

Improving Police Efficiency

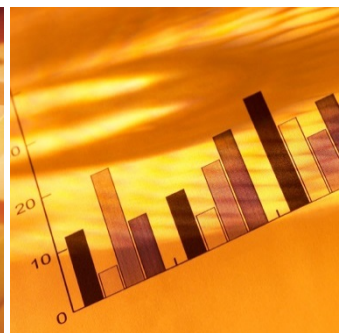
Challenges and Opportunities

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Abstract

This report identified inefficiencies in police interactions with the criminal justice system by conducting interviews with police officers, civilian police officials, Crown, and senior justice officials. Several major inefficiencies in police interactions with the justice system were identified, including: disclosure; the use of technology; the challenges faced in northern and remote areas; a lack of standardized practice; and the absence of collaborative information sharing between police and Crown. A number of sources for these inefficiencies were identified, including: internal/external policies and procedures; legislation; inadequate training and supervision; case law; and the Charter. There was a general consensus that there were numerous challenges in successfully addressing the inefficiencies in their jurisdictions, including a lack of political will, inadequate funding, the absence of collaborative relationships among key stakeholders (particularly between police and Crown), the lack of standardized practice, and the uneven use of technology. There were also concerns about the reluctance of various parties to reform traditional practices and the paucity of research that could inform policy and practice. The unique challenges surrounding the delivery of policing services in northern and remote communities were also identified as requiring attention. The findings from this study suggest that the greatest challenge lies not in identifying the inefficiencies that exist in the justice system and in policing but rather acting to address them. To date, there have been few initiatives to develop standardized practices in an attempt to address inefficiencies.

Author's Note

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Background

On November 13, 2013, all Federal, Provincial and Territorial (FPT) Ministers responsible for Justice and Public Safety approved the “Shared Forward Agenda,” a strategy for the future of policing in Canada. This strategy is built upon three pillars, one of which focuses on efficiencies within the larger criminal justice system (Pillar 3). The work under this pillar is about improving the efficiency of the interaction between police and areas of the criminal justice system. Police believe their current interactions with the criminal justice system (i.e., the courts, prosecutions) result in inefficiencies in the processing of criminal offences.

Through the “Shared Forward Agenda,” the federal government has initiated a wide-ranging examination of the economics of policing in Canada. This has involved a series of summits, conferences, research papers, working groups, and the development of a research portal, among other initiatives. In addition, the Standing Committee on Public Safety and National Security (Standing Committee) and the Council of Canadian Academies have released reports that address issues related to the role of the police and how the delivery of policing services can be improved.

The objective of the Standing Committee was to examine the economics of policing with a particular focus on how to improve the effectiveness and efficiency of policing in Canada (Kramp, 2014:1). A report of the Council of Canadian Academies, *Policing Canada in the 21st Century: New Policing for New Challenges* (Goudge, 2014) examined the future of public policing models in Canada with a focus on how to improve the effectiveness and efficiency of the police. There have also been inquiries conducted in various jurisdictions across the country, c.f. Cowper, 2012.

Objective

The objective of the study is to contribute to an understanding of the interactions between the police and the larger justice system, to record perceptions of the justice system, and to identify those initiatives that have been taken in an attempt to improve the efficiency and effectiveness of the police. The concepts of “efficiency” and “effectiveness” are often used interchangeably in discussions of policing, although they denote different dimensions of police performance. “Efficiency” can be defined as “A measure of the amount of resources required to produce a single unit of output or to achieve a certain outcome”, i.e. cost per reported property crime. “Effectiveness”, on the other hand, is “a determination of the relationship of an organization’s outputs to what the organization intends to accomplish”, i.e. the measureable impact on youth violence of a specific police initiative (Kiedrowsky, et al, 2013:3). Effectiveness is the extent to which goals and objectives are met, while efficiency is the extent to which the use of existing resources is maximized.

The present project also provided an opportunity to describe initiatives that have or are being implemented in an attempt to improve police efficiency, as well as the obstacles that have been encountered.

In order to improve interactions between the police and the larger criminal justice system, it is necessary to identify inefficiencies and develop workable solutions, as well as to utilize established best practices to inform the reform of current practice.

Although the project was focused primarily on policing, interviews were conducted with federal and provincial Crown counsel and with provincial justice and court officials. Many of the issues surrounding police inefficiencies that were identified by the respondents are inextricably bound up with the activities of Crown counsel and the administration of the courts. It is notable that the majority of the comments by the respondents did not relate to what is often referred to as “downloading” – the impact of cutbacks in provincial services, i.e. services for persons with a mental illness, and the consequences of this for police services. These issues have generally been paramount in the discussions of the economics of policing.

This study is designed to contribute to the ongoing dialogue on the economics of policing. The data gathered are illustrative, rather than exhaustive, and centre on the perceptions and experiences of criminal justice personnel.

All of the respondents offered comment on police-related issues as well as larger justice system issues. Many of the observations and experiences of the respondents validate the findings of other studies and investigations and indicate an emerging consensus as to the nature of inefficiencies and the reforms that are necessary to address them.

In addition to conducting interviews, the project team reviewed a number of recent reports and investigations into the delivery of policing services that have been conducted as part of the larger discussion of the economics of policing. An attempt was also made to document initiatives that had been taken, both successful and unsuccessful, to improve the efficiency of the police. Two extended written responses to the interview questions were provided by the Royal Canadian Mounted Police (RCMP) in Ottawa and by a regional police service in Ontario. Information was also gathered during a session with delegates to the 2014 Canadian Police Association (CPA) annual meeting held in Banff, Alberta. In an open session, officers were asked to identify the inefficiencies that existed in police interactions with the justice system and to note what efforts had been made in their police services and jurisdictions to address these issues.

It is to be noted that there are many dimensions to any discussion of police efficiency, including the effectiveness of police policies and practice, how the performance of police services is measured, and the extent to which police operations are evidence-based and informed by best practices. These topics are beyond the scope of the present study, which focused on soliciting from respondents their view of the inefficiencies in policing, the source of the inefficiencies identified, and what initiatives could be taken to successfully address them. Even so, it is important to be mindful of the role that prevention plays in improving the efficiency of the police and the justice system.

Also, it is important to point out that this report is centered on the perspectives and experiences of the respondents. No attempt was made to verify the information provided. Since the majority of respondents were police officers, the materials reflect a view of inefficiencies in policing and the justice system from a particular vantage point. The contributions of the respondent sample should not be viewed as a “complaint fest,” but rather as information that can be used to address inefficiencies in policing and the justice system.

The findings of the study should be viewed only as illustrative of the issues that surround police efficiency and the challenges and opportunities that confront police services and the justice system. The insights provided by the respondents do identify areas that require further study and suggest the potential for developing targeted pilot projects designed to address the causes of inefficiency.

Methodology

Consultation Sample

A consultation guide was developed by Public Safety Canada which consisted of eight questions. The sample (N=40) was a purposive sample. Individuals to be consulted were identified by Public Safety Canada and by the project team. The respondents were selected for their position and their geographic representation and included police officers at the senior management level, mid-management, and line levels who are involved in policing in a variety of settings from large urban centres to remote, fly-in communities; civilian managers in police services; provincial and federal Crown; court administrators; persons in research and policy positions in police services and in the courts; and senior provincial/territorial justice officials.

At the outset of the interview, each respondent was read (or had previously been provided with) the document “Background to the Study” which set out the objectives of the study and its relationship to the Shared Forward Agenda initiative. Respondents were assured of anonymity and that only their position and province/territory would be identified. For respondents in larger police services, i.e. the RCMP or the OPP, the police service was identified (See Appendix 1). Following established protocol, the information gathered during the project was kept in a secure location. After completion of the final report, all of the materials gathered from the respondents will be destroyed.

Consultation Guide

The interview consisted of eight (8) open-ended questions.

- Please provide me with as many examples of inefficiencies (or issues) that you can think of, which create a burden on your Service (Crown’s office).
- Are any of these issues unique to your Service (Crown’s office)? Examples could include issues related to remoteness of your jurisdiction, language, and infrastructure or technology issues.
- What is the reason for this inefficiency (or issue) – legislation, case law, policy / procedure, other?
- Has your Service (Crown’s office) implemented any initiatives to address these problems?
 - If not, what obstacles do you see preventing you from implementing solutions to the problems you have identified?

- o If yes, did the initiative have the desired effect? Please explain.
- For those initiatives you deemed successful, what would be required for other Services to replicate your success?
- Are you aware of any initiatives undertaken by any other Service (Crown’s office) to address any of these identified issues?
- Would it be possible to implement these initiatives in your Service (Crown’s office)?
If not, why not?
- Is there anything else you can think of that would assist us in our research?

Responses

The respondents identified a number of areas in the interaction between police and prosecution, defense or the courts that affected the efficiency of the police. The most-frequently mentioned were: 1) the challenges in policing in northern and remote communities; 2) disclosure; 3) scheduling officers for court; 4) the lack of collaborative relationships between police and Crown; 5) the absence of standardized practices; 6) the activities of defence counsel; 7) issues surrounding court facilities; and 8) the use of technology. Other issues mentioned included: justices of the peace; the transport of prisoners; the downloading of costs; and structural problems in police organizations.

These issues were raised by respondents in a number of provincial/territorial jurisdictions across the country. The factors contributing to the inefficiencies in these areas included the Charter, legislation, case law, policy, resourcing, system dynamics, and the challenges of policing and justice in northern and remote communities.

A number of the challenges were ascribed to both “hardware”, i.e. the use, or non-use of technology; court facilities and security, and “software”, i.e. the incompatibility of information management systems. Concerns were also expressed about the absence of systems for information sharing. Still other issues were related to the dynamics of the justice process, i.e. the relations between the police and Crown or the absence of standardized practice. The Charter, case law, and policies and procedures were viewed as major contributors to inefficiencies. Many of the respondents across the country identified the same issues when asked about the sources of police inefficiency and also offered similar suggestions for addressing them.

Policing in Northern and Remote Communities

“The problems that we have here would not be the same problems they have in Toronto courts.”

– Police constable, northwestern Ontario

At the outset of this report, it is important to note the challenges of providing policing services in northern and remote communities (Griffiths, Murphy and Snow, 2015). Discussions of improving the efficiency of the justice system have traditionally been “southern-centric” and have not considered the issues in the northern and remote regions of the country. Among these are the infrastructure costs in remote communities which were described to the Standing Committee on Public Safety and National Security as “phenomenal” and “astronomical” (2014:21). The challenges extend to disclosure, the use of technology and other issues identified in the “south,” which the geography and great distances of the north exacerbate.

The Public Safety Canada (PS)-sponsored conference “Policing in Northern and Remote Canada,” held in Whitehorse in 2012, brought together police officers and justice system personnel, along with university-based scholars and community representatives to discuss the issues surrounding the delivery of policing services in these regions. One area of discussion was the need to develop a northern research agenda. A recent paper on this topic explores the issues of policing in northern and remote communities (Murphy, 2015).

Police officers in northern and remote communities may be the only permanent representative of the criminal justice system and may perform a number of other duties as well. This includes RCMP members acting as Crown counsel in some rural and remote communities, a practice that has raised concerns particularly with respect to the requirements of disclosure (Jones, Ruddell and Layton-Brown, 2014: 3). The support structures and services found in larger communities are absent in northern and remote communities. For example, in many northern and remote communities, the police may be the only permanent representative of the criminal justice system. Other justice services are provided on a “fly-in” basis, including the circuit criminal courts.

Officers in northern communities perform a much more multi-faceted role than their counterparts in the “southern,” more urbanized regions of the country. A police constable posted to northwestern Ontario highlighted the challenges of delivering police services in these areas:

We police a number of remote fly-in communities. It involves big struggles and a lot of it is planning. We have court in one of our communities that is only accessible by car eight [or] nine weeks of the year and the rest of the year it is fly-in only. Major preparations need to be made to fly people in, and at a huge cost. You need a plane for a judge, a place for defense and prosecutors, and a place for police and the prisoner. There are costs for all of that.

These observations were echoed by an RCMP officer in the NWT:

More than half the communities are fly-in or not within driving distance of a major city center. Court comes to these places either, once a month, once every two weeks, or once every three months, so attracting people to transport prisoners can be a challenge. Victim safety can be an issue too. There [is] a lack of medical services and a lack of qualified medical personnel in some of those communities. Travel can also be restricted by weather. Snow and fog limits air and road travel.

These points were also made by others whose responsibility for policing and court services extend to the northern portions of the provinces. To date, it has been a challenge to develop specific strategies and best practices to address these unique issues.

The particular challenges encountered by small police departments were noted by a Chief Constable in the Maritimes who commented that while larger police services were experimenting with voice recording, “Our service still has yet to put computers in our patrol cars. We have some voice recording technology, but it is limited. Our population is small, so we cannot justify the cost of some things, such as computers.”

Disclosure

On February 27, 2004, the Minister of Justice and Attorney General of Canada, Irwin Cotler, announced that he had asked Justice officials to develop proposals for amendments to more efficiently and effectively implement the Charter-mandated disclosure obligation. The announcement noted that amendments would be examined in the five areas: 1) facilitating the electronic disclosure of materials to the defence; 2) reducing administrative burdens in disclosure by clarifying the core materials to be given to the defence, while ensuring the defence's right of access to all relevant information; 3) setting up specialized court proceedings to provide a way for parties to deal expeditiously with all matters pertaining to disclosure, including relevance; 4) establishing disclosure-management procedures that would clearly set out obligations relating to disclosure, including timelines; and, 5) addressing any improper use of disclosed materials (Department of Justice, 2004).

In his report on large and complex criminal case procedures, released in 2008, the Honourable Patrick LeSage noted the importance of greater police and Crown collaboration in case processing. There were also a number of specific recommendations related to disclosure. These included:

- disclosure preparation (e.g. transcription issues, preparation of disclosure packages; standardized software for electronic disclosure; joint responsibility of transcription between police and the Crown; identifying which statements/intercepts/recorded interviews are likely to be used at trial); and
- parameters for managing defence requests for disclosure of materials; etc.

Despite the recommendations from this inquiry, disclosure remains a key issue in the discussion of police efficiency. A range of variables contribute to the challenges that surround disclosure, including: lack of financial resources; lack of integrated/standardized technology and interoperability of systems (which includes jurisdictional procurement policies); and, in some instances, strategies/tactics utilized by defence attorneys to prolong pre-trial proceedings or to simply delay trial.

The issue of disclosure and submission of evidence was identified by the RCMP as a major contributor to inefficiencies. A major contributor to this is the requirement that the police submit hard copies of disclosure material. For example, the RCMP's major case management system utilizes an electronic format but investigators must transfer all documents to paper format for disclosure. This was viewed as an especially onerous task for cases with investigations spanning one, two or three plus years and could include covert investigation techniques, under-cover officers and private communications intercepts. In some instances, the RCMP must transcribe statements to a paper format, regardless of their availability in an electronic/digital version. In many circumstances, transcription is time consuming and expensive, which is especially problematic when statements hold limited value to the case. The requirement for police to

transcribe has significantly increased the workload on detachments clerks— thereby creating inefficiencies in other areas of the organization (e.g. investigators are increasingly called on to manage administrative functions).

Materials submitted by the RCMP state that the Force is equipped with the tools and abilities to electronically disclose all information and is taking collaborative steps to improve the utilization and integration of technology to disclose information to the court. While not all provinces/courts are equipped with modern technology, discussions are ongoing in several jurisdictions with the objective of enhancing their information technology infrastructures.

There are also issues relating to audio and video transcription. A senior police official stated:

For our service, in particular, we work with a lot of video. The inefficiency lies in the fact that the Crown will only accept video in one format and will only accept specific (relevant) points of the video. The onus is thus on police to convert the video to the format that Crown requires and to trim the video to the right size. This creates a tremendous amount of overtime.

This officer also noted that the Crown required the police to transcribe all audio and video recordings stating, “Our service contracts out for this transcription. It is an extremely costly process and at the end of the day there is no guarantee that the transcripts will be used/needed.” There was a shared view among several of the police respondents that the Crown should share the costs of transcribing digital recordings of interviews for disclosure. One Chief Constable recalled a recent instance in which a municipal police service refused to provide this transcription service to the Crown and this garnered significant media attention in the province.

A senior official in an Ontario police service noted that his police service provided the courts Crown brief disclosures, but is reimbursed based on rates that are historic and have not been adjusted in years. Further, there are variations between services in terms of what costs are reimbursed.

The reproduction and redaction requirements of audio and video files were identified as extremely time-consuming by other police officials as well. A senior police official in Ontario stated that Crown screening requests were at an all-time high, requiring officers to provide extra disclosure just based on the lawyer hired by the accused and that lawyer’s past needs. Often this disclosure is not needed but asked for “just in case,” resulting in what was essentially a ‘blanket request’ with significant implications for police time and costs.

There was also the view that there had been an exponential growth in requests for disclosure from defence counsel, it being noted that, “Whether the request is relevant to the charge or not, the trial judge must pay attention to the rights of the accused under the Charter.” The Supreme Court of Canada decision in *R v Stinchcombe*, ([1991] 3 S.C.R. 326) established the duty of the Crown to provide the defence with all evidence that could possibly be relevant to the case. Now, the police are required to provide to Crown counsel and for dissemination to the defence lawyers, the following information:

...all audio and video tapes; notebook entries from all officers; reports; all source briefings; all tips (and outcomes of tips); all connected cases; all affiant material; all

wiretap information; all operational plans; all surveillance notes; medical records; all analyses of telephone records or other documents; undercover operational information; information relating to investigative techniques considered; whether they were actually used or not; and, investigative team minutes of meetings or debriefings. (Easton, Furness, and Brantingham, 2014:62)

Several respondents also noted that unexpected disclosure requests by defence counsel were taxing on police resources.

Officers noted the amount of time wasted in case preparation only to have the person plead guilty, one delegate at the 2014 annual meeting of the CPA stating, “The police are always putting together court briefs on cases that are not going to trial, and going to be diverted out of the court system. If you are going to divert [a case], why prepare all of this paperwork?” Several of the delegates mentioned that, due to a lack of communication between police and Crown, there is often “over-preparation” of case materials. In their view, much of this material is often not even reviewed by the Crown. As well, as a Deputy Chief in Ontario noted, “We get requests from the Crown that are not reasonable at the front end of a case for further information and in the meantime it gets resolved without talking to us and we’re still investigating.”

A common theme in the responses of the interview sample and the delegates at the CPA meetings was the need for better communication between police and Crown. A related issue in many cases was the lack of continuity with Crown, one officer noting, “In lengthy cases, the Crown keeps changing and the police have to keep re-briefing and getting them up-to-speed.” It was suggested that there be a designated Crown for complex and lengthy cases.

Respondents noted that there were at least two major consequences of this state of affairs. First, the demand on the investigating officers’ time is so great that they are, in effect, not available for any other task. Particularly when complex investigations and trials occur, the investigating team is for all intents and purposes fully occupied with that one case.

Second, since the entire prosecution from preliminary trial to various stages of appeals can be quite lengthy, all evidence must be physically retained and stored for the entire duration of the case. This may require additional police resources for file management, storage, and retrieval.

There appears to be considerable variability among police services as to whether there are quality assurance measures in place to ensure that standards for disclosure are met. A senior police officer in a large municipal police service noted, “The Crown is often disappointed in the investigative quality (or lack thereof) but police do not have quality assurance measure to ensure standards are met. It is a legitimate Crown complaint, but we are working on it.”

A number of respondents in the study, as well as delegates to the CPA meetings mentioned that some Crown were not sufficiently experienced to handle complex cases. As a result, one officer noted, “They don’t know what they want so they ask police for everything.” An analyst in a Crown office noted that there were also cases in which Crown requested disclosure that is not relevant:

We now have one Crown doing all impaired driving files. His wish list is extensive: For every case, he wants the in car camera, district camera, [Sergeant’s] notes, booking

officers notes, etc. This leads to defence counsel asking for these things in other cases too. This is a waste of resources unless it's going to trial, but it's being asked for all the time. We used to ask what the relevance was, but we don't do that anymore. This is wasting police resources and our resources.

Police services are often required to provide both a digital copy and hard copy of disclosure materials. One senior police official noted that the Crown “rarely uses the digital copy” and that “if the Crown want the interview transcribed, they should bear the costs, not the police service.”

While larger police services may have the resources to efficiently assemble a disclosure file, smaller police services may be challenged by disclosure requirements. The Chief Constable of a police service in the Maritimes noted that many of the issues surrounding inefficiencies in policing were similar across the country, but that larger police services were able to hire more civilians and thus free up officers to be on the road. This was more difficult in his department and it was necessary to pay civilian members of the police service overtime to ensure that transcription for disclosure was completed.

There are also cases in which criminal charges are laid at a very early stage of a case investigation and are based on a limited number of witness statements. Crown may become aware of additional information and police must subsequently go back to the complainant to conduct more interviews. This has the effect of delaying disclosure and setting back the dates for the Preliminary Inquiry.

The Supreme Court of Canada decision in *R v Askov* ([1990] 2 S.C.R. 1199) established the criteria and standards to be followed by Canadian courts in determining whether Section 11(b) of the Charter of Rights and Freedoms has been violated. This provision states that accused persons must be tried within a reasonable period of time. Since the “Askov clock” begins ticking as soon as charges are laid, this may place a burden on police resources to gather the additional information. An officer in charge of a research and planning section also noted, “Crown asks for complete disclosure, including video statements and transcripts, but don't watch them until just before the trial. At that point they want additional follow-up investigation done ASAP. ‘Your lack of preparation shouldn't make it my emergency.’”

There were concerns among the police personnel with the increasing amounts of paperwork that were being required by Crown as part of the disclosure process. A police constable stated:

In the past, police would submit the Crown package with video/audio recordings of interviews, a written summary, and then give the option of written transcription. Now, Crown requires video/audio statement and full transcription. This is costly – for every minute of audio to be transcribed is equal to \$10 – and time consuming for officers, as once transcription is complete the officer must review the transcription and make any changes/edits necessary. For example, I recently conducted two 2-hour interviews, which were transcribed. To review the transcription of these two interviews, it took close to 75% of my shift (about 7-8 hours).

E-Disclosure

The provision of disclosure evidence or briefs in a digital format, termed “e-disclosure” and “e-briefs,” was mentioned by many of the respondents as a key strategy for addressing

inefficiencies in the current system. It reduces the unnecessary duplication of documents and the likelihood that materials will be misplaced. A Deputy Chief Constable noted, “Frequently the missing document will be found later, sitting on a desk in the Crown’s office or in the hands of a lawyer.”

Despite the attention to this issue, it appears that many jurisdictions are experiencing challenges in implementing e-disclosure. And, there appears to be considerable variation in the state of e-disclosure across the country.

A senior Ontario police official stated:

We have been struggling with e-disclosure for a couple of years. We have some Crown who simply won’t accept electronic disclosure, they want paper. MAG doesn’t seem to have control over standards. We’ll implement it province wide as soon as MAG has the capacity.

A Chief Constable in BC noted that Crown in that province did not accept e-disclosures and e-briefs. A senior police officer in Ontario also mentioned the Crown as an obstacle to implementing e-disclosure:

Crown is not ready for it. Major cases are being done on e-brief but Crown is not trained in electronic disclosure. They want paper files. They are unable to open the photos we send them electronically. It’s not a hardware issue, it’s a training issue.

E-disclosure is being used by some police services in Ontario, but not others. And how e-disclosure is being used varies. One senior police official noted, for example, that their police service had made progress in providing Major Case Briefs electronically through the use of external storage devices but that there was not currently e-disclosure for other types of files. Another senior police official in Ontario noted, however that in his jurisdictions, there was no capability for e-disclosure between the Crown and the Police. While hard drives were used, this was not viewed as a seamless e-disclosure solution. An official in one Ontario police service stated:

This is a local issue. Other Police Services in Ontario have the ability to provide disclosure to their Crowns electronically. In our area this is an infrastructure and technology-based issue. The Crown’s office is reluctant to obtain a secure e-mail account.

There is also a question as to whether maximum use is being made of technology in the disclosure process. One senior police official stated that, in his jurisdiction, “We have the ability to move forward on electronic disclosure, but Crown and court do not.”

The Canadian Association of Police Governance has noted that, “Canadian courts and other parts of the criminal justice system, such as the Crown, are inadequately equipped to take advantage of advances in technology. As a result, they are still almost entirely paper driven” (2014). This results in most disclosure materials being prepared in hard copy, which is costly and time-consuming. E-disclosure can significantly improve the efficiency of the disclosure process.

This was a recurrent theme in the responses of persons interviewed for the study; that Crown counsel are often an obstacle to using technology to increase the efficiencies of the police and the justice process. This suggests that many initiatives designed to increase police efficiency will have to involve Crown counsel.

Special Challenges in Disclosure

In materials submitted to the project team, the RCMP identified the use of intelligence as a critical issue and one that affected the efficiency of policing. There are challenges and risks related to the collection and use of intelligence as part of investigations vis-à-vis the risks related to the use of information for prosecution, the protection of sources, and appropriate disclosure.

It was noted by the RCMP that security intelligence agencies such as the Canadian Security Intelligence Service (CSIS) must respect their statutory mandate to provide secret intelligence to warn the government about threats and not to collect evidence, while respecting the restrictions on the use of intelligence that is provided by foreign agencies in protecting their confidential informers (O'Connor, 2006). In the view of the RCMP, the challenge is to have security intelligence agencies give greater attention to more timely hand-over of intelligence to law enforcement, while also increasing their capability to collect intelligence in counter-terrorism investigations for evidentiary and disclosure standards.

Disclosure in the North

A police officer in the NWT noted some of the challenges surrounding the current provisions for disclosure and indicated that e-disclosure would lead to greater efficiencies:

We don't always meet Crown needs; which is disappointing, but there is a significant file load for members here. Crown wants the package two weeks before trial and sometimes it is difficult to meet that requirement. There are benefits to transcribing statements, but for more complex investigations to have everything fully transcribed two weeks prior to the first appearance can be quite taxing, especially for smaller detachments. Plus, for those smaller detachments that have to contract out to do the transcription, it can be costly to do that. E-disclosure would be better. We could get it faster and there is less legwork. It would be more efficient.

Initiatives to Improve the Disclosure Process

There are initiatives being taken in several jurisdictions to improve the disclosure process. Note that these are generally not system-wide, but operate in specific regions or individual municipalities.

A Deputy Chief Constable commented on the positive impact of a Case Preparation Unit on increasing efficiencies:

The front line officer does the call and prepares their notes. Notes are provided to a centralized unit who construct the Crown brief utilizing a standardized format. We have had far fewer incidents of missing notes, notices and documents that are not properly prepared and served.

The Case Prep Unit...puts out a consistent product that the Crown is happy with. This has increased capacity in our organization, as people funnel through the unit they bring their skills with them. We provide a better product for disclosure. Accommodated officers staff the unit for the most part.

A number of police services across the country have Crown embedded in the police service. This strengthens police-Crown relations, provides an opportunity for the Crown to review a brief before it is submitted, and leads to greater efficiencies.

Materials provided to the project team by the RCMP highlighted a number of initiatives designed to increase efficiency. RCMP “C” Division, for example, has integrated specialized advisory lawyers who support officers in preparing affidavits and warrants. Creating expert working groups in pre-charge jurisdictions could enhance the timeliness and quality of investigations and prosecutions. Members of this type of working group could include RCMP investigators, the Public Prosecutions Service of Canada (PPSC) and provincial prosecutors with a mandate of receiving and revising court documents and charge recommendations. This exercise could also identify persistent issues and provide recommendations to investigators and prosecutors that could potentially remedy ongoing inefficiencies.

An official in charge of a case management unit for a Crown office in Ontario indicated that Crown briefs that are submitted include a check sheet, so an officer can indicate items they know are missing and are still to be provided. Despite this, this official stated that they did not trust the check sheet and did not look at the check sheet. Rather, the official stated that they simply send out a request for any items of information that are missing. This official readily admitted that at times, items that are requested from the police on behalf of the Crown as disclosure are not necessarily relevant unless the case is going to trial. Nevertheless, all items on a standardized list are requested. This would seem to be a major efficiency issue and highlights the potentially negative consequences of having standardized formats.

The Edmonton Police Service (2014) operates the Investigation Management & Approval Centre (IMAC) through which all materials produced by officers as part of disclosure are vetted. Over 90% of the case materials are received and approved the same or next day.

There are also instances, however, where governments have not supported the efforts of police services to improve efficiencies. The Chief Constable of a regional police service in Ontario recalled an effort to adopt software that would automatically check for missing content in tele-warrants in order to reduce the 50% return rate due to administrative errors. The police service offered to cover the cost to create the software; however, the Ministry of the Attorney General [MAG] would not approve this, nor develop the software themselves.

Documentation provided to the study team by the RCMP set out initiatives that the Force is taking to address the issues surrounding disclosure and to increase efficiency. In some Divisions, the Criminal Operations Officers meets with the PPSC to discuss cases and prosecutions. Group meetings have also been held with court representatives to better address some of the inefficiencies related to the lack of interaction. Judicial pre-trial meetings, when used effectively, are valuable in maximizing court, Crown and police resources. Progress in some jurisdictions has been achieved on a case-by-case basis. However, the RCMP notes that these approaches should not be considered as system-wide solutions.

There are also initiatives to improve e-disclosure. There appears to be slow, albeit uneven, progress being made in developing the capacity for e-disclosure and to make the process more efficient. RCMP “C” Division’s Commercial Crimes unit, for example, utilized an online Internet platform for evidentiary disclosure in a large complex case where over 350 charges were laid against 61 individuals. Recognizing that a considerable number of lawyers would be involved in the case and that an enormous amount of information would need to be transferred to each accused, disclosure material was available on a secure website for download by each party. This approach was the most cost effective and efficient process for such a large case and withstood the ultimate test – court recognition as a viable approach. The RCMP’s Chief Information Officer and “H” Division have launched an e-disclosure pilot project to submit digital versions of documents to the provincial court.

Officers Attending Court as Witnesses

“Too many officers called to Court who in the end, do not provide witness testimony.”

– Ontario police official

“Ineffective pre-case coordination at times resulting in several officers being required to be in court on stand-by for an entire day.”

– Ontario police official

“Who needs to be there? We have officers standing around waiting to be seen by defence counsel. It’s a game to them. They call it ‘witness poker.’”

– Deputy Chief, Ontario

The issue of scheduling officers to appear as witnesses in court was frequently mentioned by respondents as a major cause of police and justice system inefficiencies. This was also noted by the Standing Committee on Public Safety and National Security which cited a study conducted by the Thunder Bay Police Service which found that 82% of the officers who attend court never testify (2014:17). In many jurisdictions, officer court dates are set manually which presents challenges when multiple officers are involved in a case.

As one senior provincial justice official stated:

Once the matter is in court, the greatest inefficiency is the issue of police witnesses attending, waiting around to testify when frequently [the accused] are released due to a plea agreement. Those discussions should be happening first. The dollar value has to be incredible.

An Ontario police Superintendent noted that it was not unusual to have officers scheduled for *Provincial Offences Act* [POA] and criminal court on the same day, while on holidays. This ends up in requests for adjournments, which may or may not be granted and can end up delaying proceedings. An Ontario police official also noted that the judiciary “has contemplated subpoenaing officers regardless of the officer’s schedule, which will increase budgets.”

Having officers attend court while on duty may have a significant impact on public safety. While paying officers to appear in court on their days off has an impact on the police budget, an Ontario police Superintendent noted, “If the defence counsel/agent doesn’t see the officer present in court, they will push for a trial, particularly in POA court. As soon as they see the officer, they are willing to plead.” The RCMP also pointed out the human impact on officers when they are required to attend court on their day off or having officers backfill for those attending court.

In the view of the RCMP, court scheduling creates inefficiencies in that officers can be required to attend on scheduled days off or before their shift – with the RCMP then incurring overtime costs. Officers who are required to attend court are taken away from their service area and core policing duties – thereby requiring additional resources to replace this officer. The document states, “The issue is further compounded when officers arrive at court only to find that testimony has been delayed/cancelled; or that charges have been stayed; or that a plea deal has been reached – with the officer not being informed in advance.”

A particularly difficult issue to address is collapsed cases, the rate for which varies on a daily basis and between courts. This makes it difficult to align court resources with cases that are ready for trial (Cowper, 2012:7). This results in an under-utilization of available judicial time and inefficiencies for police officers who may have been called to be present in court. Police services may also be required to pay for out of town witnesses to give evidence at Federal trials or matters prosecuted by the Federal Crown.

The perspective of a number of respondents was that a major obstacle to addressing the issue of court scheduling was the reluctance of the courts to engage in collaborative problem-solving to address the current inefficiencies. A senior OPP official noted that, “Detachment commanders have gone to the extent of offering up schedules a year in advance and offered to provide an officer to ensure current scheduling for officers. The courts don’t care. This has a huge financial impact.” An Ontario police Superintendent noted that their police service had purchased a new software program in an attempt to alleviate scheduling issues, “But other stakeholders have not necessarily bought into the program.” It was also mentioned by several respondents that there was a lack of coordination between judicial partners on planning for and proceeding with trials.

Given the lengthy delays in case processing, however, it may take months for the individual pleading not guilty to appear in court. In that elapsed time, it is likely that an officer is no longer working the same shift schedule or has transferred to another detachment. This highlights the impact of the RCMP transfer policy on initiatives designed to improve operational efficiencies. It is likely that similar challenges exist with the OPP and the SQ as these police services also have transfer policies.

One problem that was noted is the practice of issuing subpoenas for the “week of” rather than for the “day of.” Examples were cited where police witnesses were paid for five days and yet did not testify. An Ontario police official noted that the Superior Court judges “Just set the dates and we are stuck with that. Quite often there can be a conflict and they call in an outside judge and dates get set, we don’t get consulted at all, not even for major cases.”

Court Scheduling on Officers in Small, Northern and Remote Communities

The problems of court scheduling and officer attendance are particularly challenging for officers posted to northern and remote communities. The RCMP submission to the project team included the following observations:

By policing the most rural and remote communities in Canada, the RCMP incurs significant costs for officer travel to court appearances. In many cases, officers must travel from an isolated post to a larger urban centre in order to provide testimony for trial, [which] can be a very costly endeavour.

A police officer working in northwest Ontario stated:

The courts are an area where there is a big inefficiency. In our detachment we cover fly-in communities. One thing I do notice is the way courts end up dealing with matters with officers subpoenaed to testify. Officers are called in, usually on their days off, for cases that don't actually go to trial. The defense just wants to see everyone that is involved in the case, but on the trial day they usually make a deal. Last week we had four officers on overtime for court. We don't often testify but we often get called to court. For some reason most court days are scheduled on days where officers are off work, so it results in a lot of money spent on overtime.

The absence of resident defence counsel in the north also contributes to inefficiencies. In 28 of 32 communities, there is not a resident (defense) counsel. As such, accused must be flown from one of those communities to a larger community, such as Yellowknife for show-cause hearings. They must then be flown back, or held overnight.

A police Inspector in a community of 8,000 persons noted:

In this community, there is one Court day. Quite often members are subpoenaed to attend court (mostly on overtime). On many occasions court is delayed or adjourned without giving police notice. It is difficult for police that work nights and weekends when court only sits on Tuesday. This is also costly for the department in regards to overtime costs.

CPA Delegates' Views of Court Scheduling

A number of delegates at the 2014 CPA annual meeting expressed frustration at court scheduling. Among the comments of the officers were the following:

- “The courts don't follow the schedule of officers or take their shift work into consideration.”
- “The scheduling has an impact on court performance, impact on work performance and overtime budgets.”
- “Officers are scheduled for court just as they are coming off a shift, scheduled when they are off, spend the entire day in court then have to go do a night shift. This is not productive for the officer, the service or the courts.”
- “There are defence counsel who schedule cases on days when they know it will be an issue for police.”
- “One of the issues is that defence counsel can cancel even if witnesses are present and ready to testify.”

This issue was also raised by an Inspector in a municipal police service who noted that it had a significant impact on the quality of officers' testimony:

Officers often go to court and do not end up testifying and this has led to laziness on the part of officers. Because they rarely testify, and don't expect to testify, and so they don't prepare for court to the level that they should.

A representative from a regional police service in Ontario attending the CPA meetings raised the issue of delays caused by Duty Counsel, noting:

Duty counsel will book 4-6 cases on a day and really only plan to deal with one or two of those cases. However, they are billing for all six. They will then postpone 3-4 times for the same case. We need to go to a one day wage for the day - whether it's one case or five.

This raises the issue as to whether defence counsel are incentivized to take actions that create inefficiencies (see Buckley, 2010; Currie, 2004).

Calling Officers to Court *En Masse*

Several of the police respondents noted that Crown counsel tend to call witnesses en masse, one Chief Constable noting, "They call everyone and figure it [when, and if officers are required to testify] out when they get there." This contributes to inefficiencies and raises costs as the police are responsible for ensuring that witnesses appear in court. A senior official in an Ontario police service noted:

In relation to the too many officers subpoenaed for court, the issue is systemic in the fact that courts compel police to subpoena pretty much everyone the defence seeks. When all the officers attend court the matter often times is resolved through a plea. If there is an officer missing then it can become a Charter argument for the defence.

Initiatives to Address the Issues Surrounding Court Scheduling

There have been some attempts to address the inefficiencies surrounding court scheduling. In Sarnia, Ontario, for example, there is a court coordinator who attempts to reduce the use of officer overtime and the over-scheduling of officers. This type of initiative, however, does little to address other issues in case processing, including case adjournment.

Several jurisdictions have implemented strategies to address the issues that contribute to inefficiencies in court scheduling. An officer in northwestern Ontario noted that progress had been made in court scheduling, "When we submit a list of witnesses to Crown and defense, that list now details their exact role in the case to determine their importance to the case and whether they will be needed in court. This reduces people unnecessarily attending court." A Deputy Chief in Ontario stated:

To address officer scheduling, we changed POA [court to two tiers (morning and afternoon) from 4 tiers. We are finding that officers are being cleared more quickly from the courthouse, defence / agents agreeing to plead due to officers being in attendance.

Another senior police official in Ontario noted that in their municipality, a court coordinator sits in the courtroom and attempts to coordinate the attendance of officers at court while they are on duty and not during pre-approved annual leave.

A senior police official with the OPP noted that certain jurisdictions in the province were working with the police to address issues related to scheduling officers for court, but many were not, "We

pay about \$20 million for court overtime each year. Scheduling and appropriate screening of cases would eliminate significant costs.” The efforts to address court scheduling, however, must be mindful of the role of defence counsel. A Deputy Chief in Ontario noted, “The scheduling of police officers to attend courts is a policy / procedure issue for both the police and Crown, but we have to remember that defence counsel are not bound by our procedures.”

In an attempt to address the challenges of court scheduling for officers, the RCMP’s “D” Division Traffic Services has collaboratively taken steps with the provincial court to improve the coordination and scheduling of officer testimony. When an RCMP officer serves a traffic violation, they are able to identify their shift schedule on the notice. If the recipient pleads not guilty, the court is able to identify the officer’s work hours and schedule the court appearance accordingly.

The Role of the Crown

The issues surrounding disclosure and the role of Crown in this process were previously discussed. A critical issue, and one that was perceived by several police respondents in Ontario to create inefficiencies, was the lack of pre-charge involvement by Crown. An Ontario police Superintendent stated:

Officers spend a tremendous amount of time laying charges. That’s one of the duties of a police officer in accordance with the *Police Services Act*. In some other provinces, police don’t lay charges without Crown approval. If there is no reasonable prospect of conviction, why are we laying charges that will ultimately be withdrawn by the Crown, but only after taking up valuable court time? Maybe it’s time to consider Crown involvement prior to the laying of criminal charges by police in Ontario.

This officer noted that the lack of pre-charge involvement by the Crown was a policy issue for the MAG.

Officers in smaller police services expressed concerns that Crowns did not appear to be mindful of police resource limitations, an officer in charge of a research and planning section stating, “We are a small service and have to switch people’s shifts to accommodate court needs, moving officers from nights to days or calling people in on overtime to keep sufficient people on the road to meet demands for service. Often the case gets put over and we swallow the expense.”

Crown Management of Case Files

A number of respondents noted that, in their jurisdiction, Crown were not assigned to a file from beginning to conclusion. Rather there was a screening Crown who reviewed the brief and provided a plea position based on early resolution. If a plea was not reached, a trial Crown is given the file, often days before the trial. This Crown may raise additional questions about the Brief and request information from the police that cannot be provided in a timely manner. A senior police official in Ontario commented on this, noting, “We lost a case today that was totally reparable if the issue identified by the trial Crown would have been made known to us a month ago.”

The duplication of effort by the police contributes to inefficiencies. This may occur when the Public Prosecutor Service of Canada (PPSC) or the Attorney General of a given jurisdiction shifts files from one prosecutor to another due to high caseloads. As a result, it was noted, investigators must explain the case to new groups of prosecutors who may be responsible for the case when it goes to trial.

Crown Requests for Information

In many instances, Crowns appears to make significant demands on the police for case information. The increasing complexity of crime and the use of the Internet and social media can require police services to devote considerable resources to gathering information. A senior police official in Ontario noted:

Many of the requests we get from the Crown are technology issues, e.g. threats coming via Facebook, Twitter, or evidence on social media in general. We simply aren't able to access this evidence in a timely fashion. There are times where they won't accept a photo or printout of the screen, which leads to production orders and lengthy delays. If the delay is excessive, the potential is there to lose the case.

Police-Crown Relations

"Some Crown[s] are very progressive while others are less so."

– Senior police official

"Police are not seen as a partner in the case with [the] Crown, they are treated as an outsider rather than a partner in a case."

– Senior police official

"If there is a charge going to court, there should be an assessment on where the case would be going and what kind of evidence needs to be collected. Court/Crown and police need to work together better."

– Senior police official

There was a widespread perception among the police personnel interviewed for the study that the Crown was a major contributor to inefficiencies as well as a major obstacle to reform. Although the relationship between the police and Crown has improved in some jurisdictions with the advent of police-Crown liaison committees, Crown being located in police facilities, and other initiatives, the general relationship may be characterized by friction rather than cooperation in some jurisdictions. Another municipal police Inspector commented:

The Crown expectations for serious cases have started to make their way to less serious cases. Police are prepared to have a lower standard of excellence for less serious cases. We aren't going to put the same effort and level of investigative resources to locate a stolen bike. But, the Crown doesn't necessarily have the same expectations and this leads

to friction. About 50% of the issues we have relate to the Crown wanting things that the police have done but not necessarily included – missing reports, witness statements. The other 50% [are] Crown not being satisfied with the investigation.

A police Inspector stated that in his jurisdiction, there was generally a mutual respect between Crown and the police, “But from time to time we are not as effective at dealing with personnel problems and that creates friction.”

A police Inspector in Alberta described the dynamics between the police and Crown:

It’s easy to download things onto the police. The police are the catch all. That is the attitude that exists. Crown gives police directives, but police rarely give a directive to Crown. We are supposed to be (equal) and distinct entities. They are not our boss, yet we adhere to their directives. We seem to take it all the time, we don’t fight back.

A Chief Constable spoke to the issue of police-Crown relationships:

You have to remember that in Canada the policing-Crown relationship is one in which you have usually municipal agencies (police) and a provincial level of Crown. So, this creates a situation in which there are two levels of government, two (divergent) perspectives, two agendas, two mandates and this leads to an inevitable clash. For example, in Alberta, the Alberta Crown cares about its provincial mandate. It does not care about what is happening on the streets of Edmonton or Calgary. The same is true in BC.

One issue that was mentioned by several of the police respondents was Crowns not keeping the police informed about decisions that were made in cases. A senior police officer stated:

We have Crown taking pleas for lesser amounts, discounting the \$1 million sentencing provision, just saying it’s too big a case for us. We had a Crown taking pleas of careless driving for [impaired driving cases]. It was common. Now there is at least a set criterion.

A number of the respondents mentioned the reluctance of Crowns to embrace reforms designed to increase efficiencies in case processing. In response to the interviewer’s question: “Would it be possible to implement these initiatives in your Service? If not, why not?” a senior police official in Ontario replied that it would be, subject to the participation and collaboration of Crown. Materials provided to the project team by the RCMP also identified police interactions with prosecutors and defence attorneys as a source of inefficiency in the justice system. The concerns centre on the lack of timely interaction and consultation between police and prosecutors. In some cases, charges are either stayed or dealt down without the prosecutor having consulted the investigator.

An additional challenge identified by the RCMP was that, in some jurisdictions, the PPSC or the provincial Attorney General do not have the necessary resources and prosecutors with sufficient expertise to effectively prosecute specialized major investigations in a timely fashion (e.g. national security, financial crime, cross-border crime, or organized crime). It is possible that this issue is further compounded by the fact that cases are assigned to prosecutors based on overall caseload rather than prosecutorial specialization.

Another factor affecting efficiency identified by the RCMP was that, in some jurisdictions, the divergent interests and jurisdictional responsibilities of the PPSC and the provincial Crown can also delay prosecution and trial— with delays sometimes further exacerbated in jurisdictions with pre-charge approval. In some of these pre-charge jurisdictions, the lack of standardization and the individual preferences of prosecutors for document preparation (e.g. warrants, subpoenas, etc.) take precedence over the actual legal requirements for the preparation of these documents. This issue, combined with the above-noted delays, can have serious impacts on the costs and risks of investigations.

Case Processing

There was a consensus among the respondents that a major contributor to the costs of policing and inefficiencies were the processes related to the prosecution of criminal cases in the courts. This has resulted in an increase in the number of preliminary hearings and court appearances before the trial begins. This consumes valuable police, the Crown, defence, and court resources and is costly.

There were a number of aspects of case processing that respondents identified as contributing to inefficiencies.

Crown Pre-Charge Approval

A number of jurisdictions in Canada require pre-charge approval by the Crown. This requires police services to provide a complete report before the Crown will begin working on the file which, in turn, may result in significant amounts of overtime. Delays will occur when there are missing items of information, i.e. a piece of video evidence, a witness statement. A Chief Constable in one of these jurisdictions called the process a “charade” that was “inefficient and a complete waste of the courts’ and police time.” Another Chief Constable described the process as “extremely onerous and time-consuming for law enforcement” and was used by the Crown as a way to control workflow, to “turn the tap on and off.” This increases delays in the process.

On the other hand, police officers in jurisdictions where the police lay charges complained that this placed an inordinate burden on their resources. A widely-shared view was that the Crown should share the costs of gathering information on the basis of which charges would be laid.

Crown Briefs

The case manager in a Crown office in Ontario identified a number of issues that affected the efficiency of case processing that are very instructive for the present discussion. These issues included the fact that briefs are often received too close to the first appearance date, requests for additional information from officers are often not responded to in a timely manner, disclosure materials often arrive in the absence of an actual court brief, information is often missing in the materials submitted by officers, and disclosure information is often sent to the wrong team. In addition, this respondent indicated that there were often problems with the disclosure of electronic evidence, stating:

Videos should be automatic, particularly with impaired files, where we are supposed to get them all. We should get one for the Crown and one for the accused and all

co-accused. Unfortunately, we only get two – one for us and one for the defence. Then we need to order more if there is a co-accused. For photos, we only get one copy and always need to order a second copy for defence. This should be automatic – one for us and one for one accused.

The need for training for police and Crown in the use of electronic disclosure systems was also identified by this respondent as important initiative to increase efficiencies.

The Issue of Dedicated Crown Counsel

A senior police officer in BC noted that there was a lack of dedicated Crown counsel which contributed to a lack of familiarity with individual police agencies and jurisdictions:

Having a dedicated Crown – either by charge type (e.g., a homicide Crown, assault Crown, etc.), or jurisdiction – would be far more efficient. For example, we have a chronic offender that we frequently deal with. However, every time he is brought in front of a judge or a charge is given to Crown for approval, he is not seen as being a real threat to society. That is, there is no Crown that is familiar with his history and the significance of his impact on our customers. A dedicated Crown may eliminate this issue.

There appear to be numerous benefits to having dedicated Crown counsel and to have the Crown working in the police service building. The Edmonton Police Service has a seconded Crown working in the police building alongside the police. This arrangement was viewed as very effective, one Chief Constable observing:

This allowed officers to go to her to ask investigative questions and to assess the completion of their files before it was submitted to Crown. This was a great teaching tool for officers and created a great relationship between Crown and law enforcement as both were working toward a common goal.

In contrast in jurisdictions such as BC, there is no pre-screening or pre-viewing of files by a seconded Crown counsel. This, in the view of several police members who were interviewed, tended to make the relationship between Crown and police more adversarial.

A related issue identified by several respondents was the number of persons who may handle a Crown package:

The Crown package gets handled by a lot of different people and this too creates inefficiencies. Once complete, it is submitted to the Watch Commander. Copies of the package are sent to records. The package is then sent to a court liaison officer. The report passes through many hands and can lie on a lot of different desks. If mistakes are made, it is challenging to track it down.

Judicial Interim Release Hearings

Judicial Interim Release Hearings were viewed as a source of police inefficiency. Under the provisions of the *Bail Reform Act* in Alberta, for example, the police act as the Crown in judicial interim release hearings. One senior police officer noted:

When a release hearing is scheduled, police must prepare a bail package, then wait in line until the file is selected. There is then a phone interview with a judge to determine the offender's release. The police essentially act as Crown in this situation, which is extremely time consuming and takes officers away from the street.

A justice official in Manitoba noted that the province has a significant number of persons released on judicial orders with varying conditions. When the accused breach their conditions, the police become involved and this often results in the officer being absent from the community for a period of time. In this official's view, there should be an examination of whether this is an appropriate response and whether the expenditures associated with this could be better used in a community-based response involving various non-governmental organizations.

Use of Video Conferencing in Case Processing

An initiative using video conferencing in Manitoba, highlighted by a provincial justice official, has produced positive outcomes:

A case study: Thompson, Manitoba is 800 k north of Winnipeg. It has 13 fly in circuit courts and two "drive-to" circuit courts. The jail is in The Pas – 400 k west and an eight hour round trip in winter. Previously, an accused would appear multiple times before the case was disposed of. The province implemented video conferencing for court purposes. No one is moved except for a trial, a guilty plea where federal time is imposed, or unless a judge orders an accused to appear in person in the court. We updated our technology and it's worked well. There are back to back screens in the court room. The judge can see the accused better than if they are in the courtroom. We have judges videoing in to other courts – not for trials, but for bail hearings and remands.

There are challenges, however, in implementing video conferencing in northern and remote regions, an RCMP officer in the NWT stating:

One thing we explored was video-conferencing for prisoner appearances; but there are technological and security issues. To do video-conferencing you need dedicated Internet access in a secure environment where access is controlled. In many of these small communities court is held in a community center or school gym and setting up secure Internet there is a challenge. Plus detachments don't always have the ability to implement it.

There are a variety of factors that may hinder the use of video conferencing in an attempt to improve efficiencies. A court official from the NWT noted that the potential to use this technology was hindered by the fact that the RCMP had its own proprietary network that court personnel could not access, "So, if we are to put video conferencing in detachments it would have to be a stand-alone installation, which is costly."

Materials provided to the project team by the RCMP indicate that there has also been an increased use of video-conferencing to facilitate court testimony for members and technical experts within the organization. Between January and June 2014, RCMP multi-media services coordinated over 400 court video-conferences across the country. This, however, is only a very small fraction of the court appearance requirements of RCMP officers, law enforcement experts and laboratory technicians.

The RCMP noted that the necessary infrastructure is not in place in many jurisdictions to support video-conferencing. There is also reticence of some judges to allow police officers to testify via video-link, the RCMP document stating, “Often times, police have very little, if any, control over the use of video conferencing without the consent or approval of the courts, Crown and defence.”

An Ontario police Superintendent noted the inability to utilize existing technology for video-conferencing due to lack of stakeholder buy-in:

Sixty percent of the accused persons in custody are here for bail court. Half of those could be effectively dealt with by video, either from the police station or the detention centre. We have the capability, but there is a lack of buy-in by the stakeholders.

A Deputy Chief noted that in their jurisdiction there was the technology for using video remands for bail court, but there were obstacles to making full use of it:

The accused has a right to have the hearing in person and defence counsel won’t go to the detention centre to see the accused. They demand that the person be transported to and from courts. The Detention Centre is in Penetang, some come from Lindsay at Central East. Our YO’s [young offenders] are housed in Brampton at Roy McMurtry. Lots of times the parent can’t make it and we bring these kids back and forth five and six times. This could all be done by video until parents are in a position to attend court.

Although an investment would be required across jurisdictions to ensure the availability and integrity of video conferencing, use of technology has the potential to reduce costs associated with travel, reduce the impact on shift scheduling and wait times for court – for all police services (Canadian Bar Association, 2013).

Collapsed Trials

A research and policy analyst interviewed for the project indicated that in their jurisdiction the majority of cases set for trial do not result in a trial actually being held on the scheduled day. Rather, those cases result in last minute guilty pleas, withdrawals, or adjournments. In their words, “Collapsed trials are a significant contributor to clogged courts. While these cases don’t actually “use” court time, the court time that has been set aside for them ends up wasted.”

Figures provided to the study team by a regional police service in Ontario indicate that the collapse rate for all cases actually decreased in many courts. For example, using 2011 as a baseline, the collapse rate for large court locations, i.e. Kitchener and Thunder Bay, decreased by 1.4% in 2013-2014 (from 12.7% in 2011 to 11.3%) in 2013-2014. The decreases are quite small for all sizes of court locations and are thus difficult to ascribe to any one initiative(s).

In the Kitchener court, the percentage of cases resolved before trial and the number of appearances required before case resolution changed little from 2007 to 2014:

Table 1: Kitchener Court, percentage of cases resolved before trial and number of appearances

# Appearances	2007	2013-2014
1 – 3	33.50%	35.00%
4 – 6	27.30%	24.20%
7+	39.30%	40.80%

An analyst interviewed for the project felt that the introduction of *Bill C-10*, the *Safe Streets and Communities Act*, would likely create fundamental changes to almost every component of Canada’s criminal justice system, commenting: “Since accused persons will be facing harsher punishments, it is possible they will increasingly set their cases down for trial rather than plead guilty early, since there will be nothing to lose. If this scenario comes to fruition, it will further increase time to trial.”

Mega Trials and Lengthy Trials

The lack of capacity in the justice system to manage and efficiently process cases in mega trials has been widely documented (c.f. Department of Justice Canada, 2005; Lesage, 2008). The criminal courts may be overwhelmed in certain cases that result from a major tragedy or police enforcement initiative. Stronger enforcement efforts against outlaw motorcycle gangs and criminal syndicates have resulted in criminal trials involving multiple defendants, lengthy witness lists, and thousands of pages (and in many instances thousands of pieces) of evidence (LeSage and Code, 2008). Also, these types of cases are expensive. It is estimated, for example, that the convictions of four associates of the Rock Machine motorcycle gang in Quebec in 2001 for drug trafficking under the anti-gang legislation cost taxpayers \$5.5 million. And in 2003, four Hells Angels pleaded guilty to similar charges in Montreal after the province constructed a special, high-tech courtroom at the cost of \$16.5 million (Griffiths, 2015).

A senior police official in Ontario stated that if there are more than six accused persons in a case, it is considered to be a mega trial. However, there are limited court facilities and resources to process the cases in a timely manner. This often results in the Crown conducting separate trials for the accused which adds to the cost of case processing. Regardless of whether a trial is designated as a “mega-trial,” lengthy and complex trials involving multiple co-defendants make significant demands on the resources of police and Crown. The arrest of a large number of individuals as a result of police operations presents challenges for the criminal justice system which may not have the capacity to process the cases in a timely manner. As one senior police official in Ontario commented:

We can arrest 200 people at the end of a project. We can have the disclosure package ready, but it’s like a funnel with us being the wide end, but when it gets to the narrow end – the courts and the Crown, it chokes to a halt. They need technology to widen that end of the funnel. Technology is the key.

Creating systems to file and access information gathered in complex case investigations, however, may not result in efficiencies. In discussing a recent large, complex investigation that generated 30 Terabytes of information, a senior police official in Ontario stated:

We provided access to the Crown so they could view the information at any time. The case took 10 months to complete. The Crown never accessed it once in those 10 months. They always wanted paper copy. They could have accessed the file from Day One so they could look at it and keep up to date. When we went to them for advice and were ready to lay charges, they said, 'Where is the paper Crown brief?'

Several police officials suggested that embedding the Crown in a large investigation from the beginning would enhance efficiencies.

Case Processing in the Northern and Remote Regions

A justice official in the NWT commented on the unique challenges associated with case processing in this jurisdiction. There are eleven official languages in the NWT, nine of which are Aboriginal; this, in a population of 40,000 persons. A number of other features of the NWT were noted by the justice official:

The NWT has 32 communities, of which circuit (court) visits 23. This creates challenges as it relates to paperwork (processing and circulating), communication, attending court, transportation, and availability. This is particularly problematic when the crime occurs in a different jurisdiction than where court is (or can be) held. Certain communities are only visited by circuit court 3 times per year – if the parties involved are not ready to proceed when circuit court arrives, then they must be moved or rescheduled, which can be expensive and burdensome to key parties involved.

This official noted that the absence of interpreters may delay cases and the inability to empanel a French-speaking jury has resulted in mistrials.

A police constable in Northwestern Ontario described the challenges of policing in this region:

We police a number of remote fly-in communities. It involves big struggles and a lot of it is planning. We have court in one of our communities that is only accessible by car eight or nine weeks of the year and the rest of the year it is fly-in only. Major preparations need to be made to fly people in, and at a huge cost. You need a place for a judge, a place for defense and prosecutors, and a place for police and the prisoner. There are costs for all of this.

An RCMP officer in the NWT described a similar circumstance:

More than half the communities are fly-in or not within driving distance of a major city centre. Court comes to these places once a month, once every two weeks, or once every three months, so attracting people to transport prisoners can be a challenge. Victim safety can be an issue too. Travel can also be restricted by weather. Snow and fog limits air and road travel.

Chronic offenders present special challenges. Amidst the high rates of property and violent crime in many northern and remote communities are a small number of chronic offenders. Sentencing judges are often faced with the decision to sentence an offender to a correctional institution hundreds, or thousands of kilometers from their home community, or to a period of supervision in the community where there may be few services. As an officer in the NWT noted:

There are a lot of repeat criminals being sentenced to minimum sentences, which duplicates a lot of our work. We arrest people and then they are back on the street a few days later. It's the same people coming through the system. And sentences don't seem to increase for repeat offenders for the same offence. It's not always an upwards scale and seems random.

Although beyond the scope of this enquiry, the issues surrounding the circuit courts in the north can contribute to inefficiencies as well. Little attention has been given to how current practices could be improved to address these (see Deputy Minister Advisory Panel on Criminal Legal Aid, 2014).

The Cost of Expert Witnesses

It has been suggested that the burden of costs for calling expert police witnesses should be managed on a cost recovery basis. Utilizing this type of approach could potentially ensure that expert opinions are sought in situations where an RCMP member's perspective and testimony adds significant value to a case. The RCMP notes that shifting the burden of costs could lead to greater efficiencies, but also recognizes that it may result in greater financial responsibility for other criminal justice partners and individuals defending themselves before the courts. There is merit in noting that the current practice is economically burdensome for the RCMP and likely for police services more broadly.

The Use of Alternative Measures

In recent years, there have been increasing efforts to encourage police services to adopt various restorative justice approaches in responding to youth and adults in conflict with the law (Griffiths, 2015). However, there are often no additional resources provided to cover the costs of these programs. A senior police officer commented:

The whole process of dealing with the offender through alternative measures and extrajudicial sanctions has been downloaded onto police, relieving courts of the need to deal with it; however, there has been no extra funding or manpower given to police to deal with the extrajudicial charge (e.g., setting up family group conferences, incurring the cost, enforcing sanctions).

A police Superintendent in the Maritimes noted that, in his jurisdiction, there were no alternative measures being implemented for adults. This contributed to inefficiencies, including increased policing costs, the officer noting:

An elderly person shoplifts a screwdriver and is detained. The police are called. We lay charges regardless of the dollar value. I think we can do better through alternative measures. As it is, we investigate everything that comes through the door and lay

charges at every shoplifting complaint and it's just not in the public interest. We should look at this and develop internal policy. There is diversion for youth, but the Province does not have any type of diversion for adults.

The RCMP is involved in a number of activities to address broader systemic court inefficiencies. For example, the RCMP is involved with a number of court diversion programs and alternative justice measures (e.g. Community Justice Forums) or is implementing specific provincial programs (e.g. British Columbia's Immediate Roadside Prohibition Program for impaired driving) to help reduce the volume of cases before the courts and to strengthen the overall efficiency of the criminal justice system.

Police services are involved in a variety of diversion and restorative justice initiatives across the country (Griffiths, 2016). A police officer in a large urban police service noted that a "whole system" approach was used and provided the example of young offenders:

The population of youth has increased but crimes have decreased and the rate of recidivism has been reduced through diversion for those deemed to be low risk. It provides for a better disposition for the victim and the offender. We've been tracking the numbers since 1996. The end result is we are taking up less court time dealing with youth.

The Role of Defence Counsel

"Defence drives most inefficiencies. They need to look at the whole scheme. They are officers of the court too."

– Police officer, northwestern Ontario

The actions of defence lawyers, most notably strategies to delay case processing, were identified by a number of the respondents as a source of police inefficiency (and costs). An officer in charge of a police service research and planning section noted that "Defence counsel use the same issue time and again. They get cases put over. The courts need to stop acceding to silly requests while ensuring the rights of accused are upheld."

A police Inspector in a large municipal police service described the challenges posed by the actions of defence counsel:

The justice system has evolved into a legal system rather than a justice system. Court rulings have caused us to disclose more, which is a good thing, but the defense does not share the same burden that Crown and police do. For example, the defense should need to file alibi [evidence] as soon as disclosure has been met, so police can investigate and verify. What happens is that the Crown is left in a position where the defense uses this as a delaying tactic and the Crown has very little leverage. This impacts timely justice and the Crown-police relationship. The case is delayed until the Crown is able to get to it and the police move on to new investigations, details are forgotten and resources directed

elsewhere. Crown and defense should have a case conference immediately after disclosure has been met where they can narrow down the focus and agree on when to proceed.

A senior police officer in Ontario stated, “It’s a case of the tail wagging the dog. Defence counsel make things difficult in relation to disclosure. We understand the case law in *Stinchcombe*, but they want everything.”

Justices of the Peace

“We have [Justice of the Peace] who won’t start a POA trial after 3 pm. We have JP’s encouraging defendants to plead not guilty. In the summer months POA court is always closed on Friday. This leads to delays and cases getting tossed.”

- Senior Ontario police officer

Although most Justice of the Peace (JP) were viewed as “exceptional,” a number of respondents interviewed for the study identified JPs and JP courts as a major source of police and justice system inefficiency. One senior police official in Ontario noted:

We are getting creamed in bail hearings. JPs now think they are lawyers. Hearings are becoming more complicated than they were; our charges are down so bail hearings shouldn’t be on the increase. There does not seem to be any specific expectation around availability or standards in this area.

Another senior Ontario police officer noted, “We are supposed to have two JP’s to look after intake, routinely we only have one. The answer that I will typically get is that JP’s have judicial independence and as police, we can’t question what they do or the timeliness of what they do.”

Another police official in Ontario stated, “We do not have access to JPs outside of scheduled hours and must wait in the regular line. The use of tele-warrants has assisted in this area, but at times the waiting time for tele-warrants is also significant.”

The WASH (Weekend and Statutory Holiday) bail hearing courts appear to have increased efficiencies in some jurisdictions. A police Superintendent in the Maritimes described the successful operation of the WASH court in his jurisdiction:

The WASH court operates out of the provincial courts. The judge attends at 11 a.m. Detainees from [the municipality in which the court is located] make a physical appearance. Detainees from outside of [the municipality in which the court is located] appear via audio link. This is working well for us. The Crown Brief is transmitted by fax to the Crown’s office. There are no issues. An officer is assigned to WASH court to swear the documents. Crown and Legal Aid are physically present in the court. The judge may be present or may conduct court via audio link.

Some respondents did express concerns with the operation of the WASH courts. For a number of the interviewees, these centered on operating hours, one police officer recalling: “Last weekend on the holiday, the JP closed the court at 10:00 a.m. and we still had prisoners that had not been seen.” There were also concerns expressed about the number of appearances made by prisoners, an Ontario police Superintendent suggesting:

WASH court should operate like a bail court, rather than a remand court; instead of prisoners just being remanded over to another day. They should be released on conditions when it’s appropriate. What is happening is prisoners just get remanded, brought to the detention centre and then brought back here on the Tuesday when he could have been released with conditions.

A senior Ontario police officer expressed concerns about the lack of capacity of the WASH courts:

We have officers sitting and waiting five hours to be reached. This also flows to the prisoner transportation issue. Accused are not being released, they are simply being put over to Monday (or the next business day), when they get released. Supposed to have been efficient, but it hasn’t worked out.

It does appear that the WASH courts have considerable potential to increase efficiencies in policing and the justice system. Further study of their operations would identify the lessons learned and how the contribution of the WASH courts can be maximized.

The Transport of Prisoners

The transport of prisoners is a crucial, but understudied component of the criminal justice system. The 2006 report of the Steering Committee on Justice Efficiencies and Access to the Justice System recommended that “Accused persons should only be transported to court when their actual attendance is required” (p. 7). The responses of a number of persons interviewed for the present study indicate that considerable work remains to be done to fulfil this recommendation.

A senior provincial justice official noted:

The transport of prisoners is inconsistent. There are no standardized or established best practice transportation practices/standards. Transportation practices refer to who is transporting prisoners (cops, corrections officers, or sheriffs), when are they being transported, and how are they being transported?

A senior police officer in Ontario noted that there was no centrally managed entity for prisoner transportation. Rather, the province relies on the OPP. A senior OPP police official stated:

In some jurisdictions, we contract out to the local police service to do that and that’s OK. In others, it’s simply an expectation that we will move prisoners from A to B. In some areas, this has to be done by train (e.g. Moosonee) [where] this is a multi-day affair. We should be using technology for court appearances wherever possible. There are extensive costs with the current arrangement.

This was an area cited by many respondents where technology could be better utilized to increase efficiencies and reduce costs. In Ontario, for example, the OPP is required to transport prisoners in a wide variety of settings. In the words of a senior OPP officer, “First appearances, bail hearings and remands could all be addressed through technology rather than prisoner transport. We should be using technology for court appearances whenever possible.”

The police may also be responsible for transporting persons for *Mental Health Act* (MHA) assessments, an Ontario Chief of Police noting that there were high costs associated with transporting persons with *Mental Health Act* issues from the court to the assessment centre. A large portion of these costs are absorbed by police services.

The RCMP also identified this as a “non-core” duty that had an impact on police efficiency and increasing costs of policing. In a number of jurisdictions across Canada, the RCMP is called upon to exercise additional duties that are not defined as core police functions, which includes “sheriff-type duties.” Specifically, the RCMP provides prisoner escort and transportation to and from court appearances. In some jurisdictions several organizations (e.g. Sheriff, Police, Corrections) provide these services – and often times the lack of provincial/territorial resources shifts/defaults the responsibility to the RCMP.

In other jurisdictions, the capacity simply does not exist for other entities to manage prisoner escort and transportation. This greatly affects remote detachments as it places a strain on resources by taking members away from their core duties and out of the community. The RCMP noted that this issue is further exacerbated by the fact that a large number of remanded prisoners remain in the custody of the local RCMP detachments for extended periods of time due to overcrowding in provincial correctional institutions. To address this, RCMP “D” Division is currently working with Manitoba Justice and the Sheriff’s Department to study this issue.

This issue is an example of downloading on police services which compromises police efficiency and, in the view of the RCMP, is linked to the broader issue of the importance of delineating core police responsibilities (much like the issue of the RCMP’s growing requirements to respond to mental health calls).

The province of Manitoba has a Custody Coordinator who communicates with the lawyers. The work of the coordinator is viewed as increasing efficiency, a senior provincial justice official stating:

The accused is not moved until lawyers assure that the matter is ready to be dealt with. This has forced lawyers to have those conversations early on, rather than on the day of trial with the police officers standing there waiting to testify. The Judiciary is completely onside with this. If we use that kind of model in other areas of the province what we could do is reduce the number of times the police are moving prisoners to and from court. The real benefit is having one person as the conduit for all conversations related to the case. There is the potential for real savings. We have six jails throughout the province feeding into 11 court centres.

Several RCMP Divisions are currently exploring the possibility of establishing specific units to escort prisoners as no other entity provides this service. “G” Division is using reservists (retired Regular Members) to assist in prisoner transport without having to provide new/additional

training. Another potential solution could be to use video conferencing to minimize the costs and ensure greater security associated with prisoner escort and transport for routine court appearances.

Prisoner Transport in Northern and Remote Communities

Prisoner transport is particularly challenging in northern and remote communities. A senior police officer in the NWT stated:

The most significant inefficiency here is probably transporting prisoners for court from smaller, more remote communities to larger communities. Often there is no physical replacement available. I think that creates a lot of pressure on other members to pick up the workload. It's definitely a pressure that detachments face; especially, in smaller detachments where you are limited in staff already. To fly someone from a remote community to a larger city for a show-cause hearing generates a lot of member hours and time spent, which is very costly. I'm not sure on the specifics but it's a significant dollar amount. We're probably better than half the detachments in the territories, but not near as good of a system as in urban settings.

An officer posted to northwestern Ontario described the challenges, and costs, of transporting prisoners for court hearings:

One thought I've always had is say a person is in jail and the court date is set in a northern community. We've got to fly them up only to have them be remanded and have to fly them back down. Can we have a video trial? Can court be held in a centralized location?

Downloading

A senior police official in Ontario identified downloading as adding to policing costs and compromising police efficiency. Efforts by one area of the criminal justice system to reduce costs may increase costs in another area, one senior police officer stating, "If they are making changes to [the] Ministry of the Attorney General or to the courts, they should be looking at the impact on police costs." A police official in Ontario provided an example, "We used to be able to do undercover operations [UC] and PPSC would pay the costs of bringing the UC operator in to testify. Now, we pay for the cost." The official cited the example of the provincial Ministry of Natural Resources cancelling the "Bear Wise" program. This has resulted in OPP officers in northern Ontario being involved in destroying bears where required.

This highlights the importance of taking a holistic perspective on improving the efficiency of the police. The discussion of police efficiency cannot be considered in isolation from their relationships with Crown counsel, the courts, defence lawyers, and corrections. Implementing reforms based only on an examination of police practice are not likely to be successful. An example of downloading and its consequences for policing and police efficiency is provided by the ongoing challenge of policing persons with mental illness.

Police Encounters with Persons with Mental Illness

The increasing contact between the police and Persons with Mental Illness (PwMI) is an example of the impact of deinstitutionalization onto the police (Griffiths, 2015; Iacobucci, 2014). The deinstitutionalization of mental health patients in the 1960s and 1970s resulted in a growing number of persons with mental illness requiring care and treatment in the community. As an example, in B.C., the concept of deinstitutionalization was primarily accepted on the premise that psychiatric units and community care facilities would be developed in all major communities in the Lower Mainland (Higenbottam, 2014, p. 9-10). However, this did not generally occur with the result that many PwMI became homeless and destitute and without the necessary supports to manage their issues. The challenges have become even greater in cases of persons who are severely addicted and mentally ill (SAMI) and have complex treatment needs that cannot be met by community-based programs and services.

It is evident that many Canadian police services are confronted with challenges in responding to PwMI and that these challenges have an impact on police resources and efficiency. An Ontario police Superintendent stated:

We spend a tremendous amount of time bringing people with mental health issues through the court system because there is no alternative in this province. We are the only service that is available 24 / 7 to deal with people in crisis. At the end of the day, if someone with mental health issues commits a criminal offence, we frequently have no alternative but to bring him or her before the courts.

Police officers may spend significant amounts of time waiting with PwMI to be admitted to hospitals. A study in Edmonton found that during a three-month period in 2013, officers spent 1,500 hours in hospitals, costing the police service approximately \$100,000 and taking them away from patrol duties. Fifty-four per cent of the hours were related to PwMI (Ibrahim, 2013). The challenges are perhaps the greatest in communities that do not have an infrastructure of support for PwMI, i.e. northern and remote communities, although this area has not been explored by either researchers or policymakers.

Compounding the issue, a senior provincial justice official noted that the police often have limited information on PwMI, due to privacy issues and a lack of linkage of data sets. This means that the officers may not know that they are approaching a PwMI and therefore may not know how to alter their behavior accordingly, i.e. avoiding trigger words, selecting suitable body language, verbiage, tone, etc.

Initiatives to Address the Needs of Persons with Mental Illness

Police services are involved in a variety of initiatives designed to address the needs of PwMI (Griffiths, 2015). Although an in-depth examination of these is beyond the scope of the present project, one example can be cited. The Hamilton Police Service example, participates in the Social Navigator Program which is designed to address the needs of persons who have high rates of contact with the police. It is a collaborative effort of the police, paramedics and municipal agencies and attempts to direct persons to services that best meet their needs. Many of these individuals have mental health issues.

A review of the program found that it has been successful in directing a number of persons who had extensive contacts with the police into appropriate services, thus reducing their level of contact (and in some cases conflict with) the law (De Caire, 2013). There are a number of innovative programs to address the needs of PwMI that involve collaborative partnerships between the police and various agencies and community organizations that could be studied to create best practice strategies.

Court Facilities

A number of the respondents identified inadequate court infrastructure as contributing to inefficiencies in policing and in case processing. A police officer in Alberta noted that the infrastructure has not kept pace with population growth. While Calgary and Edmonton have sufficient resources, other fast-developing areas are poorly serviced by courthouses with single courtrooms that were designed a half-century ago.

Aging court facilities were identified by several respondents in Ontario as having a significant impact on policing costs, particularly with respect to security requirements. Multiple access points and the absence of magnetometers and other screening devices require more security patrols, the costs of which are borne by the police service.

The Chief of a regional police service in Ontario noted the inefficiencies surrounding lockup facilities. The police service maintains a central lockup facility with all of the attendant costs. Prisoners are held in this facility and then transported to the courthouse for their appearance. There is a lockup facility at the courthouse that is far superior to the police lockup and has the capacity to intake, process, and house prisoners. A police effort to share the lockup facility at the courthouse was blocked by the MAG.

The Issue of Court Security

The requirement that police services in many jurisdictions provide court security was identified as placing increased demands on police services. Commenting on this, one municipal police official stated, “Two police services and two OPP Detachments use the court house, but we are responsible for security because it is located in our town. The province does kick in some funds, but our taxpayers foot most of the bill. We have a sworn strength of approximately 40 officers and the OPP have more cases than we do.” The shooting in Peel courts that involved an armed civilian walking into the court and shooting an unarmed officer (before being killed by armed officers) resulted in the judiciary wanting armed officers in the court at all times.

An Ontario police Superintendent identified the need for standards for court security, stating:

There is no set standard. S. 137 of the *Police Services Act* puts the onus on the board to determine the appropriate level of the security. We have armed officers at the front but not all jurisdictions do. At this time it is only local policy. Standards could be prescribed either by regulation or guideline.

The poor condition of many courthouses was identified by several respondents as presenting security risks. One respondent noted a courthouse in which the office of a Superior Court Justice

was in an insecure hallway. This places additional resource pressures on police to maintain an adequate standard of security.

The Police Organization

A number of the police respondents identified the police organization as a contributor to inefficiencies. The main issues are: a lack of analytical capacity; a lack of empirically-based staffing and deployment models; police services being engaged in non-police activities; and, the police culture itself.

For example, speaking to police culture as a potential obstacle to addressing inefficiencies, a police Inspector in Alberta stated, “I think that the police culture has become risk averse and the policing culture maintains the traditional paradigms and structures that exist. There has to be a paradigm shift.”

Similarly, a senior police official in Ontario stated:

We have crime analysts who don’t know how to utilize the software. We have folks who are doing statistical analysis who don’t know stats. We expect police officers to be able to go anywhere in the organization, but that shouldn’t be the case. We do not have a staffing model. We don’t have control of our shift scheduling. No standard model, no science to it at all. We have a deployment model, but ours does not include response times like a municipal service does.

Often, this official noted, arguments for additional resources, including staff, are not based on evidence. And resources are not being used efficiently, this same official stating:

We have millions in administrative overtime. In 2011, it was \$7 million. How can you need overtime for administrative duties? There are approximately 100 officers and 23 civilians performing court duties. Transferring all duties to civilians would save \$2.8 million a year.

Technology

“The major inefficiency is the lack of [the] use of technology.”

– Senior police official, Ontario

“In this day and age why are we using faxes? If we have to continue to use faxes, perhaps they could put in dedicated fax machines for each police service.”

– Deputy Chief, Ontario

The use of technology is widely viewed as a major strategy to address existing inefficiencies in the justice system. Note that the issue of technology as discussed in this project is multi-faceted.

“Technology” can refer to file formats, mechanisms to transfer files, transfer platforms, and various voice communication platforms, among others. The challenges surrounding the use of technology, as identified by the persons interviewed for the study, included the absence of technology, the inability to use existing technology, and/or a lack of training, all of which hindered its potential usefulness in increasing efficiencies.

The Canadian Association of Police Governance (CAPG) has called for the introduction of technology to enable electronic disclosure, video conferencing and provision of disclosure materials in digital format rather than as a paper hard copy.

A senior provincial justice official spoke about how technology could improve police efficiency:

We need to invest in technology so police can transmit charge information via data transfer and then Justice can use the document throughout the [criminal justice] system. The output, the conviction, or dismissal should be provided in the same manner, so that [the Canadian Police Information Centre database (CPIC)] can be updated in a more timely manner from the time of the charge to the end result. This should help to reduce the backlog at CPIC. There should be an automatic population of data fields. Once this system is working, it would pave the way for the entire court brief to go electronic.

The RCMP acknowledges that significant investment will be required to modernize the justice process but note that this will result in greater efficiencies:

Exploring the greater use of technology – which includes the admissibility and use of digital/electronic evidence; electronic disclosures; and, increased use of video-conferencing capability (for both police officer testimony and prisoner court appearances) are specific areas where the financial burden on the RCMP and the criminal justice system could be reduced.

An officer in charge of a police service research and planning section described how the use of video for remand, bail, and judicial pre-trials could improve efficiency:

We send two officers to Maplehurst Detention Centre to pick up accused to attend JPT. The accused sits there for the day. He or she is guarded, fed and then transported back to MDC. We should be able to do this by video; same thing with the WASH court on the weekends.

This officer noted that video remand was tried in their municipality seven years ago but there were issues with the JPs and the practice was discontinued.

In 2006, the federal Department of Justice Steering Committee on Justice Efficiencies and Access to the Justice System recommended the use of audio and video remand systems for persons who were detained while awaiting a hearing. A number of police services are using video remand, which lessens the need for prisoner transport and reduces the levels of risk. The responses of a number of persons interviewed for the present study, however, indicate that much remains to be done to fulfill this recommendation.

Infrastructure and technology issues were frequently mentioned by the respondents as to why electronic disclosure was not more widely used. Although funding would be required to build the necessary capacities, it could be argued that putting these systems in place would create greater efficiencies and reduce costs in the long run.

There is considerable potential for technology to improve the efficiencies of the police and the court system. In discussing technology, an Ontario police Superintendent stated:

We are using it, but technology is always a challenge. There is reluctance by stakeholders to fully buy in. There are software programs out there, e.g. “SCOPE 4.” The paper system works, but the fact is things get lost. It’s not uncommon for us to provide the same document multiple times, knowing that we have already disclosed the document. We’ll always need paper to some degree, but there has to be a way to cut down on the volume.

The Ineffective Use of Technology

One Chief Constable pointed out that there were inconsistencies in the electronic submission equipment for different branches of the criminal justice system, noting, “Everyone is working on different systems and that creates problems of communication, and consistency. It takes time to reformat materials. A lot of police time is tied up in technology, which makes policing more difficult.”

In some jurisdictions, inefficiencies are created by outdated information management and document imaging systems. Upgrading these systems requires monies that may not be available. These costs may be even greater in northern and remote areas of the country.

The Absence of Jurisdiction-Wide Information Systems

A police Inspector in a municipal police service in Alberta noted, “The lack of ability to communicate with each other in the province through the use of a secure records management system has created significant inefficiencies for police services.” The CRIME system, developed by the Vancouver Police Department and operating province-wide, is an example of a police information system that is accessible to all police services in BC. It is discussed later in this document.

The Challenges in Using Technology

Elements of the justice system are being modernized at different rates and what we need is the system to be modernized as a whole.

– Senior police leader

An officer in charge of a police service research and planning section described how disclosure is commonly prepared in their jurisdiction and the obstacles to making the process more efficient:

Officers spend time photocopying and printing out briefs for Crown and defence. We don't do our own data entry on Niche. Officers do their narrative on MS Word, and then forward the information to data entry personnel who do the data entry. The officer puts the brief together manually rather than using the software. Other services do the data entry and then use the case management function to prepare the brief. I hear other services submit them electronically. Crown here is not ready for an electronic brief. There is a huge opportunity to be more efficient. We require some consistency across the province in relation to disclosure. It is different depending on the Crown's office. There would need to be some capital investment and training. E-disclosure should be driven by the police services, but [that] would have to be done in conjunction with all stakeholders.

Video statements are still an issue, a Deputy Chief in Ontario stating:

Crown tells us not to do it. Defence doesn't like paper and wants statements on video. Judges are saying you have the technology so you should be using video. It's not consistent. The Crown won't transcribe the videos so we end up doing it.

A senior police official in Ontario described the challenges of successfully using technology:

Law enforcement drives the technology piece and Ministry of the Attorney General is always behind. I remember when we went digital for photos – they panicked. Enhance technology and efficiency will happen – whether it is for video remand or other procedures. We've put all the money in but there is a barrier at the other end of the process.

It was noted by several respondents that most agencies in their jurisdiction did not capture all of the available information on individuals correctly and that the police were not maximizing the use of the electronic tools that were available to them. One senior provincial justice official stated:

The police do not do a good job of capturing all the data that they could. Most provinces' police systems are not linked to each other in any meaningful way. Much of the justice (policing, corrections, Crown) does not currently conduct electronic disclosure. Most branches of the justice system (e.g., courts and corrections) are separate, so data does not flow between them.

Several of the respondents indicated that Crown counsel often did not have the training to know how to access information that is sent electronically. A Deputy Chief noted that for major case investigations the entire case is burned on a hard drive but that, "Crown will call saying they can't find the information. It's there; they don't know how to access it. No training is provided to them by anyone."

The Inability to Maximize Existing Technologies

"The lack of ability to communicate with each other in the province through the use of a secure records management system has created significant inefficiencies for police services."

– Police Inspector, Alberta

The adoption and use of technology in various facets of policing across Canada, particularly in relation to moving information from the police to Crown counsel, information sharing, and using video for remand appearances, is uneven. There appear to be no standardized practices, even within the same jurisdiction.

Several respondents identified instances in which the technology was in place to increase efficiencies, but was not used. A senior police official in Ontario noted, for example that, “YO facilities have video remand, but it isn’t used as the YO and their lawyer can say they want to meet in person even though the YO will be remanded.”

The adoption of technology that has proven to increase efficiencies has been slow and uneven. A Deputy Chief in Ontario stated, “Our video remand initiative was a good one, but it met with resistance. We are still trying to do video remands for WASH court. There is a lack of buy-in by stakeholders, but I think it is very slowly starting to take.” Another Deputy Chief in Ontario stated, “We have been talking about e-disclosure for at least six years. E-ticketing is another example of technology that is available, but we simply can’t get congruence with the AG’s office. Both of these technologies need to be wholly integrated with the AG’s office.”

Particular challenges surround the use of technology in the north. An RCMP Sgt. in the NWT commented on the technological challenges in their jurisdiction:

The technological challenges are pretty big. The quality of Internet access is limited in some detachments. To open a pdf attachment in some detachments is an onerous task. Some of our training is also done online and that might be an all-day task in a place with poor Internet. So the community infrastructure is a challenge.

The Creation of Jurisdiction-Wide Information Systems

Canadian jurisdictions have not, to date, maximized the potential of technology to create jurisdiction-wide information systems. A notable exception is the CRIME system in BC. This is a province-wide system developed by the Vancouver Police Department. It is accessible for on-site and off-site use; contains daily RMS and CAD data from all of the police services in the province; and includes arrest and booking information; court disposition information; and geospatial information. The CRIME system also includes an offender MO integrated repository and an integrated human source database. At present, only the independent municipal police services in the province participate in the system and contribute information and data to it on a daily basis. The RCMP, which has a significant presence in the province, does not. Units within the VPD and the partner agencies also complete a template that populates a mini-database that is uploaded weekly and linked to the provincial information-sharing system (Prox, 2012).

Initiatives Designed to Improve Efficiency

Following are examples of additional initiatives taken in jurisdictions across the country that were mentioned by the respondents and that bear mention. Some have been replicated; others are “one-offs,” even within the same jurisdiction. A number of the initiatives are specific to a municipality; others are examples of jurisdiction-wide efforts to increase efficiency. In some cases critical

events and/or the failure of the justice system were the catalysts for reform and innovation. Few of the initiatives have been subjected to independent evaluation or to cost-benefit analysis which makes it difficult to determine their effectiveness in reducing inefficiencies. Given the small respondent sample in the present study, the examples are to be taken only as illustrative of the types of strategies that are being used to improve efficiencies.

- The province of Manitoba has a Director of Innovation whose mandate is to look at the criminal justice system in Manitoba and determine what can be done to make it more effective and efficient, to increase the velocity of the cases in the system and to reduce the numbers of cases in remand.
- A Deputy Chief in Ontario noted that the Witness Management Office in their jurisdiction has had a positive impact on Crown briefs and reduced the number of requests for additional information.
- The NWT has a pilot project to use video conferencing in several communities with the objective of reducing the amount of travel for show-cause hearings.
- RCMP “F” and “H” Divisions are utilizing an e-ticketing solution for traffic violations. In these Divisions, ticketing for traffic violations is digitally recorded with an in-car console and data is then uploaded to the relevant ministry/court’s fine collection branch. For example, in “F” Division, in 2012, the RCMP issued 49,000 paper-based traffic tickets – all of which were manually processed by the RCMP and department staff. In the view of the RCMP, moving to an electronic system significantly reduces the time spent and costs for inputting and transmitting information to the court and reduces manual errors. RCMP “J” and “D” Divisions are looking to implement a similar approach. Note that there are no published evaluations of this initiative.
- In 2014-15, the RCMP will pilot the Criminal Justice Information Modernization Project, which will allow police agencies to update criminal records electronically. This project will use automation and standardization to create a modern and timely national repository of criminal record information to assist law enforcement.
- There are criminal court liaison committees, operating in at least one region in Ontario. These include the police and other justice system officials and are viewed as successful in addressing some of the issues related to inefficiency.
- In one Ontario jurisdiction, efforts have been made to implement a system which would see the Service notified when there are more than four officers subpoenaed for a trial. The Service then liaises with the assigned Crown Attorney to try and reduce the number of officers who were compelled to Court. In this jurisdiction as well, the Crown has started to attend the Criminal Investigation Division CID office once a week to meet with investigators.
- In one Ontario jurisdiction, the police service worked with Crown on a template for Crown briefs for certain cases, i.e. domestic violence, theft over, theft under, impaired, etc. It includes a form to be filled out by the officer, which lists items known by the investigator which are not included and will be done, e.g. witness statement, medical records, etc. The belief is that this has cut down on unnecessary requests for information.

A key strategy is building collaborative partnerships. A senior provincial justice official noted:

There is a focus on building partnerships between police and corrections and mental health workers, health, and education. We have established a lot of great partnerships with agencies that have expertise in those areas. Why should we expect our officers to be mental health workers when those people already exist and can be partnered with?

We are doing more integrated initiatives. For example, the development of integrated traffic safety offices, which integrates members of municipal police, the RCMP, data analysts, Saskatchewan government insurance, and the ministry of justice.

The Province of Alberta “Injecting a Sense of Urgency” Initiative

The “Injecting a Sense of Urgency” initiative in Alberta was initiated by the Alberta Justice and Solicitor General after a judicial stay of sexual assault charges in the town of Airdrie (near Calgary) due to excessive delays. In imposing the stay, the presiding judge cited the requirements set forth in the SCC case of *Askov* (1990, 2SCR 1199) and the Charter requirement that, “Any person charged with an offence has the right... (b) to be tried within a reasonable time” (Lepp, 2013a:5). An investigation found that a number of factors contributed to the unsatisfactory case outcome: “(1) incomplete investigation and delayed disclosure; (2) unnecessary and repeated adjournments; and (3) systemic acceptance of delay” (Lepp, 2014a:2). Of interest is that the investigation found that the average court sitting time was 3:02 hours per day (Lepp, 2013a:12). The initial report indicated that it was expected that pressures on the court would grow with the enactment of *Bill C-10*, the *Safe Streets and Communities Act*.

The primary objective of the initiative was to improve the performance of Crown prosecution in serious and violent criminal cases. An initial and final progress report were issued (Lepp, 2013b; 2014). Among the changes implemented were enhanced pre-charge consultation with the police in serious and violent cases, and expansion of Case Management offices across the province, and the increased use of Direct Indictments (Lepp, 2014). There is an increased focus on senior police officer oversight and mentoring of junior officers in the preparation of a case prior to charges being laid. An Information Management and 24/7 Approval Centre operates in the Edmonton Police Service to ensure the quality of investigative packages and a standardized investigative court package has been developed (Lepp, 2014:6). A project to enhance the intake of prosecution packages from the police, known as Criminal e-File was piloted and, as of early 2014, was implemented in Edmonton.

Going forward, it will be important to evaluate the success of these initiatives in meeting their stated objectives and in increasing the efficiency of the justice system. It has been suggested, for example, that the WASH courts have not always been effective in achieving their objectives (Department of Justice Canada, 2006:2).

Justice on Target

The Justice on Target (JOT) initiative in Ontario is widely cited as a successful initiative designed to streamline the court process. The stated purpose of this strategy is to improve the flow of cases in the criminal courts by reducing delays. There is a focus on reducing the number of preliminary appearances and on speeding up trials. Among the strategies are to provide as much information

as possible early in the case process, have dedicated Crown counsel, and setting a standard for appearances, among others. Benchmarks are used to measure progress.

In a brief, the Canadian Association of Police Governance stated that JOT, “[C]an be profitably considered for implementation across the criminal justice system at the provincial and federal levels.” An enquiry into the justice system in BC described the JOT as “a splendid example of transparency and accountability” (Cowper, 2012:177). The report further states:

During consultations it was reported that the integration of various stakeholders – including prosecutors, defence counsel, police and staff at 57 courthouse locations, along with judicial chairs – achieved a significant change in professional culture. It has improved mutual understanding, improved professional relationships and generally enhanced a sense of common professional excellence.

It is important to note that these statements about JOT are not grounded in empirical research, as the initiative has not been subjected to an independent evaluation which would determine the extent to which the initiative is meeting its objectives. The observations and experiences of the respondents in the present study raise concerns about the JOT program and its success. An officer in charge of a police service research and planning section commented on the JOT program, stating, “I don’t think it’s applied across the board to all cases. I think it is applied to the lower threshold cases and the impaired cases.” The potential of JOT could be better determined from an objective evaluation of the program.

The figures presented in Table 1 suggest that case delay continues to be a major problem in Ontario courts. For all levels of case complexity, the percentage of cases meeting the benchmarks declined from 2012 to 2013. And, for all types of cases, benchmarks were met in just over 60% of the cases. The figures in Table 2 reveal that the JOT did not meet the target goals set out in 2011. The original target for the JOT program was that there would be a “30% reduction in time to disposition and a 30% reduction in the number of appearance in criminal matters in Provincial Court” (Cowper, 2012:178).

Table 1: Benchmark Performance for Less Complex, More Complex and Provincial & Federal Cases, 2012 to 2013

Case Type	Benchmarks*	Ontario's criminal court that met the benchmark, 2012	Ontario's criminal court that met the benchmark, 2013
Less Complex	5 Appearances	63.2% of the time	62.9% of the time
	90 Days	61.8% of the time	61.3% of the time
More Complex	10 Appearances	67% of the time	66.5% of the time
	240 Days	67.7% of the time	66.2% of the time
Provincial & Federal	9 Appearances	64.1% of the time	63.5% of the time
	180 Days	64.8% of the time	64.4% of the time

[Ontario Ministry of Attorney General. 2014]

Table 2: Benchmark Baseline and Goals for Less Complex, More Complex and Provincial & Federal Case, 2011-2013

Case Type	Benchmarks*	2011 (Baseline)	2013 (Goal)	2014 (Goal)
Less Complex	5 Appearances	62.3% of the time	+ 1.6%	+ 1.5%
	90 Days	60.9% of the time	+ 1.5%	+1.7%
More Complex	10 Appearances	67.4% of the time	+ 1.3%	+ 2.1%
	240 Days	66.9% of the time	+ 1.6%	+ 2.3%

[Ontario Ministry of Attorney General. 2014]

From 2013-2014, 27 court sites showed improvements in the percentage of less complex cases that were disposed of within five appearances, although only six improved by 5% or more.

Figures also indicate that, with the exception of courts in smaller locations, there is little difference between clusters of “extra-large,” “large,” “medium,” and “small” court locations in Ontario. For example, for less complex cases disposed of within five court appearances, the 2013-2014 figures were as follows: 1) extra-large court locations (i.e. Ottawa, London: 62.0%); 2) large court locations (i.e. Kitchener, Thunder Bay: 61.5%); 3) medium court locations

(i.e. Kingston, Dryden: 59.9%); and, 4) small court locations (i.e. Owen Sound, Elliot Lake: 67.7%) (Ontario Ministry of Attorney General, 2014).

A senior police official in Ontario offered a critique of the JOT initiative, describing it as ‘Cheaper and faster, but not smarter or more efficient.’ This officer noted specifically that the Crown was accepting plea deals at the trial date, that were meant to be accepted at the first instance and that JOT left the victim out of the process.

The Alberta Court Case Management Program

This initiative in the Edmonton and Calgary adult Provincial Criminal courts is designed to better manage cases. Key components of the initiative are Assignment Courts which use a “day of” approach to scheduling; Low Complexity Courts for less complex cases to proceed to trial more quickly; Crown File Ownership which involves assigning one Crown counsel to a case from beginning to conclusion; and the use of technology to expedite information sharing and processing (Cowper, 2012:176).

The expected outcomes of the Alberta Court Case Management (CCM) program were: 1) maximize the use of available court time; 2) streamline criminal justice processes; 3) increase the public’s confidence in the justice system; and, 4) improve access to justice. These outcomes were to be achieved by: 1) maximizing the amount of time Provincial Court Judges spend on meaningful events; 2) reducing the length of time required to dispose of cases from first appearance to disposition; 3) reducing the number of appearances per case; and, 4) increasing the number of cases processed to acceptable levels (Alberta Courts, 2010).

Documentation on performance metrics for the CCM program indicates mixed results. The initiative did reduce the number of court sitting hours per day and improve the case clearance rate. However, there were increases reported in the length of time required to dispose of cases from first appearance to disposition and in the number of appearances per case. See Table 3.

Table 3: Anticipated Outcomes and Performance Metrics for the Alberta Court Case Management Program

Outcomes	Target Metrics	Baseline Metrics (Pre-Implementation) April 1 – December 31, 2009	Baseline Metrics (Post-Implementation) April 1 – August 31, 2010
Maximized amount of time Provincial Court Judges spend on meaningful events	Increase average time per sitting day for trial courts to 80%, to a total of 4.5 hours	Average court time hours per day: - Edmonton: 2.5 hours - Calgary 2.83 hours	Average court time hours per day: - Edmonton: 2.98 hours (+ 19.2% increase) - Calgary 2.88 hours (+ 1.8% increase)
Reduced length of time required to dispose of cases from first	Reduction in median time elapsed from first appearance to	Median elapsed time first appearance date to final disposition:	Median elapsed time first appearance date to final disposition:

appearance to disposition: - Trials - Cases disposed of without trials	disposition: • Calgary & Edmonton: - Trials: - 10% - Without: - 10%	• Calgary: - Trials: 236.5 days - Without: 174 days • Edmonton: - Trials: 157 days - Without: 146 days	• Calgary: - Trials: 252.5 days (+ 6.8% increase) - Without: 142 days (- 18.4% reduction) • Edmonton: - Trials: 151 days (- 3.8% reduction) - Without: 145 days (- 0.7% reduction)
Reduced number of appearances per case	Reduction in the number of appearances per case in Calgary & Edmonton to 5 appearance per case within 12 months from date of project implementation	Average appearances for cases concluded by: • Trial: - Calgary: 9.2 - Edmonton: 8.5 • Non-Trial: - Calgary: 6.3 - Edmonton: 6.5	Average appearances for cases concluded by: • Trial: - Calgary: 10.5 (+ 14.1% increase) - Edmonton: 10.1 (+ 18.8% increase) • Non-Trial: - Calgary: 6.7 (+ 6.8% increase) - Edmonton: 6.4 (- 1.5% reduction)
Maintain number of cases processed at acceptable levels	Maintain a clearance rate in Calgary & Edmonton of 100%	Case Clearance Rate: • Calgary: 95.6% • Edmonton: 98.9%	Case Clearance Rate: • Calgary: 102.0% • Edmonton: 97.8%

[Alberta Courts, 2010:8-9]

These are the most recent published outcomes from the CCM project. (Alberta Courts, 2010:8-9).

The Role of Government

The provincial attorneys general were identified as needing to play a role in addressing inefficiencies, including taking the lead in promoting e-disclosure and the development of major case management systems. As discussed earlier, the MAG in Ontario did not support the efforts of a police service to address inefficiencies surrounding tele-warrants and an effort to share court lockup facilities with a regional police service. The reasons for the decisions of the MAG in these cases is beyond the scope of the present study, but should be explored as part of a larger study of the role of provincial/territorial governments as facilitators, or not, of specific initiatives proposed by police services.

A Deputy Chief in Ontario raised the question with respect to e-disclosure and the vetting of information, asking, “Who is supposed to do the vetting? In our view, it’s clear – it’s a Crown responsibility, but the AG doesn’t necessarily agree. E-disclosure should lead to fewer lost Crown briefs; it will provide a record of disclosure for both the police and the Crown, but this needs to come through the AG’s office.”

Another Deputy Chief noted the success of the Witness Management Office in his police service in reducing inefficiencies:

The office is staffed by [a] Sergeant. All contact goes through that office. Major cases are now provided on portable hard drives and that has decreased paper to zero at the police end. Scheduling for courts is done through the Witness Management Office via computer. When dates are set we don’t change them and this has been very successful in reducing multiple remands. Technology was a solution here [but] Crown still wanted annual leave on paper; they were resistant in this area.

System Dynamics

Developing frameworks, program guidelines, and committing resources to initiatives designed to increase police and justice efficiency will only be successful to the extent that the actual dynamics of the process are considered and addressed. Reform initiatives are often challenged to alter the status quo and to create new processes and partnerships that will significantly impact outcomes. This can include individual personalities and the culture of the organizations involved in the initiative.

A major challenge encountered by the Newfoundland and Labrador government in implementing a case assignment and retrieval (CAAR) system, for example, was resistance of judges to organizational changes, including the requirement that they move between courtrooms. As one report noted, “They were resistant as their benches would not be organized similarly” (Cowper, 2010:179). This was remedied by court staff who ensured that all of the benches were organized in the same manner. Although a small, seemingly insignificant issue, if left unaddressed the situation could have potentially compromised the initiative. These more “human” elements in the justice system are much more difficult to quantify, yet are as important as performance metrics in understanding what works and how to create environments for change.

There are also obstacles presented by Crown and the judiciary, one Ontario police superintendent noting, “We tried doing first appearances by video from one of our stations and it worked until defence and the judiciary started to demand that prisoners be brought before them.”

A rich description of the role that the dynamics of the justice system play in creating inefficiencies with respect to case delay was provided by a research and policy analyst in a Crown office:

One reason is attitude – the systemic acceptance of delay. Responsibility for delay is shared among prosecutors, judges, defence counsel, police, witnesses and complainants. Each could do more to manage cases and ensure that the justice system flows appropriately. All court participants seem to lack a sense of urgency in getting cases through the courts. Adjournments and delays are seen as par for the course. The courts are

so congested, the process so convoluted, and court participants so busy, that delays are readily accepted.

Often justice system participants are juggling too many balls in the air and insufficient attention is paid to moving serious and violent cases with dispatch. For instance, when defence counsel requests an adjournment to review new disclosure at the preliminary stage, even when that disclosure is minimal, adjournment requests tend to be granted without question. Pre-preliminary meetings and Preliminary Inquiries are conducted, even when it is known in advance that they will not add much value. When a trial is set down in eight months' time that delay is considered normal, because justice system participants take into account summer holidays, the limited court hours and sittings, and the difficulties of matching schedules for the Crown prosecutor, defence counsel, and witnesses. These delays are considered acceptable to court participants, with little thought given to how this must appear to members of the public, or the impact the delay has on the goal of achieving a just result.

Further, people in the system look after their own best interest, with insufficient regard given to the overall process. Court participants go through the criminal justice process without asking critical questions such as: 'Is this step necessary?' 'If so, how can I complete this function in the quickest manner possible?'

The Charter and case law, in particular the *Stinchcombe* and *Askov* decisions of the SCC were identified as requiring policies to meet their requirements. As a Deputy Chief in Ontario stated, "*Stinchcombe* gave us disclosure. At first it was relevant material but that has evolved, now it's everything. We need clarity. Ministries have to get together and sort it out".

Part of the challenge in identifying and remedying police inefficiencies is the absence of performance criteria beyond traditional enforcement metrics. As a police Inspector stated, "One of the things we really struggle to measure/quantify are things that are of concern to the public beyond crime statistics." Another senior police official in a large urban police service also observed:

One of our big challenges here is identifying and measuring workload. We need to be able to make that better, which requires identifying solutions and budgeting for internal resources to make that work. There needs to be a provincial pooling of resources to effect that change and respond to changes in law and legislation.

The Need for Standard Practice

“There needs to be a common template for the Crown brief.”

– Senior police official, Ontario

“All the police services use different technology [i.e., software standards] for things like video. We supplied ours to the Crown’s office. It should be standardized.”

– Deputy Chief, Ontario

A major challenge to police efficiency identified by several respondents was that there are no standardized processes, even among courts in the same jurisdiction. A senior police official in Ontario noted, for example, that Toronto has multiple courts that do not use the same process, stating, “Officers see changes when moving from Division to Division and they testify in different courts.” This situation is exacerbated for the OPP, which delivers policing services across the province. The suggestion was made that the court brief, the procedures for disclosure, and other processes should be standardized. This would reduce police costs.

A common theme in the responses of the persons interviewed for the study was the need for standard practice. Several of the persons interviewed stated that the provincial attorney general should take the lead in this area. An Ontario police official stated, “The MAG should be conducting a comprehensive efficiency review and move to a more standardized system of operating the court system.” As an example, this official noted that the status of electronic disclosure seemed to be at the discretion of local officials rather than guided by standards on Crown brief preparation and disclosure. A senior police officer in Ontario also commented, “There is no consistent format for Crown briefs. Our briefs are different than the OPP.” Several Crown counsel and police respondents also noted the lack of a mandate that would require the use of standardized software for file and information sharing in their jurisdiction. This was viewed as a major contributor to inefficiencies.

An Inspector in a municipal police service also identified the need for standardized platforms:

We still disclose video and reports manually. Evidence is still being submitted on DVDs and CDs. An e-disclosure platform is something we desperately need. However, there must be a provincial platform for e-disclosure that ensures a consistent approach. The RCMP, my police service and the other larger jurisdictions should be sharing a consistent platform. There is also a lack of a major case management platform. So, in complex cases we are not sharing information with the same capacity as other places are. We really struggle with that.

A number of the respondents called for the development of best practices in case processing, including the preparation of disclosure materials, officer attendance in court, prisoner transport,

and in the use of technology, among others. With respect to when police officers are compelled to attend court, for example, one police officer noted, “It really seems to be at the whim of defence counsel.” A Deputy Chief in Ontario noted that both of the major records management systems, Niche and Versaterm, have the ability to produce a standardized Crown brief, but that the initiative had to be led by the Attorney General’s office.

Summary

This project was designed to identify inefficiencies in police interactions with the criminal justice system by conducting interviews with police officers, civilian police officials, Crown, and senior justice officials. It is another component of the ongoing examination of the economics of policing, which includes how to make police services more efficient and, thereby, sustainable. The respondents were asked a series of questions about the types of inefficiencies that exist, the causes of these inefficiencies, what initiatives had been taken to address these issues in their jurisdiction, and whether there was an opportunity to replicate the initiatives in other jurisdictions.

The interviewees and the delegates at the CPA annual meetings identified several major inefficiencies in police interactions with the justice system, centering on disclosure, the use of technology, the challenges faced in northern and remote areas, the lack of standardized practice, and the absence of collaborative information sharing between police and Crown. A number of sources of inefficiencies were identified, including internal/external policies and procedures, legislation, training and supervision, case law, and the Charter.

There was a general consensus that there were numerous challenges in successfully addressing the inefficiencies in their jurisdictions, including a lack of political will, inadequate funding, the absence of collaborative relationships among key stakeholders (particularly between police and Crown), the lack of standardized practice, and the uneven use of technology. There were also concerns about the reluctance of various parties to reform traditional practices and the paucity of research that could inform policy and practice. The unique challenges surrounding the delivery of policing services in northern and remote communities were also identified as requiring attention.

The inefficiencies most frequently mentioned by the study sample and the source of the inefficiencies, are set out in Table 4.

Table 4: Police Inefficiencies and Their Source, as Identified by Study Respondents

Inefficiency	External / Internal Policy / Procedure	Legislation	Training / Supervision	Case Law / Charter
Electronic court briefs	X			
Incomplete briefs			X	

Officer scheduling	X			
Bail hearings	X			
Show cause reports	X		X	
Video editing			X	
Standardization of court brief	X			
Disclosure				X
Tele-warrants		X		
Scheduling of police officers for court	X			
Electronic disclosure	X	X		
Court security	X	X		
Case management	X			X
Lengthy trials		X		X
Witness management	X			X
Custody management	X			
Video remands	X			
Bail remands	X			
Judicial pre-trials	X			
Adoption of technology	X			
Bail hearings late in the day	X			
Preliminary hearings				X

Court time	X			
Search warrants				X
Release from locations other than court	X			
PPSC downloading costs	X			
MHA assessments	X			
Video statements	X			X

The inefficiencies identified by the respondents in this sample are similar to the findings of enquiries that have been conducted in jurisdictions across the country. In British Columbia, an enquiry into the justice system found: “1. There is no integrated, province-wise plan for improving public safety; 2. “Modern methods of management and administration, including modern information and communication systems, have not been incorporated into how the system is managed and how it presents itself to the public”; and 3. “The system fails to meet the public’s reasonable expectations of timeliness” (Cowper, 2012:3).

A review of Table 4 reveals that the majority of the issues are the result of external or internal policy and/or a lack of training and supervision. These areas would be most amenable to reform and to the implementation of standardized practice.

Going Forward

The greatest challenge lies not in identifying the inefficiencies that exist in the justice system and in policing but rather acting to address them. To date, there have been few initiatives to develop standardized practices in an attempt to address inefficiencies. It will be necessary to move beyond the traditional piecemeal approach that has been prevalent. Provincial/territorial justice officials, with the support of the federal government and in collaboration with police, Crown, and other justice system officials, need to work toward reforms that provide a framework for effective operational practice.

It will also be necessary to begin the process of identifying the core functions of policing: identifying inefficiencies and formulating remedies have been hindered by a clear delineation of what the police should be doing, and what is outside of their purview.

In the cover letter for the report, *A Criminal Justice System for the 21st Century*, which examined the justice process in BC, it is stated that “...a great deal of progress is being made in our understanding of what can and should be done to improve its performance.” However, the report (Cowper, 2012:1) goes on to note:

There is a general sense of frustration that previous reforms have not succeeded in delivering enduring change. Some have expressed frustration that worthwhile initiatives lie abandoned. There is an ongoing concern that there are persistent barriers within the legal culture to accomplishing substantial change. Committees, working groups and similar bodies have been created to bridge the independence of justice participants, but they appear to have largely failed to achieve sufficient coordination, and there is little evidence of true collaboration.

Indeed, in considering the success of initiatives in jurisdictions across Canada designed to improve justice efficiencies, the Cowper (2012:175) stated that although there was general agreement that the issue of case delay and timeliness to trial were important to address, “there is concern that no enduring systemic change seems to have been accomplished anywhere in Canada.” It was determined that there were no initiatives that had achieved a level of success to be considered for implementation in BC.

The Standing Committee on Public Safety and National Security (2014:17) found that, “Despite having been the subject of numerous reports and reviews, certain inefficiencies continue to exist and are said to be among the prime drivers of policing costs.” A key issue that must be addressed going forward is why initiatives fail, are abandoned or are not successful in achieving their stated objectives. There is an absence of literature on “lessons learned” that could be utilized to increase the likelihood that efforts to improve justice and police efficiencies will be successful.

A key question is how the success of initiatives designed to increase the efficiency of the police and the justice process can be replicated. A research and policy analyst in a Crown office offered the following assessment on how to achieve this:

Hard work (analyzing cases that went wrong, gathering statistics, conducting interviews) and a focus on working cooperatively are the key factors to replicating our successes. As well, it is necessary to take a critical look at the justice system culture and see where the problems reside. A strong and visionary leader, such as our ADM, is also crucial.

A lack of political will, inadequate funding, professional “turf-protecting” and a variety of other reasons were offered as to why inefficiencies that have been identified are not successfully addressed and why strategies that have proven effective in one jurisdiction are not replicated in another. The IMAC program operated by the Edmonton Police Service for pre-charge consultation and bail hearings, is an example of an initiative that could be replicated in larger police services across the country.

It is important that a process be created by which the key stakeholders can work toward the development and implementation of solutions as well as ensuring their long-term viability. Several of the respondents indicated that additional funding would be required to address the inefficiencies that have been identified, a senior provincial justice official commenting:

A lot of it boils down to funding and the will to change [the existing issues]. Most of it comes down to who is going to pay for it (funding) and who (which agency or government ministry) will carry out the work. These are tight economic times for policing and all sectors of government, so resources are scarce. First an idea/solution

must be suggested, then budget approval is required, and then you have to figure out who is going to do it (carry it out). A lot of it comes down to dollars and cents.

Others, however, noted that it was often more a matter of political will and of developing a comprehensive approach that maximized existing resources. A provincial ADM for justice observed:

Most of the initiatives that are successful do not cost much. They are successful mostly as a result of a will on behalf of leadership and a willingness of the stakeholders to participate. These relationships and the collective will take some fostering. What we have found is that when partnerships are funded, it becomes more about the funding and less about the outcome. To be successful any committee or collaboration must involve high-level decision-makers.

A strong working relationship between the Crown and Police with a commitment to open and receptive communication was also identified as critical for implementing and sustaining initiatives designed to improve efficiency. These efforts must also acknowledge the significant role that the RCMP plays in Canadian policing at the federal, provincial/territorial, and municipal levels. This presents challenges to develop interfaces between RCMP and the jurisdictions in which they police. An Inspector in a municipal police service noted, “The RCMP and [municipal police service] do things differently and there is a lack of provincial standards for some areas and a lack of national standards in other areas. So, we can’t create a consistent product.”

Most jurisdictions do not have a comprehensive strategy to address inefficiencies. A senior provincial justice official noted:

When you get into inefficiency in the broadest sense our philosophy as a police force is about ‘boots on the street.’ As a result of that [focus] the administrative side has suffered. There is a lack of IT capability and we still need more investment in crime analysis. We are underdeveloped in policy development, as well as having resource and infrastructure issues within the justice system as a whole. [My province] doesn’t have a provincial strategy on these things.

The respondents in this study and the numerous reports that have been produced on various facets of the economics of policing have also documented the interconnectedness of the police and the criminal justice system. Efforts to address police inefficiencies cannot be taken in isolation from an examination of the activities of Crown, defence, and the judiciary. The Standing Committee on Public Safety and National Security noted that “solutions cannot be found by the police alone and they must be the result of a collective effort across government lines and amongst key stakeholders” (2014:20). On more than one occasion respondents mentioned the importance of addressing how the efficiencies of Crown can be improved.

Despite the considerable effort that has been made to date to address inefficiencies in policing and the justice system, the materials presented in this report indicate there is work to be done. The nature, extent, and source of inefficiencies have been identified by the respondents who contributed materials to this study and by a number of previous enquiries. The challenge is to understand why efforts to address police and justice system inefficiencies have not been

successful in many instances and, conversely, the factors associated with the success of some initiatives.

Much is known about what doesn't work and what is required for initiatives to be successful. To this end, consideration should be given to developing a series of pilot projects that centre on the key areas that were identified by respondents in this study. It is important to remember that the criminal justice system is, first and foremost, a human enterprise and that both individuals and the organizations they work in can be catalysts for change as well as obstacles to success. In the final analysis, it is stakeholders who will ultimately determine the success of initiatives that are taken.

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Appendix 1

Background Information Provided to the Interviewees and Contributors to the Project

Date:

Name:

Interviewed by:

On November 13, 2013, all Federal, Provincial and Territorial (FPT) Ministers Responsible for Justice and Public Safety approved the Shared Forward Agenda, a strategy for the future of policing in Canada. This strategy is built upon three pillars, one of which focuses on efficiencies within the larger criminal justice system (Pillar 3).

The work under this pillar is about improving the efficiency of the interaction between police and areas of the criminal justice system. Police believe their current interactions with the criminal justice system (i.e., the courts, prosecutions) result in inefficiencies in the processing of criminal offences.

Police and policing partners have highlighted that some procedures or requirements of the court do not always take into account the considerable time and cost implications these actions have on police service budgets. For example, police service overtime budgets are regularly increased as a result of the way most courts schedule police officer testimony.

The purpose of this project is to identify, examine and understand ways to improve the interactions between police and the criminal justice system, including identifying priorities for justice reform from a policing perspective.

In order to improve interactions between the police and the larger criminal justice system, it is necessary to understand the inefficiencies and develop workable solutions, as well as leverage identified best practices that can have national implications.

In order to be able to answer these questions, we are:

- consulting with the provincial and territorial representatives, national police associations, justice officials, as well as police officers to discuss the interaction between police and the justice system and to identify priorities for justice reform from a police perspective;
- identifying the reasons and structure of the requirements behind each interaction, i.e. legislation, case law, internal policy/procedure, etc.; and
- identifying the inefficiencies of these interactions and any existing solutions, including those that that could be replicated across Canada.

The goal is to provide a report, which identifies best practices to increase the efficiency and effectiveness of policing in Canada, and contribute to improved public safety outcomes and social well-being.

Before we start the interview process, do you have any questions?

The interview then proceeded.