in Form 6;
- (b) seek a consent order under rule 14.

### **Court action after referral to a family justice counsellor**

(6) On receiving a referral request in Form 6, the clerk must serve the parties with notice of the time and place at which they must attend before a judge.

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<sup>1</sup> Source: *Provincial Court (Family) Rules (1998)*.

### **What the judge may do**

- (7) When the parties attend before the judge under subrule (6), the judge may
- (a) do any of the things described in rule 6 (3), and
  - (b) require the parties to attend, or continue their attendance with, one or more of the persons or programs referred to in subrule (4) (a) to (c) of this rule.

### **Urgent and special circumstances**

- (8) If, at any time in the course of the proceedings,
- (a) a party applies to a judge for an order under section 37 or 38 of the *Family Relations Act\**, or
  - (b) a judge is satisfied on application by a party that urgent and exceptional circumstances exist requiring a judge to hear the matter at the earliest opportunity, the judge may do one or more of the following:
  - (c) dispense with or defer compliance with all or any part of this rule if the judge considers it necessary;
  - (d) order that subrule (3) does not apply and that the matter be referred to a judge for hearing at the earliest opportunity;
  - (e) make any order or give any directions that the judge considers appropriate.
- \*[Section 37 of the Family Relations Act concerns orders restraining one person from harassing another person or a child of the other person. Section 38 of the Family Relations Act concerns orders prohibiting a person from interfering with a child.]*

### **If a respondent fails to file a reply or appear in court**

- (9) Rule 6 (4) and (10) applies to proceedings begun by an application filed in or transferred to a family justice registry.
- [Rule 6 (4) and (10) sets out the options available to a judge if the respondent fails to file a reply or fails to appear in court and includes the option of making a final order.]*

### **All other rules apply**

- (10) All other rules apply to proceedings in a family justice registry but, if anything in another rule is considered to be in conflict with this rule, this rule prevails.

### **Persons exempt from meeting with family justice counsellors**

- (11) A person representing the government, a ministry or public officer, if they are parties in the matter, need not but may meet with and attend with a family justice counsellor or persons or programs under subrules (3), (4) and (7) (b).

### **Transition**

- (12) This rule applies only to proceedings described in subrule (1) in which the application is filed after November 30, 1998.

**APPENDIX B: EVALUATION MATRIX**

Evaluation Question	Indicators	Method/Research Activities	Data/Data Sources
1. To what extent has Rule 5 diverted regular Rule 5 eligible cases from the courts as a result of the triage process? <sup>40</sup>	<ul style="list-style-type: none"> <li>Total # of regular Rule 5 eligible applications for new orders</li> <li># of regular Rule 5 cases referred to triage</li> <li># of regular Rule 5 cases that proceed to court (i.e. first appearances)</li> </ul>	<p><i>Longitudinal Analysis</i></p> <ul style="list-style-type: none"> <li># of regular rule 5 cases that are sent to triage</li> <li>comparison of regular Rule 5 eligible applications that proceed to court appearance(s) in the pilot sites before and after Rule 5 implementation</li> </ul> <p><i>Cross Sectional Analysis</i><sup>41</sup></p> <ul style="list-style-type: none"> <li># of regular rule 5 cases that are sent to triage in the pilot sites</li> <li>comparison of regular Rule 5 eligible applications that proceed to court (appearances) in the pilot sites and comparison sites before and after Rule 5 implementation</li> </ul>	<ul style="list-style-type: none"> <li>court registry files</li> <li>TFJC tracking tool</li> <li>court registry files</li> <li>TFJC tracking tool</li> </ul>
2. What are the process patterns of regular Rule 5 cases? Do the process patterns differ depending on certain case characteristics (i.e., one versus both parties are triaged)?	<ul style="list-style-type: none"> <li>average # of court appearances/hearings per regular Rule 5 case</li> <li>average # of Family Case Conferences per regular Rule 5 case</li> <li># regular Rule 5 cases where one party/both parties triaged<sup>42</sup></li> <li>perceived changes in characteristics of regular Rule 5 cases proceeding to court (e.g., level of client preparation)</li> </ul>	<p><i>Longitudinal Analysis</i></p> <ul style="list-style-type: none"> <li>comparison of process patterns of cases pre- and post-implementation</li> <li>comparison of process patterns of cases where one or both parties were triaged</li> <li>identification of changes in case characteristics/process patterns pre and post implementation</li> </ul> <p><i>Cross Sectional Analysis</i></p> <ul style="list-style-type: none"> <li>comparison of process patterns of cases pre- and post-implementation across pilot and comparison sites</li> <li>identification of changes in case characteristics/process patterns pre and post implementation across pilot and comparison sites</li> </ul>	<ul style="list-style-type: none"> <li>court registry files</li> <li>TFJC tracking tool</li> <li>interviews with members of the judiciary, court registry staff, and FCJ staff</li> <li>court registry files</li> <li>TFJC tracking tool</li> <li>interviews with members of the judiciary involved in both Rule 5 and non-rule 5 registries</li> </ul>
3. What are the outcomes of regular Rule 5 cases? Do the outcomes differ depending on certain case characteristics (i.e., one versus both parties are triaged)?	<ul style="list-style-type: none"> <li># of regular rule 5 cases resolved out of court (e.g., agreement, consent order)</li> <li># of regular Rule 5 cases withdrawn/struck off list (or no further contact)</li> <li># of applications subsequent to outcome of initial application</li> <li># regular Rule 5 cases where one party/both parties triaged</li> </ul>	<p><i>Longitudinal Analysis</i></p> <ul style="list-style-type: none"> <li>comparison of outcomes of cases pre- and post-implementation</li> <li>comparison of outcomes of cases where one or both parties were triaged</li> </ul> <p><i>Cross Sectional Analysis</i></p> <ul style="list-style-type: none"> <li>comparison of outcomes of cases pre- and post-implementation across pilot and comparison sites</li> </ul>	<ul style="list-style-type: none"> <li>court registry files</li> <li>TFJC tracking tool</li> <li>court registry files</li> <li>TFJC tracking tool</li> </ul>

<sup>40</sup> Regular Rule 5 cases do not include claims of urgency. Claims of urgency will be examined as a separate type of application.

<sup>41</sup> A secondary analysis will be conducted to determine differences across pilot and comparison sites in terms of the business processes typically used in dealing with FRA-related cases in each court registry. This will identify anomalies that could represent confounding or intervening variables in the final analysis.

<sup>42</sup> This analysis may not be possible depending on the ability of identifying whether one or two parties actually were triaged.

<b><u>Evaluation Question</u></b>	<b><u>Indicators</u></b>	<b><u>Method/Research Activities</u></b>	<b><u>Data/Data Sources</u></b>
4. To what extent has Rule 5 affected the number of claims of urgency that proceed directly to court?	<ul style="list-style-type: none"> <li>Total number of claims of urgency (referred to TFJC for assessment, not referred for assessment/scheduled for immediate appearance)</li> <li># of assessed cases that proceed to court</li> <li># of assessed cases that are referred to other services/do not return to court</li> <li># of claims of urgency that proceed directly to court</li> </ul>	<p><i>Longitudinal Analysis</i></p> <ul style="list-style-type: none"> <li>determine # of claims of urgency that are not referred for assessment (i.e., proceed directly to court)</li> <li>comparison of outcomes of claims of urgency pre- and post-implementation</li> </ul> <hr/> <p><i>Cross Sectional Analysis</i></p> <ul style="list-style-type: none"> <li>comparison of # of claims of urgency<sup>43</sup> that proceed to court in the pilot sites and comparison sites before and after Rule 5 implementation</li> <li>determine # of claims of urgency that are not referred for assessment/proceed directly to court</li> </ul>	<ul style="list-style-type: none"> <li>court registry files</li> <li>TFJC tracking tool</li> <li>interviews with members of the judiciary, court registry staff, and FCJ staff</li> </ul> <ul style="list-style-type: none"> <li>court registry files</li> <li>TFJC tracking tool</li> <li>interviews with members of the judiciary involved in both Rule 5 and non-rule 5 registries</li> </ul>
5. Has Rule 5 affected the process involved in Family Case Conferences?	<ul style="list-style-type: none"> <li>perceived characteristics of FCC cases that have and have not received triage services (e.g., preparedness of the parties)</li> </ul>	<p><i>Longitudinal Analysis</i></p> <ul style="list-style-type: none"> <li>qualitative differences between triaged and non-triaged cases that proceed to an FCC</li> </ul> <hr/> <p><i>Cross Sectional Analysis</i></p> <ul style="list-style-type: none"> <li>qualitative differences between triaged and non-triaged cases that proceed to an FCC across pilot and comparison sites, before and after implementation</li> </ul>	<ul style="list-style-type: none"> <li>interviews with members of the judiciary</li> </ul> <ul style="list-style-type: none"> <li>interviews with members of the judiciary, especially those involved in both Rule 5 and non-rule 5 registries</li> </ul>
6. To what degree do clients appear to be satisfied with the process and outcomes of TFJC triage?	<ul style="list-style-type: none"> <li>satisfaction of clients receiving triage as perceived by court registry staff, judiciary, FJC staff</li> <li>perceived satisfaction of clients who do not receive triage (i.e., go through the traditional court process)</li> </ul>	<ul style="list-style-type: none"> <li>qualitative differences in client satisfaction with traditional court versus TFJC processes and outcomes (cross-sectional analysis across comparison and pilot sites)</li> </ul>	<ul style="list-style-type: none"> <li>interviews with members of the judiciary (especially those involved in both Rule 5 and non-rule 5 registries), court registry staff, and FCJ staff</li> </ul>

<sup>43</sup> In the comparison sites, anything scheduled for appearance within one to three days of application is considered an "urgent" application.

**APPENDIX C: OPERATIONAL DEFINITIONS**

## APPENDIX C: OPERATIONAL DEFINITIONS

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To enhance inter-researcher reliability, a number of operational definitions were applied to guide the case file review data collection component of the research. For reference purposes, the operational definitions used for the present research are presented below:

### Unit of Analysis/Applications

The main unit of analysis in the case file review component of the project was an application. "Application" was defined as an Application to Obtain an Order (Form 1) or an Application to Change or Cancel an Order (Form 2) that was filed and stamped by the court registry. Court appearances, hearings/trials and other family justice activities recorded in the court registry case file were tracked for each new independent application.

An "independent application" was identified and tracked to ensure that court processes were only recorded once in the case file tracking. That is, in some cases there would be multiple applications with overlapping/the same issues made by different parties for a single case and all applications/issues were heard concurrently. The specific issues heard or dealt with at each appearance or hearing could not be reliably determined, nor could it be reliably ascertained when a specific issue/set of issues had been resolved.<sup>44</sup> For example:

The mother files the original application and identifies access, custody and guardianship as the issues to be addressed. The original application identifies the father as the respondent. The respondent subsequently submits a reply. In addition, the paternal grandmother submits an application to address issues of custody and access, and a maternal aunt also submits an application seeking custody and access. Although these applications have been filed on different dates, the court record indicates that all four applications were heard by the court at the same time; that is, all four parties appeared before the judge and the issues are heard and dealt with concurrently. In this example, the activities that occurred with respect to the subsequent applications cannot be distinguished from the activities carried out for the original application and reply. As a result, the court activities are counted a single time, as part of the original application. In other words, although there are multiple applications, the court activities are tracked as part of the original application and the fact that there were multiple applications is noted.

In cases with a number of different applicants and the cases are heard consecutively, each application is considered and tracked as an "independent application".

### Respondent Reply

Prior to the implementation of the rules changes in December 1998, the second party to an application (i.e., the respondent) replied to the original application by submitting their own application. The new rules included changes to service and reply procedures at the court registry. The changes to the respondent service and reply process included new reply forms to be used by the respondent that were distinct from the application forms to be used by the applicants. Under the new rules, a respondent was required to reply to an application by indicating agreement on issues and/or a claim of their own on a Reply form (Form 3). Respondents no longer replied to an application by filing their own application.

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<sup>44</sup> Court record sheets included in the files generally listed all issues for all appearances, and did not consistently reveal that specific issues were dealt with at each appearance, hearing or trial.

The difference in procedures used in the pre-implementation phase and the post-implementation phase had major implications for tracking applications across the two evaluation periods. In the post-implementation period, the respondent's reply was not counted as a separate application, but rather as part of the settlement process undertaken to address the original application. Specifically, the submission of new applications by the respondent in the pre-implementation period would have the effect of inflating the number of applications in the pre-implementation period and posed a potential problem with respect to tracking court and family justice activities only once.

For both Rule 5 and non-Rule 5 sites, to adjust for the differences in procedure in the pre-implementation period and the post-implementation period and make the two evaluation periods comparable in terms of process, the respondents' applications in the pre-implementation period were examined to determine if, in fact, they functioned as a Reply would function in the post-implementation period. Specifically, the date of filing the reply and/or the information entered on the court record sheet were used to make the decision. To be classified as functioning as a respondent reply would under the new procedures, the date of filing had to be either within a few days of filing the original application or it was filed on the same day of the first court appearance where the respondent was present.<sup>45</sup> In these cases, the court record sheet typically showed that the next court appearance included both the applicant's and the respondent's issues.

#### Type of Application/Case

For the purpose of the evaluation, two main types of Family Relations Act (FRA) related cases were tracked: regular Rule 5 eligible cases and claims of urgency. Each were defined mainly by associated processes or "paths" followed upon accessing the family justice system.

**Regular Rule 5 Eligible Cases:** Regular Rule 5 cases are based on FRA-related issues and are non-urgent (i.e., there are no urgent or exceptional circumstances). A case was considered to be a regular Rule 5 eligible case (i.e., non-urgent) if there was no evidence that a claim of urgency had been made. Regular Rule 5 cases exclude those involving s. 37 and s. 38 of the FRA (i.e., requests for restraining orders issues), as these involve issues or threats of violence to the applicant or to the applicant's children.

In addition to urgent cases, applications and issues specific to Family Maintenance Enforcement Act (FMEA), Reciprocal Enforcement of Maintenance Orders (REMO) or BCEA were not defined as regular Rule 5 eligible cases. However, these files were examined in a cursory manner to identify whether the case file also contained an application where the party wished to address FRA-related issues that were Rule 5 eligible. In these instances, the regular application and court activities associated with it were tracked and it was noted whether there were concurrent FMEA, REMO or BCEA issues being addressed. Any cases that involved the CFCSA or the Director of Children and Family Development were not Rule 5 eligible.

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<sup>45</sup> Interviews with judges revealed that, prior to Rule 5 (i.e., under the old procedures), the respondent appeared before the court because he/she had been summoned to do so. However, the respondents often did not know why they were there nor what actions were available to them. At the first appearance, the judge would explain the reasons for the appearance and the reply procedure available to the respondent. As a result, the respondent often filed a reply immediately after the first appearance.

**Claims of Urgency:** Clients may submit an application with a claim of urgency. Through a claim of urgency the applicant could be exempted from Rule 5 and have an immediate (i.e., same day or the next) appearance in court. In non-Rule 5 sites and in the pre-implementation period, all applications with a claim of urgency proceed through the regular family court system. After the introduction of Rule 5, applications with a claim of urgency filed in the pilot sites could proceed in a number of different ways, depending on the characteristics of the claim. These cases may or may not have been referred to a Family Justice Counsellor for triage. In Rule 5 sites, claims of urgency that generally are not referred to the FJC (i.e., non-assessed claims) include the following:

1. an application where a restraining order (i.e., s. 37 or s. 38) has been requested;
2. an application with a claim of urgency where the applicant is represented by a lawyer; and/or,
3. at the time of making an application with a claim of urgency, there is an immediate threat or concern to the applicant and/or the children involved.

Policy indicates that, in all other circumstances, applicants with a claim of urgency in Rule 5 pilot sites are to be referred to an FJC.

Cases that include a request for a restraining order were not always treated as a claim of urgency. That is, although the issue was urgent (i.e., s. 37 or s. 38), it was non-immediate due to specific aspects of the situation. For example:

An application is filed where the applicant is requesting a restraining order because there is a propensity for violence against her or her children on the part of the respondent. The respondent is currently incarcerated and is scheduled for release in two months. In other words, the applicant is taking a preparatory measure to have a restraining order in place by the time the respondent is released. In this situation, the case might not go before a judge on the same day. Although the potential for violence is an urgent matter and, as such, the case would be exempt from Rule 5, the respondent will not be released for another two months and the situation does not have a high level of immediacy to appear in court on the same day as submitting the application. It should be noted, however, that the applicant would go before a judge in sufficient time to have a restraining order in place before the respondent's release.

Applications with a claim of urgency that do not involve s. 37 or s. 38 can be referred to an FJC before an application is filed and may or may not return to the court registry to file an application. If an applicant is referred to triage without filing an application and does not file an application subsequent to triage, there is no court record of the activity (i.e., these cases cannot be identified in the case file review).

Claims of urgency were somewhat problematic to identify in the court registry case files. Unless an application was specifically identified as urgent on the application (which was rarely the case outside of s. 37 and s. 38 issues) or on other case file records, the only way to determine if, in fact, the application was a claim of urgency was by the amount of time it took for the case to be heard before the courts or if the case went to triage and was identified as a claim of urgency on the FJC tracking sheet. For the present research, if an application proceeded before the court on the same day, it was categorized as a claim of urgency. However, not all claims of urgency proceeded to court on the same day (this was especially true at the smaller court registries).

The implication for the evaluation is that claims of urgency identified in the case file review activities are an underestimate of the actual claims of urgency submitted to the court registry in both the pre-implementation and post-implementation periods.

### Number of Issues

The total number of issues took into account the original application and any additional issues presented by the respondent in a reply. If the applicant and respondent indicated the same issues, each different issue was only counted once. Requests for restraining orders (RROs) were recorded separately during data collection activities but were added to the other (i.e., non-RRO) issues. The total number of issues used in the analysis was calculated as follows:

Total issues = (# issues on application) + (# additional issues in reply) + (RRO)

### Type of Court Activity

In many cases, the type of court activity (i.e., appearance, hearing/trial, pre-trial conference, trial preparation conference and Family Case Conference) could be determined from the record sheet and from forms completed by the Trial Coordinator. It was rarely possible to distinguish between a hearing and a trial, therefore, they were recorded as "Hearing/Trial" in the case file review. When the information was not available or the type of activity was not clearly identified, the activity was recorded as an appearance. Given the differences in recording practices across registries, hearings could not always be reliably distinguished from appearances. Therefore, the reader is advised to consider court activities in total to be reliable information rather than information about court activities broken down into appearances or hearings/trials. Family Case Conferences (FCCs) could be identified consistently in the case files and a specific record sheet was included in files for each Family Case Conference.

Implications for data analysis are:

- the number of hearings/trials recorded in the case file review is an underestimate of the actual number;
- the number of appearances recorded in the case file review is an overestimate of the actual number;
- the number of pre-trial conferences (PTCs) and trial preparation conferences (TPCs) recorded in the case file review could be slightly underestimated, although these tended to be clearly marked; and,
- the number of FCCs recorded in the case file review is relatively accurate.

Given these considerations, the analysis of court activities per application will be conducted on the total number of activities, where the total number of activities includes appearances (including a first appearance) and hearings or trials.<sup>46</sup>

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<sup>46</sup> PTCs/TPCs were not included in the total number of court activities as these were not identified in the original research plan. However, the information has been recorded and included in the case file review database.

### Case Settlement Patterns

In the pilot sites, once an application for a new order is filed there are a number of potential outcomes:

- the parties reach an agreement prior to triage services or prior to entering the courts;
- the party/parties successfully pursue mediation services and resolve their dispute, representing a total diversion from the courts;
- the parties reach an agreement subsequent to triage but before a scheduled court appearance;
- the party/parties pursue mediation or other interventions but return to the courts and resolve their dispute at the Family Case Conference stage<sup>47</sup>;
- the party/parties pursue mediation or other interventions but return to the courts for resolution through the regular trial system; or
- parties pursue mediation to resolve some issues and return to court for resolution of any outstanding issues remaining.

Case settlement patterns were measured as the proportion of Rule 5 eligible cases resolved by consent/written agreement, resolved by court order, withdrawn from the process, dismissed or adjourned generally, or resolved through alternative methods.

Identification of settlement patterns were possible only for those cases where an application had been filed with the court registry. Settlement patterns for cases referred to triage prior to submitting an application are not included in the evaluation (i.e., cases that never return to file an application).

### Final Outcome

The conclusion of an application was determined by:

- the presence of a court order, a consent order or an agreement in the case file,
- evidence that the case was withdrawn by the applicant, formally or informally,
- the parties ceasing to pursue the case altogether or dropping out of the process (i.e., no evidence of further activities in court file), or
- dismissal or general adjournment by a judge.

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<sup>47</sup> Family Case Conferences could be implemented at any time once a case has been filed with/returns to the court.

**APPENDIX D: SITE CHARACTERISTICS**

## APPENDIX D: REVIEW OF SITE CHARACTERISTICS AND BUSINESS PROCESSES

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The key results of the review of site characteristics and business processes are presented under the following headings:

- **Site Characteristics**
  - Court Registry Characteristics
  - Case Complexity and Case Characteristics
  - Triage Case Characteristics
- **Business Practices: Key Issues**
  - Referral Practices
  - Family Case Conferences

Research implications associated with the site characteristics and business processes are discussed as appropriate.

### 1. Site Characteristics

Originally, non-Rule 5 sites were selected with the intention of matching them with the pilot sites for the purpose of comparison. However, it became evident that a direct match between sites would be difficult given that all sites are relatively unique. Court registry characteristics varied across a number of factors: location, population density of the area served, caseload/volume, and staff experience. Also, cases and caseloads varied at each of the registries in terms of complexity of issues and case characteristics.

#### 1.1 Court Registry Characteristics

The Robson Square and Surrey registries provide services to densely populated regions of the Lower Mainland and serve the highest volume of cases out of all the court registries in the province. Court registries identified as comparison sites for the evaluation deal with small to mid-sized case volumes. Therefore, no direct matches were available in the province for Surrey or Robson Square in terms of volume. However, some of the medium-sized court registries (e.g., Abbotsford, Victoria), taken together, could approximate the size of Surrey and Robson Square.

In contrast to Surrey and Robson Square, the three West Kootenay Rule 5 sites (i.e., Castlegar, Nelson, and Rossland) are small registries that service large, sparsely populated geographical areas in a fairly isolated region of the province. Cranbrook was the only court registry with a demographic location similar to the three West Kootenay Rule 5 sites. The Cranbrook registry also serves a geographically dispersed, isolated population in the East Kootenays. The volume at the Cranbrook registry is similar to the volume at the three West Kootenay Rule 5 court registries combined. However, the cases heard in the Cranbrook court tend to be more complex (e.g., multiple parties) and the Cranbrook court registry has a relatively high volume of CFCSA cases.

The level of experience of the court registry staff and FJCs also varied across the sites. For example, Robson Square is the only registry included in the evaluation where a Justice of

the Peace is on staff and routinely serves applicants and respondents at the counter. In addition, most of the Robson Square court registry staff have been at the registry for a number of years. In the smaller court registries (e.g., Cranbrook, Rossland, Nelson, Castlegar), there is typically one person who routinely serves clients with family issues. In these registries, the registry clerks tend to have many years of experience. In contrast, the Surrey court registry has a large number of registry clerks working with family cases. While there are staff members who have worked with family cases for a number of years, the Surrey registry has a higher staff turnover for registry clerks who serve clients with family issues at the counter than do the other court registries included in the evaluation.

Court registry staff turnover at the non-Rule 5 sites appears to be similar to Robson Square and the West Kootenay registries. Interviewees did not cite staff turnover as an important issue at these sites, and the amount of time individuals had been a registry clerk ranged from to 2.5 to 20 years, the majority having six years experience or more.

## 1.2 Case Complexity and Case Characteristics

Quantitatively, case complexity for each site can be described through the average number of issues per application, the number of applications per case file, and the proportion of applications that included a request for a restraining order (RRO) under s. 37 or a no contact order under s. 38. Highlighted in Table D-1 are the case characteristics for each site during the pre-implementation and post-implementation periods.

**Table D-1  
Case Characteristics**

Court Site	<i>Pre-Implementation</i>			<i>Post-Implementation</i>		
	Mean Issues Per Application	Mean Applications Per Case File	% Applications with RRO	Mean Issues Per Application	Mean Applications Per Case File	% Applications with RRO
<b>Rule 5</b>						
Robson Square	2.53	1.13	18.3%	2.69	1.26	25.1%
Surrey	2.45	1.16	25.4%	2.41	1.23	30.8%
West Kootenays	2.31	1.11	25.4%	2.68	1.33	19.4%
<b>Total Rule 5</b>	<b>2.47</b>	<b>1.15</b>	<b>22.7%</b>	<b>2.54</b>	<b>1.25</b>	<b>27.6%</b>
<b>Non-Rule 5</b>						
North Vancouver	2.18	1.23	21.3%	2.47	1.20	10.3%
Richmond	2.61	1.09	11.8%	2.26	1.17	8.0%
Abbotsford	2.40	1.23	16.1%	2.41	1.11	13.7%
Victoria	2.09	1.15	16.0%	2.43	1.21	23.0%
Cranbrook	1.97	1.11	12.9%	2.74	1.11	21.6%
<b>Total Non-Rule 5</b>	<b>2.26</b>	<b>1.18</b>	<b>16.4%</b>	<b>2.44</b>	<b>1.16</b>	<b>16.1%</b>

Cases in Rule 5 sites appear to be slightly more complex than cases in non-Rule 5 sites. The average number of applications per case file during the pre-implementation period was almost the same in the Rule 5 (1.15) and non-Rule 5 (1.18) sites. However, the average number of issues per application and the proportion of applications with a request for a restraining order were higher in the Rule 5 sites than in the non-Rule 5 sites.

It appears that case complexity has increased in the Rule 5 court registries and remained relatively stable in the non-Rule 5 sites. In Rule 5 sites the average number of applications per case file and the proportion of s. 37 and s. 38 cases have increased. In contrast, while the average number of issues per application in the non-Rule 5 sites has increased, the average number of applications per case file and the proportion of applications containing a request for a restraining order have remained the same/decreased slightly.

The increased complexity of cases in Rule 5 sites is substantiated to some extent by qualitative information collected through the key informant interviews. In particular, court registry staff commented that cases appear to have more complex issues and/or complicated situations since the pre-implementation period. Other qualitative evidence (e.g., FJC interviews) suggests that the higher proportion of complex cases could be a result of the more complex, high conflict cases returning to court after triage while cases of less complexity tend to be diverted from the courts through triage services.

### 1.3 Triage Case Characteristics

FJCs were asked to describe the types of cases that typically access triage services. The main theme that emerged was that triage cases are almost always very high conflict cases and tend to have multiple service needs. FJCs consider triage cases to be more intense and have a higher level of conflict than cases that receive regular family justice counseling services. Note that, because Rule 5 is mandatory for all eligible cases, the complexity of the case reflects the characteristics of the parties who are served by the court registry and is not related to the requirement that the case go to triage. Examples of case descriptions made in informant interviews include the following:

*“Clients are anxious for an expedient resolution of their issues – many have tried [but] have not yet been successful in resolving issues.”*

*“Some are extremely high conflict situations.”*

*“People don’t make applications until things hit the roof.”*

*“The most critical, intense, desperate people.”*

Interviews conducted with in the Surrey family justice staff indicated that case complexity was more of an issue in Surrey than in other court registries. This opinion was somewhat substantiated by information collected about unique features of triage cases. Overall, Surrey triage cases appeared to have more complex characteristics than triage cases at Robson Square, although cases at both sites appeared to be complicated. The mean number of unique characteristics<sup>48</sup> per case was 3.63 in Surrey as compared to 2.15 in Robson Square. In addition, it appears that a larger proportion of Surrey clients have substance abuse problems than do Robson Square clients. Both sites handle a relatively large proportion of cases that involve abuse, although approximately 40% of Surrey cases involve abuse while 25% of Robson Square cases involve abuse.

The results generated from the unique features information should be viewed with caution as the parameters used by FJCs to define the feature and complete the unique features tracking sheets are not known. For example, some cases could have been entered multiple

<sup>48</sup> The unique features summary sheet was developed by FJCs to track the level of complexity of triage cases at the different FJC Triage offices. Unique characteristics were defined as features that tend to increase the complexity of a case or family dispute, such as: spousal/partner abuse (as defined by VAWIR policy), substance abuse, child abuse, threat of child abduction, restraining or protection order in effect, etc.

times if the parties had attended more than one appointment with the FJC. The results presented here are meant only to provide an indication of case complexity.

## **2. Business Practices: Key Issues**

Preliminary research revealed that Rule 5 appears to have formalized a number of practices that resemble triage conducted at court prior to the implementation of Rule 5 and/or have been introduced in non-Rule 5 sites. While the same or similar business processes were applied across court registries, they were implemented to varying degrees. A number of factors can shape the business processes applied at the family court registries included in the evaluation. Business practices include activities such as referral practices at the court registry, referral practices of the judiciary, and the use of Family Case Conferences.

### **2.1 Referral Practices**

The following bullets summarize the various referral practices applied by court registry staff and the judiciary at court registries included in the evaluation:

- At Rule 5 registries, the proximity of the FJC Triage office can influence referral practices of the court registry staff. In the West Kootenay court registries, the FJC Triage office is located at the Castlegar courthouse and the FJC is shared between the Castlegar, Rossland and Nelson registries. The FJC has scheduled days to be available in each of the three registries, otherwise clients can travel to Castlegar for an appointment. Because of the potential lag between filing an application with a claim of urgency and seeing the FJC, court registry staff tend to send all applicants with a claim of urgency directly to court. This practice is consistent with procedures set out in the rules where an applicant with a claim of urgency is sent before a judge (i.e., bypasses triage) when an FJC is not available for triage.
- Business practices also can reflect judicial preference. In some registries (Rule 5 and non-Rule 5) the researchers noted a large proportion of written agreements filed during certain periods of time. Interviews with court registry staff revealed that this was a reflection of judicial preference to have the parties attempt alternative methods of dispute resolution prior to filing an application. In many instances, the parties were referred to the FJC for regular (non-triage) services. While this is not exactly triage, as defined by Rule 5, the practice approximates triage and the Rule 5 process.
- In some cases a judge hears cases at more than one registry. That is, a judge might hear family justice cases in Rule 5 and non-Rule 5 sites. In these instances, judges indicated that, at non-Rule 5 sites, they tend to employ or make referrals to alternative methods of dispute resolution (e.g., Family Case Conferences or referrals to the regular FJC) in the non-Rule 5 court site to supplement the absence of mandatory triage services. Judicial preference is a key factor in some of the business practices of the different court registries.
- Court registry staff at some non-Rule 5 sites often refer parties to the regular FJC before filling out an application to help them clarify issues and understand the process involved in proceeding through the family justice system. These referrals, while not mandatory, operate to a similar end as does triage under Rule 5. At sites where this activity is

common practice, a proportionately large number of case files contain a written agreement developed in conjunction with an FJC but do not contain an application<sup>49</sup>.

- Court registry staff at Rule 5 sites refer parties to triage prior to or instead of completing an application for regular FRA issues and claims of urgency. A review conducted by cross-referencing case file data review sheets with the FJC appointment records and tracking sheets indicated that a considerable number of applicants and/or respondents were interviewed on days predating their filed applications. Many cases could be resolved before or without an application ever being filed and there is no record of these cases in the court registry.
- In some cases, an application was filed to confirm, before the court, the consent of both parties that had been generated through Rule 5 FJC mediation. In such cases, a final consent order is created by the court. This activity could decrease the number of applications with a claim of urgency that return to the courts as the FJC is often able to diffuse the emotionality of the situation, thereby eliminating the original sense of “urgency” of the claim.
- Applications with a non-s. 37 or 38 claim of urgency are dealt with differently depending on court registry characteristics. Court registry staff indicated varying levels of comfort and confidence in dealing with claims of urgency. For example, Robson Square has a Justice of the Peace who routinely serves applicants and respondents at the counter and who is available to assist other court registry staff, and who has the experience and authority to review applications with a claim of urgency. The North Vancouver registry addresses this potential problem in a unique manner: the judge has provided a number of questions for the court registry staff to use to help determine whether or not an application (excluding those with s. 37 or s. 38 issues) should be designated as a claim of urgency. North Vancouver court registry staff also indicated that, should they be unsure of the nature of a particular case, they often have access to a judge to discuss the matter.

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<sup>49</sup> Note that these case files were not included in the review, therefore, this statement is based on researcher observations.

**APPENDIX E:  
QUANTITATIVE RESULTS AND ANALYSES: ORIGINAL SITES**

## APPENDIX E: QUANTITATIVE RESULTS AND ANALYSES: ORIGINAL SITES

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### 1. Case File Review Results

Summarized in Tables E-1 and E-2 are the results of the case file review data collection component for the pre-implementation period and post-implementation periods, respectively. Provided in each table is a breakdown of the case file review results by application type (i.e., claim of urgency or regular FRA) and by rate of court activity.

**Table E-1**  
**Pre-Implementation Period (December 1, 1997 through November 30, 1998)**

Court Registry	Total Files	Total Applications	% Regular FRA	% Claim of Urgency	Rate of Appearances/ Application	Rate of Hearings/ Application	Rate of Total Activities <sup>1</sup>
<b>Rule 5 Sites</b>							
Surrey	332	386	75.9%	24.1%	1.88	.31	2.19
Robson Square	244	279	77.8%	22.2%	1.71	.42	2.12
W. Kootenays	56	59	76.3%	23.7%	1.39	.29	1.68
<b>Total Rule 5</b>	<b>632</b>	<b>724</b>	<b>76.6%</b>	<b>23.3%</b>	<b>1.77</b>	<b>.35</b>	<b>2.12</b>
<b>Non-Rule 5 Sites</b>							
N. Vancouver	99	122	70.5%	29.5%	1.25	.16	1.42
Richmond	70	76	84.2%	15.8%	1.20	.36	1.55
Abbotsford	131	161	76.4%	23.6%	1.64	.26	1.90
Victoria	169	194	76.8%	23.2%	1.29	.20	1.48
Cranbrook	29	31	80.6%	19.4%	1.48	.35	1.84
<b>Total Non-Rule 5</b>	<b>498</b>	<b>584</b>	<b>76.5%</b>	<b>23.5%</b>	<b>1.38</b>	<b>.24</b>	<b>1.61</b>

<sup>1</sup> Rate of total activities may not equal the sum of Rate of Appearances and Rate of Hearings due to rounding.

There was no significant difference in the proportion of FRA-related cases and claims of urgency in Rule 5 and non-Rule 5 sites during the pre-implementation period.<sup>50</sup> However, there was a significantly higher rate of court activity per application occurring in the Rule 5 sites (2.12) than there were in the non-Rule 5 sites (1.61).<sup>51</sup>

<sup>50</sup>  $t = 0.49, p = .96.$

<sup>51</sup>  $t = 6.05, p < .001.$

**Table E-2**  
**Post-Implementation Period (April 1, 2000 through December, 30 2000)**

<b>Court Registry</b>	<b>Total Files</b>	<b>Total Applications</b>	<b>% Regular FRA</b>	<b>% Claim of Urgency</b>	<b>Rate of Appearances/ Application</b>	<b>Rate of Hearings/ Application</b>	<b>Rate of Total Activities<sup>1</sup></b>
<b>Rule 5 Sites</b>							
<b>Surrey</b>	363	445	67.6%	32.4%	1.20	.07	1.27
<b>Robson Square</b>	277	347	69.7%	30.3%	1.06	.20	1.26
<b>W. Kootenays</b>	52	67	79.1%	20.9%	1.01	.07	1.09
<b>Total Rule 5</b>	<b>692</b>	<b>859</b>	<b>69.4%</b>	<b>30.6%</b>	<b>1.12</b>	<b>.14</b>	<b>1.26</b>
<b>Non-Rule 5 Sites</b>							
<b>N. Vancouver</b>	89	107	77.6%	22.4%	1.17	.30	1.47
<b>Richmond</b>	64	75	92.0%	8.0%	1.04	.23	1.27
<b>Abbotsford</b>	151	168	86.3%	13.7%	1.35	.17	1.52
<b>Victoria</b>	164	200	72.5%	27.5%	.96	.17	1.12
<b>Cranbrook</b>	46	51	86.3%	13.7%	1.18	.16	1.33
<b>Total Non-Rule 5</b>	<b>514</b>	<b>601</b>	<b>80.9%</b>	<b>19.1%</b>	<b>1.13</b>	<b>.20</b>	<b>1.33</b>

<sup>1</sup> Rate of total activities may not equal the sum of Rate of Appearances and Rate of Hearings due to rounding.

In contrast to the pre-implementation phase, there was a difference between the proportion of claims of urgency between Rule 5 (31%) and non-Rule 5 (19%) sites<sup>52</sup> while there was no significant difference<sup>53</sup> between the rate of court activities in the post-implementation phase.

No significant difference in the post-implementation rate of court activity per application between Rule 5 and non-Rule 5 sites is likely due to the fact that Rule 5 sites had a higher overall activity rate during the pre-implementation period. That is, the rate of court activity in Rule 5 sites actually decreased to match the rate of activity in the non-Rule 5 sites which has also decreased since the pre-implementation period.

Changes in type of application and rate of court activity per application that occurred between the pre- and post-implementation periods can be measured as a difference score between pre-implementation and post-implementation for Rule 5 and non-Rule 5 sites. The difference scores for each the Rule 5 and non-Rule 5 sites across the pre-implementation and post-implementation periods are presented in Table E-3.

<sup>52</sup>  $t = -4.97, p < .001$

<sup>53</sup>  $t = -.95, p = .34$

**Table E-3**  
**Summary of Change in Application Type, Court Activity Rates Between Pre and Post**  
**by Rule 5 and Non-Rule Sites**

	RULE 5			NON-RULE 5		
	Pre	Post	Change (Pre - Post)	Pre	Post	Change (Pre - Post)
<i>Type of Application/Issue(s)</i>						
<b>Regular FRA</b>	75.9%	69.4%	- 6.5%	76.5%	80.9%	+ 4.4%
<b>Claim of Urgency</b>	24.1%	30.6%	+ 6.5%	23.5%	19.1%	- 4.4%
<i>Rate of Court Activity</i>						
<b>Rate of Appearances</b>	1.77	1.13	- 0.64	1.38	1.13	- 0.25
<b>Rate of Hearings</b>	0.35	0.12	- 0.23	0.24	0.20	- 0.04
<b>Rate of Total Court Activities</b>	2.12	1.26	- 0.86	1.61	1.33	- 0.28

There was a significant reduction in the rate of court activity between the pre-implementation and post-implementation periods in Rule 5 sites. This was true for the rate of appearances per application, the rate of hearings per application and the total court activities taken as a whole.<sup>54</sup> Similarly, there were significant reductions between the pre-implementation period and the post-implementation period in the rate of court appearances and rate of total court activity in the non-Rule 5 sites<sup>55</sup>; the rate of hearings/trials, however, did not change significantly.<sup>56</sup>

The decrease in the rate of total court activities between the pre-implementation period and the post-implementation period for the Rule 5 sites (.86) was more than three times larger than the decrease that occurred in the non-Rule 5 sites (.28). The change in rate of court activity per application between the pre-implementation and post-implementation periods in the Rule 5 and non-Rule 5 sites was statistically significant.<sup>57</sup>

The proportion of claims of urgency increased significantly<sup>58</sup> in Rule 5 sites from the pre-implementation period to the post-implementation period whereas the proportion of cases that were claims of urgency in the non-Rule 5 pilot sites decreased over the same time period. The increase in claims of urgency in the Rule 5 sites could be a reflection of an actual increase in urgent cases in the Rule 5 sites or it could be an artifact of Rule 5 due to parties/lawyers filing claims of urgency to by-pass Rule 5. Qualitative information collected in the interview component gives evidence for both interpretations, depending on the position in the court registry. Specifically, some judges indicated that they have been hearing more claims of urgency that are not truly urgent than they had previously whereas court registry staff indicated that there has been an increase in claims of urgency being submitted. FJC opinions were mixed.

<sup>54</sup> Appearances:  $t = 9.43, p < .001$ ; Hearings/Trials:  $t = 6.24, p < .001$ ; Total activities:  $t = 10.35, p < .001$ .

<sup>55</sup> Appearances:  $t = 3.89, p < .001$ ; Hearings/Trials:  $t = -.994, p = .32$ ; Total activities:  $t = 3.51, p < .001$

<sup>56</sup> The reader is reminded that the total rate of court activity is the most reliable of the three measures reported.

<sup>57</sup> Interaction between type of site and implementation period:  $F = 24.37, p < .001$

<sup>58</sup>  $t = -3.25, p < .001$ .

### 3. Dispute Resolution/Case Outcomes

When reviewing the results related to case outcomes it must be remembered that tracking cases between the court registry file and the FJC tracking sheet was difficult and yielded only limited success. Wherever possible, information found in the FJC Triage tracking records was used to up-date the court registry case file review. However, limited information about case outcomes could be found through cross-referencing the FJC information.

Summarized in Table E-4 is the final outcome of applications filed with the court registries in the original pilot and comparison sites.

**Table E-4**  
**Application Final Outcomes for Rule 5 and Non-Rule 5 Sites**  
**By Pre-Implementation and Post-Implementation Period**

Final Outcome <sup>1</sup>	RULE 5			NON-RULE 5		
	Pre (n = 624)	Post (n = 568)	Change (Pre - Post)	Pre (n = 523)	Post (n = 454)	Change (Pre - Post)
<b>Orders/Agreements</b>						
Order	39.6%	34.7%	- 4.9%	43.6%	47.8%	+ 4.2%
Interim Order	7.7%	7.0%	- 0.7%	4.0%	6.4%	- 2.4%
Ex Parte Order	6.1%	10.4%	+ 4.3%	12.0%	8.1%	- 3.9%
FJC Agreement/Desk Order/Consent	5.9%	5.7%	- 0.2%	3.8%	4.6%	+ 0.8%
<b>Other Outcomes</b>						
Withdrawn	16.2%	9.5%	- 6.7%	17.4%	7.5%	- 9.9%
Dismissed	6.7%	5.8%	- 0.9%	5.5%	6.4%	+ 0.9%
Adjourned Generally	12.2%	9.5%	- 2.7%	9.6%	8.6%	- 1.0%
Supreme Court	3.4%	3.3%	- 0.1%	3.8%	0.7%	- 3.1%

<sup>1</sup> Totals do not add to 100% as only key outcomes have been included in the table, as identified by the evaluation framework.

In the pre-implementation period, the percentage of applications resulting in an order were similar: 40% for Rule 5 sites and 44% for non-Rule 5 sites. Between the pre- and post-implementation periods, the proportion of cases where the final outcome was an order decreased by 4% in Rule 5 sites, while it increased 4% in the non-Rule 5 sites. These percentages are based on the total number of applications where there was an identifiable final outcome. Cases for which there was no further activity were excluded.

Cases where the final outcome was identified as “no further activity” could include those where:

- only an application had been filed (i.e., no further information could be located in the case file nor on the FJC Triage tracking sheet);
- an application was filed and the parties were informed about triage, but it could not be determined if they had gone to triage;
- an application was filed and the party/parties went to triage but the FJC file was closed due to the lack of activity for 60 days; or,

- the parties had proceeded to court but failed to show at the most recent court date and there was no further activity.

The "no further activity" category includes cases that had begun the court process (i.e., had a first appearance, at least) and those that did not participate in any court related activities, including Family Case Conferences; that is, cases where the parties simply appeared to have dropped out. Changes in cases with no further activity by point of drop out (i.e., before court activities or after) are summarized in Table E-5 below.

**Table E-5**  
**Proportion of Applications with No Further Activity for Rule 5 and Non-Rule 5 Sites**  
**By Pre-implementation and Post-Implementation Periods**

<b>Court Site</b>	<b>No Further Activity After Filing, Before Appearances</b>	<b>No Further Activity After One or More Appearances</b>	<b>Total Applications with No Further Activity</b>
<b>Rule 5</b>			
Pre-Implementation (n=724)	2.6%	11.2%	13.8%
Post-Implementation (n=859)	28.8%	4.8%	33.5%
<b>Difference: Rule 5</b>	<b>+ 26.2%</b>	<b>- 6.4%</b>	<b>+ 19.7%</b>
<b>Non-Rule 5</b>			
Pre-Implementation (n=584)	2.1%	8.4%	10.4%
Post-Implementation (n=601)	17.3%	6.8%	24.1%
<b>Difference: Non-Rule 5</b>	<b>+ 15.2%</b>	<b>- 1.6%</b>	<b>+ 13.7%</b>

As indicated in the last column of Table D-5, the proportion of total cases that "dropped out" increased by more between the pre- and post-implementation periods in the Rule 5 sites than in the non-Rule 5 sites: 20% as compared to 14%. At the Rule 5 sites, cases that "dropped out" prior to court in the post-implementation period included those that went on to triage and those that simply ceased their action altogether at any point in process.

To provide a more accurate indicator of effects attributable to Rule 5, cases that dropped out after proceeding to court were removed (i.e., Column 2 in Table D-5), leaving only those cases that showed no further activity after filing an application and no court activity (i.e., Column 1 in Table D-5). A comparison of Rule 5 and non-Rule 5 sites in the changes from the pre- and post-implementation periods reveals that there was a larger increase (26%) in these types of cases at Rule 5 sites than there was at non-Rule 5 sites (15%). The increase in the proportion of applications that do not continue into the court system was almost 60% larger in the Rule 5 sites as compared to the non-Rule 5 sites (an absolute difference of 11%).

Using the amount of change in the non-Rule 5 group as the baseline, up to 11% of cases in the Rule 5 sites could have been diverted from the courts because of Rule 5 alone. In addition, there was no significant difference between the proportion of applications that dropped out prior to any court-related activity in Rule 5 and non-Rule 5 sites in the pre-

implementation period, while there was a statistically significant difference in the post-implementation period.<sup>59</sup>

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<sup>59</sup> *Pre-implementation:  $t = -0.67$ ,  $p = .50$ ; Post-implementation:  $t = -5.24$ ,  $p < .001$*

## **APPENDIX F: KELOWNA RESULTS**

## APPENDIX F: KELOWNA RESULTS

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### 1. Case Characteristics: Kelowna and Kamloops

Summarized in Table F-1 are the case characteristics of case files at the Kelowna (Rule 5) and Kamloops (non-Rule 5) court registries.

**Table F-1**  
**Case Characteristics**

Court Site	Pre-Implementation			Post-Implementation		
	Mean Issues Per Application	Mean Applications Per Case File	% Applications with RRO	Mean Issues Per Application	Mean Applications Per Case File	% Applications with RRO
<b>Rule 5</b>						
Kelowna	2.12	1.11	15.4%	2.43	1.11	20.3%
<b>Non-Rule 5</b>						
Kamloops	2.28	1.42	12.6%	3.16	1.25	14.9%

It is difficult to conclude whether cases in Kelowna or in Kamloops were more complex based solely on the information contained in Table F-1. For example, while the mean applications per case file was higher in Kamloops than in Kelowna in both the pre-implementation and post-implementation periods, the proportion of applications containing a request for a restraining order was higher in the Kelowna. However, while it appears that case complexity remained somewhat stable or even declined slightly in Kamloops, case complexity appears to have increased to some extent in Kelowna (i.e., increased issues per application and increased proportion of cases with a request for a restraining order).

Although court registry staff did not mention an increase in the complexity of cases filing applications since the pre-implementation period, they did feel that the volume of applications submitted to their respective registries had increased.<sup>60</sup>

#### 1.1 Triage Cases

Interviews with Kelowna FJCs revealed that the cases that appear for triage are typically complex and the parties have multiple issues. As all three of the Kelowna FJCs provide both triage and regular family justice services, they had the opportunity to compare the types of cases they see for regular FJC services and those who receive Triage. In general, the FJCs considered the triage cases to be much more complicated than the regular cases that access the Family Justice Centre.

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<sup>60</sup> It should be noted that Kamloops was impacted by courthouse closures that occurred during the post-implementation period. As a result the volumes had increased near the time of the interviews which, in turn, could have affected perceptions about the current situation. In Kelowna, increases in volume could be due to Legal Services Society cutbacks that occurred during the same period.

## 1.2 Business Practices

A few months prior to the evaluation, the Kelowna Family Justice Centre moved from the court registry to a nearby location outside of the courthouse. Due to the proximity of the Family Justice Centre, Kelowna court registry staff have routinely referred parties to the services offered at the Centre for a number of years and continue to do so. As a result, the processes employed at the Kelowna court registry prior to the introduction of Rule 5 resemble the Rule 5 process. In addition, since the implementation of Rule 5, court registry staff routinely refer parties to triage prior to their completing an application. Therefore, the proportion of diverted cases estimated through the analysis of the case file review data is an underestimate of the actual number of cases diverted from the court as the analysis cannot capture cases where an application was never filed and the case was diverted as a result of triage.

Interviews with Kamloops court registry staff revealed that the Kamloops court registry employs a “quasi” Rule 5 process whereby court registry staff have been instructed to refer applicants to other service providers (e.g., FJCs, on-site legal counsel), where appropriate, for assistance before or after filing an application. Specifically, if it is determined that there is no emergency or risk, parties not represented by a lawyer are provided information and encouraged to speak with an FJC and/or legal counsel. Parties are always provided with information about alternatives to resolving family dispute (e.g., FJC, legal counsel, counsellors/mediators). In fact, court registry staff at the Kamloops court registry indicated that more than 90% of cases receive this information and/or are referred to other family justice services.

In summary, practices at both of the Kelowna and Kamloops registries have the potential to make it difficult to detect the incremental effects of Rule 5 on court usage. Results could be affected in two ways:

1. In Kelowna, differences between the pre-implementation and post-implementation periods attributable to the introduction of Rule 5 could be more difficult to detect as the “quasi” Rule 5 practices applied in the pre-implementation period could have had similar effects (e.g., diversion from the courts, decrease of court activities per application) as Rule 5 has had in the post-implementation period.
2. Differences between the Kelowna and Kamloops sites could be attenuated due to the similarity of the referral practices used by court registry staff in Kamloops to Rule 5.

## 2. Research Issues

Rule 5 was implemented at the Kelowna court registry May 4, 2001, more than two years after the implementation of Rule 5 in the five original pilot sites. As a result, the post-implementation period defined for the Kelowna and Kamloops sites covered from May 4, 2001 to April 30, 2002, and court activities could be tracked only until August 15, 2002 (i.e., 15.5 months after the start of the post-implementation period) due to time constraints imposed by the evaluation (i.e., a draft final report was due by September 30). In contrast, the post-implementation period for the five original pilot sites was defined as April 1, 2000 through March 31, 2001 and court activities were tracked until November 30, 2001 (i.e., 20 months after the start of the post-implementation period). The difference in the post-implementation periods defined for Kelowna/Kamloops and the period defined for the original ten sites raises issues of uncontrolled influences related to “history” or external

effects that occur over the passage of time. For example, at the time of implementing Rule 5 in Kelowna, the initiative had been in operation in the five original pilot sites for more than two years; as a result, it is possible that Kelowna benefited in some way from the experience of the original pilot sites in implementing of Rule 5. In addition, court registry sites not selected as one of the original five pilot sites have had an opportunity to become more familiar with or aware of the Rule 5 initiative which, in turn, may have affected their own business practices. Other potential influencing factors, such as changes in government, could also have been introduced prior to or within the later post-implementation period. Such influences have not been controlled for in the research design and could affect the validity of the overall results if the Kelowna and Kamloops data were to be included with the data collected in the original Rule 5 sites.

It was determined that the case file review data collected for the post-implementation period in the Kelowna and Kamloops sites should be analyzed separately from the five original pilot sites due to the differences between the data collection periods and pilot implementation dates.<sup>61</sup> It should be noted, however, that the pre-implementation period for the Kelowna and Kamloops sites was the same as the pre-implementation period for the original sites.

A key benefit to keeping the Kelowna analysis separate is that, as it was introduced as a pilot site more than two years after the Rule was implemented in the original pilot sites, Kelowna can be considered a second test or replication of the original pilot project. Therefore, keeping the Kelowna results separate from the original Rule 5 site results will allow the later results to be used as further evidence of the impact of Rule 5. That is, the Kelowna results could strengthen the evidence of changes attributable to Rule 5.

### 3. Case File Review Results

Summarized in Table F-2 are the results of the case file review for the pre-implementation period (December 1, 1997 through November 30, 1998) and the post-implementation period (May 4, 2001 through April 30 2002) in Kelowna and Kamloops.

**Table F-2**  
**Results of the Case File Review in Kelowna and Kamloops**  
**for the Pre-Implementation and Post-Implementation Periods**

<b>Court Registry</b>	Total Files	Total Applications	% Regular FRA	% Claim of Urgency	Rate of Appearances/ Application	Rate of Hearings/ Application	Rate of Total Activities <sup>1</sup>
<b>Rule 5 Sites</b>							
<b>Kelowna</b>							
<i>Pre-Implementation</i>	122	136	78.7%	21.3%	1.43	0.16	1.60
<i>Post-Implementation</i>	106	118	81.4%	18.6%	0.89	0.02	0.92
<b>Non-Rule 5 Sites</b>							
<b>Kamloops</b>							
<i>Pre-Implementation</i>	135	191	73.3%	26.7%	1.47	0.47	1.94
<i>Post-Implementation</i>	118	148	87.2%	12.8%	1.15	0.07	1.22

<sup>1</sup>Rate of total activities may not equal the sum of the rate of appearances and rate of hearings due to rounding.

<sup>61</sup> The pre-implementation period defined for the evaluation was the same for all 12 sites.

There was no significant difference in the proportion of claims of urgency at the Kelowna and Kamloops court registries in either the pre- or the post-implementation periods.<sup>62</sup> In both the pre-implementation period and the post implementation period, the rate of total court activities in Kamloops was significantly greater than in Kelowna.<sup>63</sup>

Changes in type of application and rate of court activity per application that occurred between the pre- and post-implementation periods can be measured as a difference score between the pre-implementation and post-implementation periods for Rule 5 and non-Rule 5 sites. The difference between the two implementation periods for the Kelowna and Kamloops sites are presented in Table F-3.

**Table F-3**  
**Summary of Change in Application Type, Court Activity Rates**  
**between Pre and Post Implementation Periods**  
**in Kelowna and Kamloops**

	KELOWNA: RULE 5			KAMLOOPS: NON-RULE 5		
	Pre	Post	Change (Pre - Post)	Pre	Post	Change (Pre - Post)
<i>Type of Application/Issue(s)</i>						
<b>Regular FRA</b>	78.7%	81.4%	+ 2.7%	73.3%	87.2%	+ 13.9%
<b>Claim of Urgency</b>	21.3%	18.6%	- 2.7%	26.7%	12.8%	- 13.9%
<i>Rate of Court Activity</i>						
<b>Rate of Appearances</b>	1.43	0.89	- 0.54	1.47	1.15	- 0.32
<b>Rate of Hearings</b>	0.16	0.02	- 0.14	0.47	0.07	- 0.40
<b>Rate of Total Court Activities</b>	1.60	0.92	- 0.68	1.94	1.22	- 0.72

There was a significant decrease between the rate of total court activity in the pre-implementation and post-implementation periods in both Kelowna and in Kamloops. This was true for the rate of appearances per application, the rate of hearings per application and the total court activities taken as a whole.<sup>64</sup> The reduction in total court activities between the pre-implementation and post-implementation periods was similar for Kelowna (-0.68) and for Kamloops (-0.72). The change in rate of court activity per application between the pre-implementation and post-implementation periods in Kelowna and in Kamloops (i.e., the interaction between implementation period and type of site) was not statistically significant.<sup>65</sup>

As reported above, the rate of court activity between the pre- and post-implementation periods decreased a similar amount in the Kelowna and Kamloops registries. These results are in contrast to those for the original Rule 5 and non-Rule 5 sites where there was a statistically significant difference between the reduction in court activities in the Rule 5 sites and the reduction in the non-Rule 5 sites (these results are summarized in Appendix E). The difference between the two sets of comparisons suggests that an anomaly may exist in the Kelowna-Kamloops pairing.

<sup>62</sup> Pre-implementation:  $t = -1.13$ ,  $p = .26$ ; Post-implementation:  $t = 1.28$ ,  $p = .20$ .

<sup>63</sup> Pre-implementation:  $t = -2.20$ ,  $p = .03$ ; Post-implementation:  $t = -2.30$ ,  $p = .02$ .

<sup>64</sup> Kelowna: Appearances:  $t = 3.97$ ,  $p < .001$ ; Hearings/Trials:  $t = 2.50$ ,  $p = .01$ ; Total court activities:  $t = 4.19$ ,  $p < .001$ .

Kamloops: Appearances:  $t = 3.31$ ,  $p = .001$ ; Hearings/Trials:  $t = 5.99$ ,  $p < .001$ ; Total court activities:  $t = 5.62$ ,  $p < .001$ .

<sup>65</sup> Interaction between type of site and implementation period:  $F = 0.038$ ,  $p = .85$ .

To determine the reason underlying the non-significant result between the decreased court activity in the Kelowna and Kamloops sites, application types and court activities in Kelowna and Kamloops will be compared to the original Rule 5 sites and to the original non-Rule 5 sites, respectively. These comparisons will allow an examination of the extent to which changes in Kelowna resemble changes in the other Rule 5 sites and how much the Kamloops site resembles the original non-Rule 5 sites.

First, the similarities/differences between Kelowna and the other Rule 5 sites will be explored. The results of the case file review for Kelowna and the original Rule 5 sites are presented in Table F-4.

**Table F-4**  
**Results of the Case File Review for Kelowna and the Original Rule 5 Sites**  
**by Pre-Implementation and Post-Implementation Periods**

<b>Court Registry</b>	<b>% Regular FRA</b>	<b>% Claim of Urgency</b>	<b>Rate of Appearances/ Application</b>	<b>Rate of Hearings/ Application</b>	<b>Rate of Total Activities<sup>1</sup></b>
<b>Kelowna</b>					
<i>Pre-Implementation</i>	78.7%	21.3%	1.43	0.16	1.60
<i>Post-Implementation</i>	81.4%	18.6%	0.89	0.02	0.92
<b>Difference (Pre-Post)</b>	<b>+2.7%</b>	<b>-2.7%</b>	<b>-0.54</b>	<b>-0.13</b>	<b>-0.68</b>
<b>Original Rule 5 Sites</b>					
<i>Pre-Implementation</i>	76.6%	23.3%	1.77	0.35	2.12
<i>Post-Implementation</i>	69.4%	30.6%	1.13	0.12	1.26
<b>Difference (Pre-Post)</b>	<b>-6.5%</b>	<b>+6.5%</b>	<b>-0.64</b>	<b>-0.23</b>	<b>-0.86</b>

<sup>1</sup> Rate of total activities may not equal the sum of the rate of appearances and rate of hearings due to rounding.

In the pre-implementation period there was a similar proportion<sup>66</sup> of claims of urgency submitted to the Kelowna registry (21%) as in the original Rule 5 sites (23%). Although the claims of urgency filed increased at the original Rule 5 sites and decreased slightly in Kelowna<sup>67</sup>, the amount of change in the proportion of claims of urgency between the pre- and post-implementation periods for the two sites were not significantly different<sup>68</sup>.

The rate of court activity at the Kelowna site was generally lower than the average for the original Rule 5 sites.<sup>69</sup> The lower rate of court activity in the pre-implementation period could be related to the use of “quasi” Rule 5 practices at the Kelowna registry prior to the introduction of Rule 5, as revealed in the informant interviews. The difference between the rate of court activity at the original Rule 5 and the Kelowna sites in the post-implementation period could be related, in part, to different programs being offered in the Kelowna family justice system<sup>70</sup> registry or to the shorter tracking period. It is important to note, however, that the amount of change in the rate of court activity between the pre-implementation and

<sup>66</sup> The proportion of claims of urgency in the pre-implementation period was not significantly different:  $t = .51$ ,  $p = .61$ .

<sup>67</sup> The difference in the proportion of claims of urgency between Kelowna and the other Rule 5 sites in the post-implementation was significantly different,  $t = -3.05$ ,  $p = .003$ .

<sup>68</sup> Interaction between implementation period and site:  $F = 2.80$ ,  $p = .09$ .

<sup>69</sup> There were significantly fewer court activities in Kelowna than the original pilot sites in both the pre-implementation ( $t = -3.84$ ,  $p < .001$ ) and post-implementation ( $t = -2.89$ ,  $p = .004$ ) periods.

<sup>70</sup> The Comprehensive Child Support Services (CCSS) and the FMEP Outreach Program.

the post-implementation periods for Kelowna and the other Rule 5 sites were not significantly different.<sup>71</sup>

In summary, the results show that, although the Kelowna site differed from the original Rule 5 sites in the rate of court activity, the pattern of change from the pre-implementation to the post-implementation periods are the same. That is, the Kelowna site acted in a similar fashion to the other Rule 5 sites.

The same comparisons are made for Kamloops and the original non-Rule 5 sites to determine the extent to which Kamloops resembles the original comparison sites. Presented in Table F-5 are the results of the case file review for Kamloops and the original non-Rule 5 sites.

**Table F-5**  
**Results of the Case File Review for Kamloops and Original Non-Rule 5 Sites**  
**by Pre-Implementation and Post-Implementation Periods**

<b>Court Registry</b>	<b>% Regular FRA</b>	<b>% Claim of Urgency</b>	<b>Rate of Appearances/ Application</b>	<b>Rate of Hearings/ Application</b>	<b>Rate of Total Activities<sup>1</sup></b>
<b>Kamloops</b>					
<i>Pre-Implementation</i>	73.3%	26.7%	1.47	0.47	1.94
<i>Post-Implementation</i>	87.2%	12.8%	1.15	0.07	1.22
<b>Difference (Pre-Post)</b>	<b>+13.9%</b>	<b>-13.9%</b>	<b>-0.32</b>	<b>-0.40</b>	<b>-0.72</b>
<b>Original Non-Rule 5 Sites</b>					
<i>Pre-Implementation</i>	76.5%	23.5%	1.38	0.24	1.61
<i>Post-Implementation</i>	80.9%	19.1%	1.13	0.20	1.33
<b>Difference (Pre-Post)</b>	<b>+ 4.4%</b>	<b>- 4.4%</b>	<b>- 0.25</b>	<b>+ 0.04</b>	<b>- 0.28</b>

<sup>1</sup>Rate of total activities may not equal the sum of the rate of appearances and rate of hearings due to rounding.

In the pre-implementation period there was a similar proportion<sup>72</sup> of claims of urgency submitted to the Kamloops registry (27%) as were submitted in the original non-Rule 5 sites (24%). Although the claims of urgency filed decreased more in Kamloops (- 14%) than in the other non-rule 5 sites (- 4%), the amount of change in the proportion of claims of urgency between the pre- and post-implementation periods for the two sites were not significantly different<sup>73</sup>.

In the pre-implementation period, the rate of court activity at the Kamloops site was significantly higher than in the original non-Rule 5 sites.<sup>74</sup> However, there was no significant difference between the sites in the rate of court activity for the post-implementation periods<sup>75</sup>. A large decrease in the rate of court activity between the pre- and post-implementation periods occurred in Kamloops. The decrease in Kamloops (- 0.72) was 2.5 times larger than the decrease in the original non-Rule 5 sites (-0.28).<sup>76</sup>

<sup>71</sup> Interaction between implementation period and site:  $F = 0.74$ ,  $p = .39$ .

<sup>72</sup> The proportion of claims of urgency in the pre-implementation period was not significantly different:  $t = .91$ ,  $p = .36$ .

<sup>73</sup> Interaction between implementation period and site:  $F = 3.58$ ,  $p = .06$ .

<sup>74</sup> Pre-implementation:  $t = 2.94$ ,  $p = .003$ .

<sup>75</sup> The rate of court activity in Kamloops was not significantly different from the rate in the other non-Rule 5 sites in the post-implementation period:  $t = -1.14$ ,  $p = .23$ .

<sup>76</sup> Interaction between implementation period and site:  $F = 6.90$ ,  $p = .009$ .

In summary, the results reveal that the patterns of change from the pre-implementation to the post-implementation periods are the same in the Kelowna and the original Rule 5 sites. In contrast, Kamloops differs significantly from the original non-Rule 5 sites with respect to changes from the pre-implementation to the post-implementation period. That is, there was a much larger reduction in the rate of court activities in Kamloops between the evaluation periods than had occurred in the original non-Rule 5 sites suggesting that Kamloops differs from the original non-Rule 5 sites. The change in the pattern of court activity at the Kamloops site could be related to a change in business practices at the court registry, in particular, the introduction of a “quasi” Rule 5 process and more options/information being provided to parties at the time of application. Interviews with staff at the Kamloops registry supports this explanation.

The results presented above suggest that a direct comparison of Kelowna and Kamloops may not provide the most accurate representation of the success of Rule 5 in Kelowna. The change in the rate of court activity between the pre-and post-implementation periods in Kamloops more closely resembles the changes that occurred in Kelowna and the original Rule 5 pilot sites than the changes that occurred in the original non-Rule 5 sites. As a result, a supplemental analysis will be conducted for Kelowna. Specifically, Kelowna will be compared with the original non-Rule 5 sites.

### 3.1 Comparison of Kelowna Results with Original Non-Rule 5 Sites

Given that the pattern of change in the Kelowna site were similar to the pattern of change in the original Rule 5 sites, it would be expected that comparisons between Kelowna and the original Rule 5 sites will yield results similar to the comparisons between the original Rule 5 and non-Rule 5 sites. The results of the case file review for Kelowna and the original non-Rule 5 sites are summarized in Table F-6.

**Table F-6**  
**Results of the Case File Review for Kelowna and Original Non-Rule 5 Sites**  
**by Pre-Implementation and Post-Implementation Periods**

<b>Court Registry</b>	<b>% Regular FRA</b>	<b>% Claim of Urgency</b>	<b>Rate of Appearances/ Application</b>	<b>Rate of Hearings/ Application</b>	<b>Rate of Total Activities<sup>1</sup></b>
<b>Kelowna</b>					
<i>Pre-Implementation</i>	78.7%	21.3%	1.43	0.16	1.60
<i>Post-Implementation</i>	81.4%	18.6%	0.89	0.02	0.92
<b>Difference (Pre-Post)</b>	<b>+2.7%</b>	<b>-2.7%</b>	<b>-0.54</b>	<b>-0.13</b>	<b>-0.68</b>
<b>Original Non-Rule 5 Sites</b>					
<i>Pre-Implementation</i>	76.5%	23.5%	1.38	0.24	1.61
<i>Post-Implementation</i>	80.9%	19.1%	1.13	0.20	1.33
<b>Difference (Pre-Post)</b>	<b>+ 4.4%</b>	<b>- 4.4%</b>	<b>- 0.25</b>	<b>+ 0.04</b>	<b>- 0.28</b>

<sup>1</sup> Rate of total activities may not equal the sum of the rate of appearances and rate of hearings due to rounding.

There was no significant difference in the proportion of FRA-related cases and claims of urgency<sup>77</sup> nor in the rate of court activities in Kelowna and the original non-Rule 5 sites

<sup>77</sup>  $t = 0.53, p = .60.$

during the pre-implementation period.<sup>78</sup> These results suggest that the original non-Rule 5 sites and Kelowna were similar in the pre-implementation period and suitable for comparison purposes.

In the post-implementation period, there was no significant difference in the proportion of claims of urgency in Kelowna and in the original non-Rule 5.<sup>79</sup> In contrast, the rate of court activities per application in Kelowna was significantly lower than the rate of court activities in the original non-Rule 5 sites during the post-implementation period.<sup>80</sup> When comparing the change in the rate of court activities between Kelowna (-0.68) and the original non-Rule 5 sites (-0.28), the reduction in Kelowna is almost 2.5 times as large as the reduction in the original non-Rule 5 sites<sup>81</sup>, a pattern similar to that found in the comparison between the original Rule 5 and non-Rule 5 sites (please refer to Appendix E for the results for the original evaluation sites).

#### 4. Dispute Resolution/Case Outcomes

For the purposes of examining the effects of Rule 5 on case outcomes, the proportion of cases that were recorded as no further activity in the case file review are reviewed. Presented in Table F-7 are the results for the cases with:

- no further activity and no court activity (column 1);
- no further activity after some court activity (column 2); and
- all cases with no further activity at any time (column 3)

**Table F-7**  
**Proportion of Applications with No Further Activity for Kelowna and Original Non-Rule 5 Sites**  
**By Pre-implementation and Post-Implementation Periods**

Court Site	No Further Activity After Filing, Before Appearances	No Further Activity After One or More Appearances	No Further Activity Before or After Court
<b><i>Kelowna</i></b>			
Pre-Implementation (n=136)	2.9%	11.0%	14.0%
Post-Implementation (n=191)	27.1%	1.7%	28.8%
<b><i>Difference: Kelowna</i></b>	<b>+ 24.2%</b>	<b>- 9.3%</b>	<b>+ 14.8%</b>
<b><i>Original Non-Rule 5</i></b>			
Pre-Implementation (n=118)	0.0%	13.1%	13.1%
Post-Implementation (n=148)	14.9%	3.4%	18.2%
<b><i>Difference: Non-Rule 5</i></b>	<b>+ 14.9%</b>	<b>- 9.7</b>	<b>+ 5.1%</b>

As indicated in the last column of Table F-7, the proportion of total cases that “dropped out” increased by more (15%) between the pre- and post-implementation periods in the Rule 5 sites than in the non-Rule 5 sites (5%). In Kelowna, cases that “dropped out” prior to court

<sup>78</sup>  $t = 0.14, p = .89.$

<sup>79</sup>  $t = 0.12, p = .90.$

<sup>80</sup>  $t = 2.94, p = .003.$

<sup>81</sup> <sup>81</sup> Interaction between implementation period and site:  $F = 12.56, p < .001.$

in the post-implementation period include those that went on to triage and those that simply ceased their action altogether at any point in process.

To provide a more accurate indicator of effects attributable to Rule 5, cases that dropped out after proceeding to court were removed (i.e., Column 2 in Table F-7), leaving only those cases that showed no further activity after filing an application and no court activity (i.e., Column 1 in Table F-7). A comparison of the changes between the pre- and post-implementation periods in Kelowna and the original Non-Rule 5 sites reveals that there was a larger increase (24%) in these types of cases at Kelowna than at the original Non-Rule 5 sites (15%). The increase in the proportion of applications that do not continue into the court system was more than 60% larger in the Rule 5 sites as compared to the non-Rule 5 sites (an absolute difference of 9%).

Using the amount of change in the original Non-Rule 5 sites as a baseline, up to 9% of cases in Kelowna could have been diverted from the courts as a result of Rule 5. In addition, there was a slight, albeit significant, difference between the proportion of applications that dropped out prior to any court-related activity in Kelowna and the original Non-Rule 5 sites in the pre-implementation period, but there was a larger, more significant difference in the post-implementation period.<sup>82</sup>

Further tracking of outcomes for cases recorded as no further activity and no court activity could be completed at the Kelowna site. Case tracking and triage outcomes are reported in the next section.

#### 4.1 Triage Outcomes

Kelowna court registry files were cross-referenced with closed triage files (as recorded on the case file tracking instrument). As a result, outcomes for cases that filed an application and received triage can be reviewed. In addition, the proportion of cases that were referred to triage but did not attend and did not return to court can be identified.<sup>83</sup>

Triage outcomes for clients who met with the FJC were examined for cases that had opened a case file with the court registry during the post-implementation period. Triage outcomes for these 65 cases are summarized in Table F-8. It should be noted that the outcomes of triage depend on a number of factors, a major influence being whether or not both parties meet with the FJC.

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<sup>82</sup> Pre-implementation:  $p = .045$ ; Post-implementation:  $p = .016$ .

<sup>83</sup> Cases that went to triage would have been recorded in the case file review as "no further activity" if they did not return to court or file an agreement after receiving triage.

**Table F-8**  
**Triage Outcomes for Kelowna Cases**

<b>Triage Access</b>	<b>Number of Cases</b>	<b>% of Total Triaged Cases (n=65)</b>
Request for a Referral to Court	45	69.2%
No further activity	10	15.4%
Agreement/Consent	7	10.8%
Case Withdrawn	2	3.1%
Pursued Further Mediation	1	1.5%
<b>Total</b>	<b>65</b>	<b>100.0%</b>

Approximately one-third of the cases that went through triage were diverted from the courts.

#### 4.2 Final Case Outcomes

Highlighted in Table F-9 are the final outcomes for the case files reviewed at the Kelowna and original non-Rule 5 court registries, excluding those cases recorded as no further activity.

**Table F-9**  
**Application Final Outcomes for Kelowna and Original Non-Rule 5 Sites**  
**By Pre-Implementation and Post-Implementation Period**

<b>Final Outcome<sup>1</sup></b>	<b>KELOWNA (RULE 5)</b>			<b>ORIGINAL NON-RULE 5</b>		
	<b>Pre (n = 117)</b>	<b>Post (n = 83)</b>	<b>Change (Pre - Post)</b>	<b>Pre (n = 523)</b>	<b>Post (n = 454)</b>	<b>Change (Pre - Post)</b>
<b>Orders/Agreements</b>						
Order ( in court)	53.0%	38.6%	- 15.3%	43.6%	47.8%	+ 4.2%
Interim Order	3.4%	8.4%	+ 4.9%	4.0%	6.4%	- 2.4%
Ex Parte Order	16.2%	12.0%	- 4.5%	12.0%	8.1%	- 3.9%
FJC Agreement/Desk Order/Consent	2.6%	13.1%	+ 10.5%	3.8%	4.6%	+ 0.8%
<b>Other Outcomes</b>						
Withdrawn	7.7%	9.5%	+ 3.0%	17.4%	7.5%	- 9.9%
Dismissed	5.1%	9.6%	+4.4%	5.5%	6.4%	+ 0.9%
Adjourned Generally	4.3%	10.8%	+ 7.3%	9.6%	8.6%	- 1.0%
Supreme Court	0.9%	3.6%	+ 2.7%	3.8%	0.7%	- 3.1%

<sup>1</sup> Totals do not add to 100% as only key outcomes have been included in the table, as identified by the evaluation framework.

In the pre-implementation period, 11% more applications resulted in an order in the original non-Rule 5 sites than in the Kelowna site. Between the pre- and post-implementation periods, the proportion of cases where the final outcome was an order decreased by 15% in the Kelowna while it decreased by 4% in the original non-Rule 5 sites. In addition, agreements/consents generated outside of the courts increased by 10% in the Kelowna site in contrast to a change of less than 1% in the non-Rule 5 sites.

**APPENDIX G: CLIENT EXIT SURVEY**

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**FAMILY JUSTICE CENTRE CLIENT SURVEY**

*Thinking about your meeting at the Family Justice Centre today, would you agree or disagree with the following statements?*

**Please use the boxes to check your answer.**

	strongly disagree	disagree	not sure	agree	strongly agree
1. The people here treated me with courtesy.					
2. When I asked questions, they gave me useful information.					
3. The people here listened to my concerns.					
4. I would like to settle my family problems without going to court.					
5. The people here helped me to understand my options.					
6. Coming to the Family Justice Centre was helpful.					

If you have any other comments or suggestions for improving the service people get at the Justice Centre, please write these on the back of this form.

**When complete, please fold and place in box provided.**

**THANK YOU FOR PARTICIPATING**