

**Evaluation of the
Expanded Criminal Duty Counsel
Process Evaluation Report**

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Prepared for:

Legal Services Society of British Columbia

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Executive Summary

This report presents the process evaluation findings for the Legal Services Society (LSS) of British Columbia's Expanded Criminal Duty Counsel (EXP CDC) pilot project. The pilot project provides criminal duty counsel services using a new model of delivery that is intended to increase the scope of people eligible to receive legal representation, to provide greater continuity of counsel for clients, and to achieve the early resolution of cases, where appropriate.

The evaluation looked at the implementation of the pilot during its first three months of operation, and it also provided a preliminary assessment of the effectiveness and efficiency of the pilot. The lines of evidence for the process evaluation included a review of key documents and the project database; interviews with key informants (LSS personnel and external stakeholders); and interviews with clients who had received services from the pilot.

The process evaluation led to several conclusions on the implementation of the EXP CDC pilot project:

Conclusions on implementation of the EXP CDC

The EXP CDC was implemented as intended but has experienced a few challenges related to higher than expected volume. LSS and pilot project personnel all indicated that the project has largely been implemented as intended in Year 1, but has experienced some challenges with the volume of clients. The project has undertaken several logistical modifications to handle the volume efficiently.

The EXP CDC has the support of external stakeholders. Interviews conducted for the evaluation indicate that external stakeholders are supportive of the pilot project and are referring clients to the EXP CDC.

The EXP CDC has experienced some early resource and capacity issues. The pilot project has experienced capacity issues due to the lack of backup personnel for the criminal duty counsel and the pilot administrator. At the time of data collection for this report, the pilot project was developing a roster of criminal duty counsel to assist with the volume of clients.

The current model supports efficient and effective delivery. Key informants were generally positive about how well the current model is working. In particular, they pointed to the model creating more consistency in LSS services. The continuity of criminal duty counsel also provides greater efficiencies by enhancing the ability of duty counsel to resolve client matters.

Suggested areas for improvement focused on methods to increase the flexibility of the model. Several areas were identified by key informants: having an LSS-dedicated telephone available in the courthouse so that clients can opt to use the LSS call centre for intake; considering some type of triage so that clients who clearly do not meet pilot eligibility guidelines do not have to go through full intake; and building in capacity so that clients who want to plead guilty at their first appearance can receive summary advice that day.

Conclusions on early indications of outcomes

The intent of the process evaluation in considering early progress toward achievement of outcomes was primarily to assist in identifying any potential pilot improvements and ongoing quality assurance. As such, conclusions on the early indications of outcomes are summarized briefly below in point form:

- ▶ Appropriate clients/cases are being streamed into the EXP CDC, and the project is reaching unrepresented accused persons who are not eligible for a legal aid representation contract.
- ▶ Timeliness of service is becoming a challenge for the EXP CDC. For most clients, their EXP CDC file is opened the same day as their first appearance, but the pilot project has been experiencing a lengthening of time between intake and meeting with the criminal duty counsel. The duty counsel roster being developed is expected to help address this issue.
- ▶ The EXP CDC is providing services that help clients with their legal needs. Clients received a variety of services from the pilot project, including summary advice, negotiations with the Crown on their criminal matters, court attendance, and a resolution to their criminal matter.
- ▶ There are preliminary indications of earlier resolution by the EXP CDC. For all concluded client matters (informations), the rate of resolution is 96%; for those matters, it took on average 14 calendar days from the date of first contact with the criminal duty counsel to resolve the case.
- ▶ Interviewed clients reported that they are satisfied with the assistance they have received.
- ▶ Stakeholders believe that the EXP CDC model should lead to greater efficiencies, and some believe that they have seen indications of earlier resolutions and fewer court appearances.
- ▶ The EXP CDC has increased access to criminal legal aid. Of the 74 clients admitted in the first three months of operations, 57 would not have been eligible for a legal aid representation contract based on either financial or coverage guidelines, or both.
- ▶ Few clients are being connected by the EXP CDC to other resources to assist them with underlying problems (e.g., substance abuse, counselling). Currently, the pilot has had little capacity to do this, beyond what is required for negotiating the disposition of the matter with the Crown, and has found that many clients are already connected to appropriate services.

Recommendations to further enhance the implementation process

Recommendation 1: Consider whether to implement measures that will increase the flexibility of the model to respond to demand but not at the expense of innovative features of the model.

Recommendation 2: Continue to monitor key service metrics, in particular the length of time between intake and first appointment with the criminal duty counsel.

Recommendation 3: Re-evaluate whether referring clients to non-legal services to address their underlying issues should be a project outcome and, if it remains a project outcome, consider how the project can network with other service providers so that it has a list of relevant resources.

Recommendation 4: Consider enhancements to the project database that will increase efficiency, minimize errors, and allow for more accurate reports to be run so that the project can monitor its activities.

1.0 Introduction

This report presents the process evaluation findings for the Legal Services Society (LSS) of British Columbia's Expanded Criminal Duty Counsel (EXP CDC) pilot project. This evaluation is one of five evaluations being conducted of pilot projects implemented under the Justice Innovation and Transformation Initiatives (JITI).

The EXP CDC evaluation includes a process evaluation, with a focus on implementation and early progress toward achieving outcomes, and a summative evaluation, which will focus on outcomes achieved. This report presents the findings of the process evaluation and covers the pilot project's activities from March 3, 2015 to June 4, 2015. Several activities to improve the operations of the pilot occurred after June 4, 2015 and will be included in the summative evaluation report.

2.0 Brief overview of the EXP CDC¹

This section provides an overview of EXP CDC, as it was implemented in March 2015. As a result, improvements made to the pilot project are not addressed here, but are discussed later in relation to responses to implementation challenges.

The EXP CDC pilot project serves out-of-custody accused persons at the Port Coquitlam Provincial Court and has been accepting clients since March 3, 2015. The pilot project provides criminal duty counsel services using a new model of delivery that is intended to increase the scope of people eligible to receive legal representation, to provide greater continuity of counsel for clients, and to achieve early resolution of cases, where appropriate.

Under the traditional model that existed prior to the pilot project, criminal duty counsel services consisted of the provision of summary advice to clients appearing in court who had been charged with a criminal offence and did not yet have a lawyer. A roster of private bar lawyers provided this service, which meant that clients received assistance from whichever lawyer was serving as duty counsel on that court date. As a result, clients who attended court for multiple court appearances without counsel may have received brief assistance from several individual duty counsel. Duty counsel services were limited to explaining the nature of the charges the accused person is facing and the court procedures, providing advice about legal rights, and, if there is time, assisting with a guilty plea.²

The EXP CDC pilot project has changed this traditional model in a number of ways.

- ▶ First, the pilot project provides qualifying clients with **more extended support**, in order to pursue a non-trial resolution, including duty counsel making court appearances with the client up to and including entering a guilty plea and/or agreeing to a peace bond. Duty counsel services will not assist clients who want their matter to go to trial or have a viable defence. In those circumstances, eligible clients will be given a legal aid representation contract, and non-eligible clients will be provided information on other legal services that might assist them.

¹ This section is largely taken from the pilot's charter and interviews with project personnel.

² Legal Services Society of British Columbia, 2015. Duty Counsel Lawyers for Criminal Matters. Retrieved on July 5, 2015 from http://www.lss.bc.ca/legal_aid/criminalAndImmigrationDutyCounsel.php.

- ▶ Second, this extended support is facilitated by **greater continuity in the duty counsel** serving the client. For the current configuration of the pilot project, this continuity is guaranteed by the fact that there is only one criminal duty counsel, as opposed to a roster of lawyers; however, the model is intended to focus on continuity of counsel, even if it were to expand to several lawyers providing criminal duty counsel services.
- ▶ Third, the pilot project has **increased the scope of clients** receiving this more extended service. Under LSS guidelines, there are both financial and coverage eligibility requirements for criminal matters (i.e., for coverage eligibility, there must be the risk of jail). Under the pilot, clients must either meet the financial eligibility criteria for a legal aid representation contract, or they can be eligible under the pilot's financial eligibility discretionary coverage guidelines (which has a higher income cut-off). Pilot project clients do not need to face the risk of jail in order to receive the expanded service. Instead, their case must be assessed by the criminal duty counsel against pilot criteria, which include the case not being too complex for the pilot project to undertake and the potential to achieve non-trial resolution.

The criminal duty counsel also provides summary advice to out-of-custody accused persons who are not accepted into the pilot project and do not qualify for a tariff lawyer. Since these clients are not eligible for the pilot's extended service, which is its innovative feature, they are only included in the evaluation in order to provide a complete description of the workload of the pilot project.

The EXP CDC pilot project has the following three personnel:

- ▶ one lawyer, who provides the expanded duty counsel services
- ▶ one LSS intake personnel person, who also serves clients with other legal issues covered by legal aid, such as family law and child protection and conducts the intake assessment for making legal aid applications
- ▶ one pilot administrator, who works exclusively for the pilot project; the pilot administrator assists with intake and supports the criminal duty counsel by, among other things, opening and maintaining client files, explaining the services to clients and making their appointments with duty counsel, and managing the duty counsel's calendar

The process for client's interactions with the pilot has several stages:

- ▶ Clients who attend court without counsel are informed about the availability of duty counsel services by the judges, justices of the peace, court clerks, Crown prosecutors, or sheriffs. The court will adjourn their matter so they may go to the LSS intake office, as that is the first step in applying for the pilot project.
- ▶ The LSS office in the courthouse goes through the normal LSS intake procedure with clients.
- ▶ Once the interview with the LSS intake worker is completed, the client is sent to the pilot project's office.

- ▶ The pilot project administrator photocopies each client's particulars, so that the criminal duty counsel can review them before the initial client meeting. She also explains the pilot project to the client, has the client sign an acknowledgment of service form, and provides them with an appointment date for their meeting with criminal duty counsel and a requested adjournment date for the court.
- ▶ The client then returns to court with their appointment date and the court adjourns their matter to the date requested and provided by the administrator.
- ▶ At the scheduled appointment, duty counsel interviews the client to determine if the client is eligible for the pilot project.
 - If the client is eligible, the duty counsel will represent the client until the matter is resolved or until the client and/or duty counsel determine that the client needs other representation (e.g., legal aid representation contract or private bar assistance). This situation occurs when the matter cannot be resolved within the scope of the pilot's services (e.g., without a trial).
 - If the client is not eligible for the pilot but is eligible for legal aid, the client will be referred back to the LSS intake worker.
 - If the client is not eligible for the pilot or for legal aid, duty counsel will provide the client with summary advice and will provide information on other available legal resources.

2.1 Profile of clients

Table 1 provides an overview of the clients accepted since the pilot's inception on March 3 to June 4, 2015. Of the 74 clients:

- ▶ 69% are male;
- ▶ 57% are over 30 years of age;
- ▶ 72% are single;
- ▶ 41% are unemployed;
- ▶ 68% are known to have attended high school and 41% are known to have graduated from high school (no education information is available for one-third of clients);
- ▶ 8% identified as Aboriginal; and
- ▶ 85% are Canadian citizens and the same percentage was born in Canada.

Table 1: Client demographics (n=74)		
	#	%
Gender		
Male	51	69%
Female	23	31%
Age		
18 to 25	22	30%
26 to 30	10	14%
31 to 40	25	34%
41 to 50	10	14%
65 or over	7	10%
Marital status		
Single	53	72%
Separated	10	14%
Married	6	8%
Common law	3	4%
Divorced	1	1%
Widowed	1	1%
Employment status*		
Unemployed	30	41%
Social assistance	19	26%
Employed full-time	13	18%
Employed part-time	7	10%
Employment insurance	7	10%
Disability	6	8%
Other	2	3%
No data	6	8%
Education level		
Some high school	20	27%
High school graduate	23	31%
Post high school education	7	10%
No data	24	32%
Aboriginal ancestry		
Yes	6	8%
No	67	91%
No data	1	1%
Immigration status		
Canadian citizen	63	85%
Permanent resident	3	4%
Permit holder	1	1%
No data	7	10%
Country of birth		
Canada	63	85%
Korea	2	3%
Czech Republic	2	3%
Other	7	10%
*Multiple responses accepted.		

The most common types of crimes clients were charged with are assault, theft under \$5,000, and driving while prohibited/licence is suspended. See Table 2 for the complete listing of charges. Most clients (82%) were charged with summary offences.³

	#	%
Assault	22	30%
Theft under \$5,000	16	22%
Driving while prohibited/licence suspended	10	14%
Breach of conditions	8	11%
Uttering threats	8	11%
Fraud	5	7%
Breaking and entering/possession of break in instrument	4	5%
Obstruct/assault peace officer	4	5%
Peace bond	3	4%
Failure to comply	3	4%
Impaired driving	3	4%
Mischief	3	4%
Firearms/weapons possession	2	3%
Fear of injury	2	3%
Possession of stolen property	2	3%
Theft (general)	1	1%
Possession of controlled substances	1	1%
Counterfeit money	1	1%
Other	2	3%

Note: Multiple responses accepted.

3.0 Methodology

The process evaluation consists of three lines of evidence: a document and data review, interviews with key informants (LSS personnel and external stakeholders), and interviews with clients.

An EXP CDC Project Working Group (WG) comprised of representatives from LSS and the British Columbia Ministry of Justice (MOJ), is guiding the evaluation process. PRA held consultations with the WG to refine the key evaluation documents to guide the evaluation: the logic model and evaluation matrix, which are in Appendices A and B, respectively. The WG also reviewed and approved the data collection instruments used for the process evaluation. The data collection instruments are included in Appendix C.

3.1 Document and data review

PRA reviewed relevant documents produced by the pilot project, including the project manual and charter, descriptions and diagrams of the EXP CDC model, and forms used by the pilot to collect information on its clients and the types of assistance provided. The data review for the process evaluation relies on available data in the pilot project database, since the focus of the process

³ One client was charged with an indictable offence and one under the *Motor Vehicles Act*. About one-fifth of clients (18%) did not yet have the charge level listed in the project database; for these clients, their files are still open and they generally have not yet met with the criminal duty counsel.

evaluation is on implementation of the pilot project. The summative evaluation will also include data from the LSS CIS database, as well as data from the MOJ (e.g., Court Services Branch).

The following data limitations are worthy of mention:

- ▶ The project database is constructed so that the same information is recorded in more than one location (e.g., provision of summary advice, resolving a matter). The evaluation relies on the most relevant field in the database for the analysis, and did not correct inconsistencies in data entered. Consequently, some results are not the same in the report. For an example, see Question 8 below (Table 6–Table 8).
- ▶ The project database does not have fields to distinguish missing data from unavailable data (e.g., where an activity has not yet occurred). Where possible, other variables were used to assist with analysis and determine whether data were simply not yet available rather than missing.

3.2 Key informant interviews

The process evaluation includes interviews with key informants to obtain their perspectives on pilot project implementation and early evidence of outcomes. Interviews were conducted by telephone with four internal stakeholders (the CDC Project Lead, the Pilot Lead CDC, and LSS intake personnel) and five external stakeholders (two representatives of the court registry, two Crown prosecutors, and one judge). The key informant interviews occurred primarily in May and June of 2015.

3.3 Client interviews

To obtain feedback from EXP CDC clients, PRA conducted individual telephone interviews of about 20 minutes each with clients whose matters have been completed. Interviews focused on the clients' experience and satisfaction with the EXP CDC services, and how the services might be improved. As of June 8, a total of 41 clients who had received EXP CDC assistance had completed matters and were contacted for interviews. To improve the response, a mail flyer explaining the research and notifying clients that they might be contacted for an interview was provided to clients. Six clients completed an interview for the process evaluation.⁴

⁴ For the other 35 clients, the contact information was no longer valid for ten of them (e.g., telephone not in service, no longer at that number); three clients refused; and despite multiple attempts, we were unable to contact the remaining clients.

4.0 Findings

The process evaluation findings are presented based on the evaluation questions, which focus on the implementation of the pilot project and its early progress toward achieving its intended outcomes.

4.1 Implementation

1. Has the EXP CDC been implemented as intended in Year 1? What challenges were met in implementation? How were challenges addressed and improvements made to the model?

LSS and pilot project personnel all indicated that the project has largely been implemented as intended in Year 1. Timelines for implementing the project were quite fluid so the project is also considered to be on schedule.

Although the core features of the model have remained unchanged, key informants did indicate that the design of the pilot project has been modified (described as “fine tuning” or “tweaking”) to respond to challenges.

Handling the high volume. With the increased scope of coverage and the expanded service, handling the volume of clients has proven challenging. Key informants estimated that the volume of clients at this stage of the pilot is more than anticipated, although there was uncertainty in terms of the expected volume.

According to key informants, responding to this challenge remains a work in progress, but the project has undertaken some logistical modifications to manage the volume. Very early, it became apparent that given the volume of clients and the length of the court session, the project could not complete an intake assessment, evaluate whether the client qualifies for the program, and provide meaningful legal advice to clients at their initial appearance. The pilot personnel worked out a system in which clients go through LSS intake, meet with the pilot administrator, are assigned an appointment date with the criminal duty counsel, and are provided suggested return dates (that fall after their scheduled criminal duty counsel appointment) to provide the court for their next appearance. The court schedules the client’s next appearance for the date requested by the pilot administrator. In some situations, the volume of clients is still more than the project can assess and return to court; this is particularly true of afternoon sessions. To ensure that the pilot project does not delay the court’s ability to end the afternoon session on time, the pilot project has recently begun to provide the Crown several requested adjournment dates so that the court can set the adjournment date for the accused person before directing them to the LSS offices to complete their intake assessment, provide particulars to the pilot administrator, sign an acknowledgment form, and obtain their appointment date to see criminal duty counsel. This process is in its early stages, but is believed to be working well.

Issues with resources/capacity and the pilot project's response are further discussed in Question 3.

Ensuring that clients with unique needs are served promptly. The pilot project recognized that for some clients, the requirement that they return for a later appointment would not work (e.g., clients with mental health issues, clients with language needs and who had their interpreter with them at their first appearance). For these clients, the pilot project makes every effort to have the duty counsel meet with them the day they first contact the project.

Making the most of the first appointment with criminal duty counsel. Clients were forgetting to bring their particulars to their first meeting with criminal duty counsel. As a result, the pilot administrator now photocopies the particulars at the intake stage, so that the criminal duty counsel is able to review them prior to meeting with the client.⁵

Providing legal advice to those who miss their appointment. Rather than not serve clients who miss their appointments, the pilot project provides the Crown with a list of clients they still need to meet with. This list enables Crown to promptly identify those individuals at their next appearance who have yet to receive duty counsel advice and send them to the LSS office in the courthouse.

2. What external factors have influenced the implementation and success of the EXP CDC?

Key informants reported that external factors have not had a negative effect on the pilot project, and cited, instead, positive effects from external factors:

- ▶ The other stakeholders in the courthouse (judiciary, justices of the peace, court administration/clerks, sheriffs, Crown) have been very supportive of the pilot project. The pilot was a change in approach for handling criminal duty counsel so there was a need to educate the other stakeholders on how the pilot project would operate. Key informants mentioned a few issues (e.g., sending clients with family or civil law matters to the criminal duty counsel office), but those issues were short-lived and easily corrected.
- ▶ Crown ownership of files has had a positive impact on the pilot as greater continuity of Crown on files complements the greater continuity of criminal duty counsel. This situation makes it easier for the duty counsel to know which Crown is handling the file. With Crown file ownership, the Crown assigned a file also clearly has authority to negotiate a resolution. However, most key informants (internal and external stakeholders) who could offer an opinion noted that Crown file ownership's impact on the pilot's success is dependent on the Crown assigned to the file. According to them, the ability of criminal duty counsel and the Crown to reach a resolution on files primarily depends on the Crown's willingness to negotiate, so the approach of a particular Crown has a major impact.

⁵ If the particulars are extensive, criminal duty counsel will attempt to review them on that day, or the pilot administrator will photocopy key sections (e.g., the summary and criminal record) and request that the client bring their particulars to their meeting with the criminal duty counsel.

3. Does the EXP CDC have sufficient resources and capacity to meet demand?

The volume of clients going through intake in March was substantially higher (n=83) than for the later months, where it appears that the intake may have stabilized to about 35 applicants per month. Table 3 provides complete results.

	Applicants			
	Not accepted	Accepted	TBD	Total
March 3–31	32	46	5	83
April 1–30	13	15	8	36
May 1–31	21	11	4	36
June 1–4	6	2	3	11
Total	72	74	20	166

The higher intake in March was the result of unrepresented accused persons attending court on charges that predate the pilot. For example, the percentage of applicants by month with offence dates in 2014 is: 45% (37 of 83) for March; 34% (13 of 38) for April; and 14% (5 of 36) for May. These declining percentages demonstrate that the pilot connected quickly with unrepresented accused persons in the Port Coquitlam courthouse in its first few months of operations. This finding implies that the volume of applications per month should now stabilize as the pilot is no longer addressing this “backlog.”

The project data indicate some capacity issues. Ten of the 72 accused persons not admitted into the program were excluded, in part, because they would exceed the capacity of the pilot project (for nine of these accused persons, there were also other reasons provided for non-acceptance). In addition, despite best efforts, the pilot project has seen its time from initial intake to appointment with the criminal duty counsel expand from approximately a week to two or three weeks. Key informants expressed concerns that the time-to-appointment could soon become four or five weeks, which would have an enormous impact on the success of the pilot project.⁶ This lengthening of time from initial intake to appointment with the criminal duty counsel may resolve itself once the pilot project gets beyond the “backlog” of unrepresented accused persons.

Several capacity/resource issues were also mentioned by key informants.

- ▶ **Administrative support.** The lack of administrative support to cover sick days and leaves was mentioned by most internal stakeholders. The JITI projects are going to include a team of “floater” pilot administrators who will provide support and add capacity to the pilot projects, as needed.⁷
- ▶ **Intake.** LSS intake is taking longer than anticipated, in part because of the new case management software. This, coupled with the substantial increase in the number of applications that the LSS intake worker must now process, has created bottlenecks at this

⁶ In comments to this report, the pilot project states that since July 2015 the wait time for clients has been reduced to approximately one week and the backlog of clients has been handled with the assistance of additional counsel.

⁷ In comments to this report, the pilot project states that there is now a second administrative assistant who assists the pilot project three days per week.

initial stage. A suggestion made was for there to be an LSS-dedicated telephone available in the courthouse so that clients can use the LSS call centre when the volume is more than the onsite intake worker can accommodate.

- ▶ **Criminal duty counsel.** Having one criminal duty counsel has also led to capacity issues. Although the situation is not unmanageable yet, the potential exists for demand to exceed the capacity of the pilot project to provide timely service and to cover matters when the duty counsel is unavailable (e.g., sick days, leave). For timeliness of service, key informants raised concerns about capacity of the pilot project limiting its ability to provide summary advice to those who want advice at their first appearance. Some key informants (external and internal) thought that this was an area of improvement for the pilot. Suggestions included having another criminal duty counsel available to provide summary advice the day of first appearance and allow the EXP CDC to focus on resolving files. The pilot is currently exploring building a small roster of counsel to handle the volume. To ensure that the EXP CDC model's innovative features are preserved, the roster counsel would be required to commit to adhering to the model, which includes agreeing to scheduling practices that maintain the consistency of counsel approach to providing services. The EXP CDC is still working on how scheduling will work (e.g., how to ensure that the lawyer who has the initial contact with the client is available for subsequent client meetings).
- ▶ **Office space.** Adequate space in the courthouse was identified as an issue. In June, the pilot project occupied two small rooms, which was not sufficient to meet the needs of personnel, store the growing number of client files, and provide private space for meeting with clients. Courthouse space is often limited, but the location provides a great benefit to the pilot project. Key informants expressed concerns that moving out of the courthouse, even a short distance away, would impact the project by reducing potential client's willingness to use the services. At the time of the interviews, negotiations were underway to obtain additional space at the courthouse.

4. To what extent do the current processes and structure of the EXP CDC support its efficient and effective delivery?

Key informants (internal and external) were generally positive about how well the current model for the pilot project is working. As mentioned above (Question 3), while the pilot project has experienced some challenges, it has made or is in the process of making adjustments to support the efficient and effective delivery of services — namely, using a team of “floater” administrative personnel across the JITI pilot projects, developing a roster of criminal duty counsel, and obtaining additional office space.

Positive features of the model mentioned by key informants included the following:

- ▶ **The model creates more consistency in LSS services.** The previous criminal duty counsel model was described as “haphazard” or a “triage system,” as duty counsel would attempt to assist as many unrepresented accused persons as possible. The new model's strength is seen as giving the service a structure that ensures all unrepresented accused persons are interviewed and provided either summary advice or, if eligible, the extended assistance available from the pilot project.

- ▶ **The process allows the criminal duty counsel to provide more meaningful summary advice, even to those not admitted into the pilot project.** The lawyer has access to the particulars of the case and an opportunity to review them before meeting with the accused person. The meeting is longer under the new system, even for individuals not accepted into the EXP CDC, which provides more opportunity for the criminal duty counsel to discuss the charges and give summary advice.
- ▶ **The continuity of counsel has created efficiencies.** According to some external key informants, under the traditional duty counsel model, the financial incentives created a situation where duty counsel benefited from not resolving the case.

The primary area for improvement mentioned by key informants is building flexibility into the model. This arose in the following two areas:

- ▶ First, some accused persons want to plead guilty the day of their first appearance, and under the current model, they usually cannot as they will need to book an appointment with duty counsel, which might not occur until a few weeks later. Some key informants believe that a strength of the model is providing all unrepresented accused persons more comprehensive summary advice so they can make a more informed decision about how to plead, while others (internal and external) thought that the model might want to better accommodate the preferences of these accused persons who want to plead guilty at their first appearance.
- ▶ Second, even accused persons who clearly do not meet the eligibility requirements for the pilot project have to go through the full LSS intake screening process. This was thought to be inefficient.

While process and structure are important to the pilot project's effectiveness, the external key informants also emphasized the necessity of having the right person serve as criminal duty counsel. According to these key informants, the expanded duty counsel should want to find an expeditious resolution that is in the client's interests, which requires an effective working relationship with the Crown. The current duty counsel was praised for having the ability to work with the Crown by listening to the Crown's position and countering with alternatives in a respectful, productive way.

5. What considerations related to the EXP CDC model are necessary to successfully implement this approach in a different site?

Key informants said that the flexibility of the model to accommodate the situation on the ground is critical to its success. Therefore, having someone who can report on the realities of the court process, client volume, and client needs at the future site is considered critical to success. Each site will likely have its own processes that are required to successfully implement the model, but these deviations do not have to alter the key model features of expanded scope, continuity of counsel, and early resolution.

Key informants believe that a critical component of the pilot project's success is the location of its office in the courthouse. Therefore, having sufficient space for the criminal duty counsel, the pilot administrator, and LSS intake to work in the courthouse is a key factor to consider for any future pilot site.

Given the challenges the pilot project is already experiencing in terms of responding to the volume, any new site will need to consider the experience of this project in order to project its resource needs.

4.2 Early indications of outcomes

The process evaluation, which covers the first three months of the pilot’s operations, can provide only early indications of outcomes. The more rigorous methods of assessing outcomes, a survey of clients, a comparison to another court location, and a comparison of before-and-after using LSS data will be undertaken during the summative evaluation.

6. Are appropriate clients/cases streamed into EXP CDC services?

All key informants believe that the pilot project is accepting appropriate clients/cases; that is, individuals who meet the pilot projects eligibility guidelines and have matters that are appropriate for an early non-trial resolution (e.g., relatively simple, no viable defence). The project data confirm that appropriate clients/cases are entering the pilot. The charges faced by clients were primarily summary offences and the types of charges reflected the less complicated offences that the pilot was intended to address (see Section 2.1 and Table 2).

The pilot project records eligibility of clients based on guidelines for legal aid representation services, as well as its own expanded pilot guidelines so that the project can demonstrate increased access (discussed more under Question 13).

- ▶ As Table 4 shows, one-fifth of clients (20%) are not financially eligible for a legal aid representation contract, but they do qualify based on the pilot’s financial eligibility discretionary coverage; most clients (74%) are not eligible for a legal aid representation contract under the coverage guidelines.
- ▶ Of the 15 clients accepted into the pilot project who are eligible financially with discretionary coverage, 13 also do not meet the legal aid coverage guidelines.

These results demonstrate that the pilot project is reaching one of its target groups — unrepresented accused persons who are not eligible for a legal aid representation contract.

	Accepted into EXP CDC			
	Yes (n=74)		No (n=72)	
	#	%	#	%
Eligible financially for a legal aid representation contract	58	78%	42	58%
Eligible financially with discretionary coverage	15	20%	9	13%
Not eligible financially	1	1%	21	29%
Meets coverage guidelines	19	26%	40	56%
Does not meet coverage guidelines	55	74%	31	43%

Note: Totals may not sum to 100% due to rounding.

The reasons provided for not accepting people into the pilot project also indicate that appropriate individuals are receiving coverage. Accused persons who exceed the expanded income or asset guidelines, are better served by a referral, do not admit responsibility, or have a viable defence are not being streamed into the pilot project. Reflecting early capacity issues, 20% of those not accepted had “exceeds capacity of EXP CDC” listed as a reason. Table 5 lists all reasons why some clients are not accepted into the pilot project.

Table 5 : Reasons not accepted into the EXP CDC (closed files only) *		
	(n=56)	
	#	%
Does not meet EXP CDC income eligibility guidelines	19	34%
Client interests are better served by a referral	18	32%
Exceeds capacity of EXP CDC	11	20%
Client does not admit responsibility	8	14%
Viable defence exists	6	11%
Does not meet EXP CDC asset eligibility guidelines	4	7%
Factual complexity	4	7%
Failure to appear – abandoned	4	7%
Legal complexity	2	4%
Existing charges in Downtown Community Court	1	2%
No data	5	9%
Note: Multiple responses accepted.		
* This information is not recorded in the database until the files are administratively closed.		

7. Do clients receive a referral to EXP CDC services in a timely manner?

Key informants (internal and external) believe that unrepresented accused persons are being made aware of the pilot project by the expected stakeholders (e.g., court staff, judges, justices of the peace, Crown). Key informants reported that unrepresented accused persons are referred to the pilot project at their first appearance in court, so the referrals are occurring in a timely manner. Project data show that referrals to the EXP CDC are timely, the average time between the first appearance date to the file open date is 4.3 days for clients who entered the criminal justice system after the pilot began. Of these clients, two-thirds had their EXP CDC files opened the same day as their first appearance.

Clients also reported no difficulties making a connection with the EXP CDC. They were referred to legal aid by a variety of sources: duty counsel, the judge, court registry staff, and friends. One was already aware of legal aid and knew where to go for assistance. The process for sending clients to legal aid appears to be working well, as four of the six clients interviewed were referred to legal aid at their first court appearance; the other two clients first appeared in court before the pilot project began. All of the clients were directed to the appropriate location for legal aid intake, with only one commenting that they were “going around in circles” to find the correct location. Once at the LSS office, clients reported wait times ranging from 10 to 30 minutes; all of the clients found the wait time to be “about right.” Five of the six clients found the EXP CDC intake process and connecting with criminal duty counsel to be easy. The one client who found the process difficult believed it was more due to personal circumstances than anything about the EXP CDC intake process.

As noted earlier, the question of timely service is more relevant for how soon after intake the client can meet with the criminal duty counsel. None of the six clients interviewed considered their wait times to meet with the duty counsel to be too long, with half of the clients (n=3) seeing the criminal duty counsel the same day as their first appearance and the others waiting one to two weeks. They all reported meeting with criminal duty counsel prior to their next court appearance. However, according to key informants, the wait time is becoming an issue as it has grown from one week to three weeks. The concern is that the lengthier wait will result in more clients missing their meeting with criminal duty counsel.⁸

8. Did clients receive services to help them meet their legal needs?

Meeting clients’ legal needs considers whether EXP CDC is providing services that assist clients with their legal needs. Overall, the evaluation evidence shows that the EXP CDC is providing a variety of services that are assisting clients with their criminal matter, and that clients are finding this assistance helpful.

Legal services provided. The expectation is that all accused persons who contact the pilot project will receive summary advice. After the first three months of operations, and considering only closed files, 96% of clients accepted into the project and 80% of clients not accepted received summary legal aid advice (see Table 6). The data provided possible reasons why some clients had not received summary advice, which typically involved the client not attending scheduled meetings with criminal duty counsel.

Status in project	Provided		Not provided		No data	
	#	%	#	%	#	%
Accepted and file closed (n=46)	44	96%	1	2%	1	2%
Not accepted and file closed (n=56)	45	80%	10*	18%	1	2%

* Of these clients who were not accepted, eight did not receive summary advice because they did not attend a meeting with the criminal duty counsel.

⁸ Pilot project personnel report an improvement in wait times as noted in footnote 6.

Table 7 shows that accepted clients whose files are closed have receive a variety of legal services from criminal duty counsel. The data validate the findings from key informant and client interviews that for accepted clients the criminal duty counsel obtains disclosure from the Crown; explains the court process, charges, police report, and particulars; provides summary advice, including options for how to respond to the charges; negotiates with the Crown; attends court (as needed); and resolves matters (if appropriate). For clients that are not accepted, the criminal duty counsel mainly obtains disclosure from the Crown, which then enables the duty counsel to provide summary advice.

Table 7: Types of legal services provided by EXP CDC (closed files only)

Services	Accepted into EXP CDC			
	Yes (n=46)		No (n=56)	
	#	%	#	%
Obtained disclosure from Crown	45	98%	50	89%
Summary advice	43	94%	45	80%
Negotiations with Crown	44	96%	1	2%
Concluded a resolution	42	91%	5	9%
Court attendance	39	85%	3	5%
Referred to non-LSS service	2	4%	--	--
No data	1	2%	4	7%

Note: Multiple responses accepted.

Referrals to other services. For those not accepted, the EXP CDC referred them primarily to LSS for a legal aid representation contract or to the private bar. See Table 8.

Table 8: Referrals to other legal services provided by EXP CDC (closed files only)

	Accepted into EXP CDC			
	Yes (n=46)		No (n=56)	
	#	%	#	%
Access Pro Bono	--	--	1	2%
Court staff or judiciary	1	2%	--	--
Law Students' Legal Advice Program	3	7%	8	14%
LSS Family duty counsel	2	4%	--	--
Private bar	3	7%	19	34%
Other pro bono services	1	2%	--	--
No data	10	22%	15	27%

Note: Multiple responses accepted.

Time spent with clients. For closed files, the criminal duty counsel is spending on average 2.3 hours with accepted clients and 0.9 hours with clients who were not accepted into the pilot project.

Client opinion of legal services. All six of the clients interviewed considered the legal services they received to be helpful and none thought there was legal assistance they needed that they did not receive.

“Just the way they were, they were very helpful, treated me like a normal person and not a criminal. I was happy with how they talked to me.”

“She told me how to do things better, a lot of different things I suppose were explained to me on how to improve my situation, how to go about things better. Nothing that was not helpful. She was fantastic, she was great.”

One client’s comments reflected experience with the previous duty counsel system compared to the EXP CDC:

“Pretty much everything from explaining everything to me so I knew what was going on. In the beginning they sent me to a different person every time who kept telling me to get a lawyer. [It was] a headache and stressful and after I met Carmen it was easy.”

9. Has the EXP CDC service led to the earlier resolution of cases at the project site?

The ability for the pilot project to demonstrate earlier resolution of cases is limited since, at the end of data collection for this report, the project had only been operating three months. However, most key informants (internal and external) believe that they have seen signs of success in early resolution. Criminal duty counsel working with the Crown to resolve matters was not typically done under the previous duty counsel system. As a result, key informants believe that plea negotiations are now occurring earlier in the accused person’s case.

Early project data show a high resolution rate. Considering concluded matters, the pilot project successfully resolved 50 of the 52 informations laid against its clients for a resolution rate of 96%.⁹ For the two matters that were not resolved, in one the criminal duty counsel was unable to negotiate due to the Crown’s position and for the other, there was no reason provided.

Table 9: Resolutions of informations by EXP CDC		
	Informations laid against clients (n=82)	
	#	%
Resolved	50	61%
Not resolved	2	2%
Ongoing	30	37%
Concluded matters resolution rate	50/52	96%

⁹ An EXP CDC client can have more than one information (formal criminal charge) as part of the file.

Based on project data, it took on average 14 calendar days from the date of first contact with the criminal duty counsel to resolution (median: 16 days; minimum: same day; maximum: 84 days). Comparing the time-to-resolution, where the first appearance date was before or after the pilot project’s inception, provides a preliminary indication of the pilot project’s potential to reduce the time for achieving resolution. Where first appearance was before the pilot’s inception, the average time between the first appearance and resolution was 104 days. Where the first appearance was after the pilot’s inception, the average number of days between the first appearance and resolution is 33 days. More details are provided in Table 10.

Table 10: Date of first appearance to resolution (informations with resolutions)		
	Pre-pilot (n=21)	During pilot (n=26)
	# of days	# of days
Mean	104	33
Median	99	34
Minimum	Same day	Same day
Maximum	417	76
Note: Three informations with resolutions did not have one or both dates.		

The types of resolutions achieved are listed in Table 11.

Table 11: Types of resolutions achieved by EXP CDC		
	Informations with resolutions (n=50)	
	#	%
Guilty plea	25	50%
Stay of proceedings	16	32%
Peace bond	10	20%
Alternative measures	3	6%
Note: Multiple responses accepted.		

10. Are clients satisfied with their experience using the EXP CDC service? What, if anything, can be done to improve clients’ experience?

Key informants could not comment directly on whether clients were satisfied with their experience using EXP CDC services. A few internal stakeholders noted that some clients had come back to express appreciation for the assistance they had received.

The six clients interviewed were all very positive about the EXP CDC pilot project. All of them felt that they were treated with respect by the criminal duty counsel and were satisfied with the services they received.

“Most definitely. I dealt with legal aid before and I wasn't satisfied, but these people this time were excellent.”

“Everything went smoothly.”

“She did everything she needed to do and was very nice and worked very hard.”

“[The positive result] was because of Carmen.”

“[They] approached me in a manner with respect, listened to what I had to say and explained everything to me.”

Three clients had used criminal legal aid services before the pilot project. Two said the experience was generally good with both the EXP CDC and the criminal legal aid services they received before the pilot. One found the experience with the pilot project to be much better, primarily in terms of how he was treated: *“Just felt like they treated like a criminal before basically but this time was really good.”*

11. Has the EXP CDC service led to greater efficiency for LSS?

With only three months of operations included in the process evaluation report, it is still too early to assess whether the pilot project has led to greater efficiency for LSS. Of the internal key informants who offered a comment, most believe that the pilot project will create efficiencies in service delivery for LSS. In particular, they noted that the EXP CDC should result in fewer legal aid representation contracts in Port Coquitlam and should increase standardization/consistency of the services provided by the pilot project. Both internal and external key informants said that the model should produce efficiencies through fewer court appearances and earlier resolutions, which benefits both LSS and the court system.

A few key informants questioned whether there is greater efficiency in the intake process. In particular, they cited the two steps now required for intake (LSS intake and EXP CDC pilot administrator), and the fact that everyone must go through LSS intake when before criminal duty counsel would triage those sent to the LSS office in the courthouse. In addition, they pointed to the increasing time to see criminal duty counsel as an inefficiency in the new model; clients who will ultimately be given a legal aid representation contract now wait two to three weeks to see the criminal duty counsel when before they would receive a legal aid representation contract and potentially see their lawyer in a matter of days. The new roster being developed by the pilot project is expected to address this concern.

Based on project data, there are some early indications that the pilot project is successfully resolving matters. The EXP CDC has been able to resolve 96% of concluded matters (i.e., informations) and has only been unable to resolve two matters to date (2%) (see the discussion for Question 9, above). The average and median number of court appearances by the EXP CDC to resolve a matter was two, with minimum of one and a maximum of five. This statistic will be monitored and reported on in the summative evaluation.

12. Has the EXP CDC service led to greater efficiency for the court process at the project site?

As with Question 11, it is still too early to assess with any certainty whether the EXP CDC has led to greater efficiency for the court process. In some ways, these questions are intertwined as earlier resolutions and fewer appearances are efficiencies that benefit both LSS and the criminal justice process. As a result, the key informant responses are quite similar in pointing out that the model for the EXP CDC should result in both of these benefits and, thereby, reduce costs for both LSS and the criminal justice process. As discussed in Question 9, the project data provides preliminary indications of early resolutions. Once the EXP CDC was involved, it took on average 14 calendar days from the date of first contact to resolution.

13. Has the EXP CDC project resulted in increased access to criminal legal aid services for clients who may not currently meet eligibility guidelines for full representation?

As described in Section 2.0, the pilot project expands access to criminal legal aid services by providing assistance to accused persons, even if they are not eligible for a legal aid representation contract under the existing coverage and financial guidelines. The pilot project does not require that the client face charges that could involve jail time and it offers expanded financial eligibility guidelines. The pilot project has shown early success in increasing access to legal aid. Of the 74 clients admitted in the first three months of operations, 57 would not have been eligible for a legal aid representation contract based on either financial or coverage guidelines or both. In addition, the clients who were not accepted into the pilot project are provided with more extensive summary advice than under the previous system: the criminal duty counsel has an opportunity to review their particulars and have a more detailed conversation with them under the new system.

14. To what extent are clients being connected to other resources that are helping them address underlying problems?

Only a few clients have received referrals to non-legal services that might assist them with their underlying problems. Of the 46 clients whose files are closed:

- ▶ two were referred to health professionals;
- ▶ five were referred to substance abuse or addictions treatment centres;
- ▶ one was referred to immigrant settlement or multicultural organizations; and
- ▶ two were referred to other government agencies.

In addition, one applicant who was not eligible for the pilot project received a non-legal referral, which was to police/victim services.

Based on interviews, there is not a clear consensus that addressing clients' underlying problems is part of the EXP CDC mandate. Referrals to other resources are often seen as occurring primarily when the Crown has required attendance at certain programs (e.g., substance abuse treatment, anger management, relationship counselling) for plea arrangements. The EXP CDC has also found that clients typically know what services they need and are already accessing these services, so the pilot project usually does not get involved in making referrals. In addition, internal stakeholders mentioned that they have not had the opportunity to do as much networking with community organizations to learn about available resources, which perhaps has limited the ability of the pilot project to provide referrals; however, clients interviewed did not identify the provision of non-legal referrals as a service gap.

15. Were there any unintended consequences or outcomes of the EXP CDC project identified in Year 1?

Few key informants could identify unintended consequences. Most believe that the project has operated as intended without any unanticipated effects. That being said, a few key informants pointed out what they considered to be unintended positive or negative outcomes:

- ▶ Judges and justices of the peace want the accused person to provide proof that they have scheduled EXP CDC appointments when they appear in court. This request demonstrates that other stakeholders see the value in the new system.
- ▶ According to a few key informants, the higher than expected volume during the first two months of operations has created a few unintended negative consequences.
 - Managing criminal intake has affected family law clients, who have been asked to return another day when the criminal volumes are beyond what intake can accommodate.
 - The increased volume of clients who qualify for expanded assistance has made it difficult for the criminal duty counsel to provide same-day summary advice.
 - Individuals who face serious charges and qualify for a legal aid representation contract are having to wait longer to get their lawyer through legal aid due to the requirement that they first meet with criminal duty counsel.

5.0 Conclusions

This section presents some brief conclusions of the process evaluation, based on the data collection and analysis performed to date.

5.1 Conclusions on implementation of the EXP CDC

The EXP CDC was implemented as intended but has experienced a few challenges related to higher than expected volume. LSS and pilot project personnel all indicated that the project has largely been implemented as intended in Year 1. With the increased scope of coverage and the expanded service, the project has found handling the volume of clients to be a challenge. The project has undertaken several logistical modifications to handle the volume efficiently, including developing new processes for working with the court to ensure that clients will have met with criminal duty counsel prior to their next court date, prioritizing clients with unique needs, and photocopying particulars so they are available to criminal duty counsel prior to first consultation with the client.

The EXP CDC has the support of external stakeholders. Interviews conducted for the evaluation indicate that external stakeholders are supportive of the pilot project and are referring clients to the EXP CDC. Another potential external factor that may affect EXP CDC success is Crown ownership of files. This initiative has complemented the pilot project in terms of creating more continuity on files, but, key informants pointed out, its impact on the success of the pilot project (i.e., resolving criminal matters) is dependent on the willingness of the assigned Crown to negotiate.

The EXP CDC has experienced some early resource and capacity issues. The volume of demand has been challenging for the pilot project. However, this issue may partially resolve itself with time as the high volume of clients in March declined in April and May. This reduction appears to be largely due to the declining number of unrepresented accused persons whose first appearance pre-dated the pilot project. That being said, the pilot project has experienced capacity issues due to the lack of backup personnel for the criminal duty counsel and the pilot administrator. In addition, the pilot project must provide expanded services to its clients and the current caseload numbers have proved challenging for managing intake, working to resolve clients' matters, and still providing summary advice to clients who are not admitted to the pilot. The primary example of these pressures is the increasing time between intake and the first appointment with criminal duty counsel. LSS intake has also experienced an increase in volume, which has contributed to bottlenecks in the application process. At the time of data collection for this report, the pilot project was developing a roster of criminal duty counsel to assist with the volume of clients.

The current model supports efficient and effective delivery. Key informants were generally positive about how well the current model is working. In particular, they pointed to the model creating more consistency in LSS services. Since the criminal duty counsel has the opportunity to conduct an individual interview with clients after reviewing their particulars, the standard level of summary advice offered to all accused persons is more meaningful. The continuity of criminal duty counsel also provides greater efficiencies by enhancing the ability of duty counsel to resolve client matters.

Suggested areas for improvement focused on methods to increase the flexibility of the model. Several areas were identified by key informants: having an LSS-dedicated telephone available in the courthouse so that clients can opt to use the LSS call centre for intake; considering some type of triage so that clients who clearly do not meet eligibility guidelines do not have to go through full intake; and building in capacity so that clients who want to plead guilty at their first appearance can receive summary advice that day.

5.2 Conclusions on early indications of outcomes

Appropriate clients/cases are being streamed into the EXP CDC. The evaluation evidence shows that clients/cases entering the pilot project meet its own eligibility criteria, and that the project is reaching unrepresented accused persons who are not eligible for a legal aid representation contract.

Timeliness of service is becoming a challenge for the EXP CDC. Based on all lines of evidence, clients are being referred to the pilot project in a timely manner; for most clients, their EXP CDC file is opened the same day as their first appearance, which shows that most clients are being connected with the service immediately. Clients found the process of connecting with EXP CDC and making an application uncomplicated and wait times for intake and meeting with criminal duty counsel "about right." Key informants voiced concern that the lengthening time between intake and meeting with the criminal duty counsel may affect this level of satisfaction.

The EXP CDC is providing services that help clients with their legal needs. Clients received a variety of services from the pilot project, including summary advice, negotiations with the Crown on their criminal matters, court attendance, and a resolution to their criminal matter.

Clients considered the legal services they received to be helpful and none thought there was legal assistance that they needed that they did not receive.

There are preliminary indications of earlier resolution by the EXP CDC. The ability of the pilot project to demonstrate earlier resolution of cases is limited since at the end of data collection for this report the project had only been operating three months. However, there are indications of success. For all concluded client matters (informations), the rate of resolution is 96%; for those matters, it took on average 14 calendar days from the date of first contact with the criminal duty counsel to resolve the case. Comparing the time-to-resolution, where the first appearance date was before or after the pilot project's inception, provides a preliminary indication of the pilot project's potential to reduce the time for achieving resolution. Where the first appearance was before the pilot's inception, the average time between the first appearance and resolution was 104 days. Where the first appearance was after the pilot's inception, the average number of days between the first appearance and resolution is 33 days.

Clients are satisfied with the EXP CDC assistance they received. All six clients interviewed said they were satisfied with the services they received, including feeling treated with respect. They uniformly expressed appreciation for the work of the criminal duty counsel.

Stakeholders believe that the EXP CDC will lead to greater efficiency for LSS and the court process. It is too early to assess this outcome and it will be dealt with at greater length in the summative evaluation. That being said, stakeholders believe that the EXP CDC model should lead to greater efficiencies, and some believe they have seen indications of earlier resolution and fewer court appearances.

The EXP CDC has increased access to criminal legal aid. The pilot project has shown early success in increasing access. Of the 74 clients admitted in the first three months of operations, 57 would not have been eligible for a legal aid representation contract based on either financial or coverage guidelines, or both. In addition, the clients who were not accepted into the pilot project are provided with more extensive summary advice than under the previous system.

Few clients are being connected by the EXP CDC to other resources to assist them with underlying problems. Assisting clients with the problems that underlie their criminal behaviours (e.g., substance abuse, counselling) is intended to be one feature of the EXP CDC. Currently, the pilot has had little capacity to do this beyond what is required for negotiating the disposition of the matter with the Crown and has found that many clients are already connected to appropriate services.

6.0 Recommendations to further enhance the implementation process

Recommendation 1: *Consider whether to implement measures that will increase the flexibility of the model to respond to demand but not at the expense of innovative features of the model.*

The project is developing a criminal duty counsel roster, and it will be critical that the project ensure that its innovative feature of continuity of counsel is maintained. Counsel assigned to the roster will also require training in the new process and monitoring of their activities, in particular to ensure forms are completed to support the pilot project's data collection efforts. Other suggestions to increase model flexibility (e.g., to adopt a triage process so that not all clients have to go through LSS intake and to have out-of-custody duty counsel available so that clients who want to plead guilty at their first appearance can still receive summary advice) may be possible once the roster is in place, but these changes should not compromise the model's ability to provide a more consistent standard of summary legal advice to all clients.

Recommendation 2: *Continue to monitor key service metrics, in particular the length of time between intake and first appointment with the criminal duty counsel.*

Evaluation findings indicate potential issues that could negatively impact project success related to length of time between intake and first appointment with the criminal duty counsel. While the project is undertaking steps to address this (development of a roster), continuing to monitor this key service metric will enable the project to respond to challenges prior to the summative evaluation.

Recommendation 3: *Re-evaluate whether referring clients to non-legal services to address their underlying issues should be a project outcome and, if it remains a project outcome, consider how the project can network with other service providers so that it has a list of relevant resources.*

This is the only outcome that the pilot project was clearly not achieving, due in part to the challenges of handling the current client caseload, as well as not having had time to devote to networking with available resources. Some key informants questioned this outcome for the pilot project. According to them, the criminal duty counsel is usually only involved in making these referrals if the Crown requires it, or when the type of service (e.g., counselling) would demonstrate to the Crown that the accused person is addressing their issues. In either instance, the Crown and/or the client are usually already aware of relevant services and the criminal duty counsel does not need to make a referral. If non-legal referrals are to remain a project outcome, there needs to be consideration of how to support the project in developing its capacity to efficiently make these referrals (e.g., developing a list of potential organizations that the project can use for referrals) and a determination of whether these referrals should be made in situations other than when they are required by the Crown.

Recommendation 4: *Consider enhancements to the project database that will increase efficiency, minimize errors, and allow for more accurate reports to be run so that the project can monitor its activities.*

Currently, the project database has the same information recorded in more than one location (e.g., provision of summary advice, resolving a matter), does not have logic checks on data entry, and does not contain options so that missing data can be distinguished from unavailable data (e.g., where an activity has not yet occurred). Its current construction could be improved to better assist the person charged with doing data entry for such a complex project. These enhancements will better support future project reporting and support administrative efficiency.

Appendix A – Logic model

Program logic model — Expanded Criminal Duty Counsel (EXP CDC)

Program activities		Program outputs	Short-term outcomes	Medium-term outcomes
INTAKE AND ASSESSMENT	Assess client and make decision about whether early resolution is possible	<ul style="list-style-type: none"> • # of clients assessed for EXP CDC services • # of files/clients accepted • # of files rejected 	<ul style="list-style-type: none"> • Appropriate clients/cases are streamed into EXP CDC services • Clients receive a referral to EXP CDC services in a timely manner 	<ul style="list-style-type: none"> • The courts at the EXP CDC program site operate more efficiently • LSS operates its criminal legal aid services more efficiently • Access to Criminal Legal Aid at the EXP CDC program site is increased
LEGAL ADVICE AND REPRESENTATION	Provide continuing legal advice and representation support to eligible EXP CDC clients <ul style="list-style-type: none"> • Provide advice to client • Provide continuous representation to client 	<ul style="list-style-type: none"> • # of clients assisted (or # of files) • # of cases resolved • # of clients who enter and exit through the program (i.e., resolve matter in the program) that are assisted by same CDC 	<ul style="list-style-type: none"> • EXP CDC clients achieve early resolution of their criminal matters • Clients are satisfied with their experience in the EXP CDC program 	
OTHER SUPPORTS	Connect EXP CDC clients with other existing resources to help them address underlying problems	<ul style="list-style-type: none"> • # of clients being connected to other resources • # and type of other resources contacted 	<ul style="list-style-type: none"> • Clients use referrals to other resources and find them helpful 	

Appendix B – Evaluation matrix

Evaluation matrix for the Expanded Criminal Duty Counsel (EXP CDC) pilot project		
Questions	Indicators	Data sources
Implementation questions		
1. Has the PLC been implemented as intended in Year 1? What challenges were met in implementation? How were challenges addressed and improvements made to the model?	<ul style="list-style-type: none"> • Key informant opinion on extent EXP CDC has been implemented as intended • Key informant opinion on challenges/improvements • Decision-records and timelines of changes made to improve model 	<ul style="list-style-type: none"> • Key informant interviews • Document review
2. What external factors have influenced the implementation and success of the EXP CDC?	<ul style="list-style-type: none"> • Key informant opinion on external factors that have affected implementation and success of the EXP CDC • EXP CDC WG meeting minutes documenting external factors • Evidence that decisions, actions, policies of external organizations/key informants affect the EXP CDC (e.g., assignment court) 	<ul style="list-style-type: none"> • Key informant interviews • Document review
3. Did the EXP CDC have sufficient resources and capacity to meet demand?	<ul style="list-style-type: none"> • Number of cases accepted by the EXP CDC • Number of legal aid representation contracts for criminal matters in Year 1 of the pilot compared to legal aid representation contracts for criminal matters in previous years (for catchment area) • Key informant opinion on whether the EXP CDC has sufficient resources and capacity to satisfactorily meet demand 	<ul style="list-style-type: none"> • EXP CDC database • LSS CIS database • Key informant interviews
4. To what extent do the current processes and structure of the EXP CDC support its efficient and effective delivery?	<ul style="list-style-type: none"> • Key informant opinion on effectiveness of current processes and structure to support the project 	<ul style="list-style-type: none"> • Key informant interviews
5. What considerations related to the EXP CDC model are necessary to successfully implement this approach in a different site?	<ul style="list-style-type: none"> • Key informant opinion on factors to be considered for expansion to other locations/lessons learned/best practices • Documentation related to Q1 to 3 	<ul style="list-style-type: none"> • Key informant interviews
Outcome questions		
6. Are appropriate clients/cases streamed into EXP CDC services?	<ul style="list-style-type: none"> • Number of clients assessed for EXP CDC services • Number and types of files/clients accepted with reasons why (i.e., meets financial and coverage guidelines or is financially eligible under discretionary coverage) • Number of files not accepted with reasons why • Number and percent of clients not accepted because interests are better served by a referral who apply for and receive LSS referral • Key informant opinion on appropriateness of eligibility decisions 	<ul style="list-style-type: none"> • EXP CDC database • LSS CIS database • Key informant interviews
7. Do clients receive a referral to EXP CDC services in a timely manner?	<ul style="list-style-type: none"> • Time between first appearance and file open date (by information number) • Time between first appearance and date of first contact with CDC (by information number) • Key informant opinion on whether clients receive timely referrals to EXP CDC • Client opinion on whether referral to EXP CDC was timely 	<ul style="list-style-type: none"> • EXP CDC database • Key informant interviews • Client interviews

Evaluation matrix for the Expanded Criminal Duty Counsel (EXP CDC) pilot project		
Questions	Indicators	Data sources
8. Do clients receive services to help them meet their legal needs?	<ul style="list-style-type: none"> • Types of legal services received by clients from EXP CDC • Number and percent of clients/applicants receiving referrals to other legal services • Number and type of other legal services applicants/clients are referred to by EXP CDC • Time spent with clients by EXP CDC • Number and percent of clients not accepted because interests are better served by a referral who apply for and receive LSS referral • Number and percent of clients not accepted (solely) because exceeds capacity of EXP CDC program who apply for and receive LSS referral • Number and percent of clients not accepted (solely) because of lawyer conflict who apply for and receive LSS referral • Key informant opinion on whether client legal needs are being met • Client opinion on whether legal needs are being met 	<ul style="list-style-type: none"> • EXP CDC database • Key informant interviews • Clients
9. Has the EXP CDC service led to the earlier resolution of cases at the project site?	<ul style="list-style-type: none"> • Number and percent of EXP CDC cases resolved by type of outcome (by information) • Number and percent of EXP CDC cases not resolved and reasons why (by information) • Number of days from first contact with EXP CDC to resolution (by information) • Number and percent of EXP CDC cases resolved before the trial fixed date • Comparison of number of days to resolution of EXP CDC cases with number of days to resolution of LSS referrals during the two years' prior to the pilot project • Comparison of number of days to resolution of cases with EXP CDC involvement (including cases not resolved by EXP CDC) with number of days to resolution of LSS referrals during the two years' prior to the pilot project • Comparison of number of days from first appearance to resolution of EXP CDC cases with a comparison site (by cases resolved before and after trial fix date) • Comparison of number and percent of EXP CDC cases resolved before the trial fixed date with a comparison site • Key informant opinion on whether cases are resolved earlier 	<ul style="list-style-type: none"> • EXP CDC database • LSS CIS database • CSB database • Key informant interviews • Client interviews
10. Are clients satisfied with their experience using the EXP CDC service? What, if anything, can be done to improve clients' experience?	<ul style="list-style-type: none"> • Client opinion on satisfaction with EXP CDC services • Key informant opinion on quality of EXP CDC services 	<ul style="list-style-type: none"> • Client interviews • Key informant interviews

Evaluation matrix for the Expanded Criminal Duty Counsel (EXP CDC) pilot project		
Questions	Indicators	Data sources
11. Has the EXP CDC service led to greater efficiency for LSS?	<ul style="list-style-type: none"> • See indicators to Q9 • Number of LSS legal referrals in first year of pilot compared with prior year at pilot site • Average cost per EXP CDC file (resolved/unresolved) compared with average cost of comparable LSS referrals • Number and percent of clients leaving the EXP CDC program and applying for and receiving LSS referral • Number of court attendances per resolved file by EXP CDC per file compared with number of court attendances by counsel for comparable LSS referrals • Key informant opinion on whether efficiencies created for LSS by EXP CDC 	<ul style="list-style-type: none"> • EXP CDC database • LSS CIS database • Key informant interviews
12. Has the EXP CDC service led to greater efficiency for the court process at the project site?	<ul style="list-style-type: none"> • Comparison of number of court appearances before resolution of EXP CDC cases with a comparison site (by cases resolved before and after trial fix date) • Comparison of number of days from first appearance to resolution of EXP CDC cases with a comparison site (by cases resolved before and after trial fix date) • Comparison of number and percent of EXP CDC cases resolved before the trial fixed date with a comparison site • Key informant opinion on whether the EXP CDC has increased efficiency in the court process 	<ul style="list-style-type: none"> • EXP CDC database • CSB database • Key informant interviews
13. Has the EXP CDC project resulted in increased access to criminal legal aid services for clients who may not currently meet eligibility guidelines for full representation?	<ul style="list-style-type: none"> • Number and percent of EXP CDC applicants who do not meet eligibility guidelines for full representation but received EXP CDC services • Number of full referral clients at pilot site in the year prior to the EXP CDC compared to number of full referral and EXP CDC clients at pilot site since inception 	<ul style="list-style-type: none"> • EXP CDC database • LSS CIS database
14. To what extent are clients being connected to other resources that are helping them address underlying problems?	<ul style="list-style-type: none"> • Number and percent of clients/applicants receiving referrals to non-legal services • Number and type of non-legal services clients/applicants are referred to by EXP CDC • Key informant opinion on whether clients receive referrals that assist them with addressing underlying problems • Client opinion on whether non-legal referrals received were used/helpful 	<ul style="list-style-type: none"> • EXP CDC database • Client interviews • Key informant interviews
15. Were there any unintended consequences or outcomes of the EXP CDC project identified in Year 1?	<ul style="list-style-type: none"> • Key informant opinion on unintended consequences or outcomes of the EXP CDC 	<ul style="list-style-type: none"> • Key informant interviews

Appendix C – Data collection instruments

**Legal Services Society of British Columbia
Expanded Criminal Duty Counsel Pilot Project Evaluation**

Interview guide for clients

Interviewer will verbally discuss the introduction with the client prior to the beginning of the interview: Thank you very much for agreeing to come in and talk to me today. I am (NAME) and I am from PRA, an independent research company. The Legal Services Society of British Columbia, you might know them as legal aid, has hired us to help them on a study of one of their services, the Expanded Criminal Duty Counsel. The Expanded Criminal Duty Counsel provides advice and assistance to people with criminal law matters in Provincial Court in Port Coquitlam. They do not represent people at trial, but they will help with discussions with the Crown Counsel or attending court to enter a guilty plea. The assistance can include reviewing disclosure, having discussions with the Crown Counsel, and attending court if a guilty plea is being entered to resolve the case. Legal aid wants to know how well the Expanded Criminal Duty Counsel is working for clients. We understand you were or still are a client of the Expanded Criminal Duty Counsel, and that is why you were asked to take part in this interview.

I'd like to ask you some questions about the help you got from the Expanded Criminal Duty Counsel. Please be assured that I will not ask you anything personal about your criminal law matter, only about the services you received and how helpful these were to you. This information will help LSS in identifying how the project can be improved.

with other interviews The interview should take about 20 minutes. The information from your interview will be combined and reported all together, so your name will not be mentioned. With your permission, I will audio record the interview for the purpose of note taking. No one outside of PRA will see your notes or hear your recording. If you cannot answer a question, let me know and we will skip to the next question.

First, I'd like to find out more about your experience applying for legal aid.

1. When did you apply for legal aid — was it before or at your first court appearance? (Q7)
2. Did someone tell you to go see legal aid, or did you know where to go get legal aid assistance? (Q7)
 - a. (If told to go to legal aid) Who told you about legal aid? (*Probe: judge, justice of the peace, sheriff, registry, Crown, another agency*) Who did they tell you to see about getting legal aid? (*Probe: CDC in court, the legal aid intake office in the courthouse, LSS call centre*)
 - b. (If knew where to go) Where did you go to get legal aid assistance? (*Probe: CDC in court, the legal aid intake office in the courthouse, LSS call centre*)
 - c. How many people did you have to approach before you were in the right place to apply for legal aid?
 - d. (If in person) Was there a line to apply for legal aid? (If call centre) Were you put on hold when you called? (Both) About how long did you wait? Did you think the wait was too long or about right?
3. How soon after you applied for legal aid did you meet with the Criminal Duty Counsel? (*Probe: Same day, how many days later*) Did you think the wait was too long or about right? (Q7)

4. (If applied at first court appearance) Were you able to attend court on the same day you applied for legal aid, or was the court date rescheduled? (If rescheduled) Do you recall how many days later you attended court? (Q7)
5. How difficult or easy did you find the process of applying for legal aid and getting connected with the Criminal Duty Counsel? What made it difficult/easy? (Q7)

Now, I'd like to ask you some questions about the legal services that you received from the Criminal Duty Counsel.

6. What type of legal assistance did the Criminal Duty Counsel give you? Did they...
 - a. Explain the court process to you?
 - b. Provide you with information on the charges you were facing?
 - c. Explain the police reports to you?
 - d. Explain to you the particulars prepared by the Crown?
 - e. Tell you different ways you might respond to the charges?
 - f. Attend court with you?
 - g. Any other types of assistance?(Q8)
7. Thinking about the assistance that you received, what was helpful? What was not helpful? (Q8)
8. Did you feel treated with respect by the Criminal Duty Counsel? Please explain why or why not. (Q8)
9. Is your case still ongoing or completed? (If completed) What was the final outcome of your case — did you plead guilty or eventually go to trial? (Q8, Q9, Q10)
 - a. (If pled guilty) Did the Criminal Duty Counsel attend court with you to enter the plea? Do you think your case was resolved sooner because of the involvement of the Criminal Duty Counsel? Why or why not? Were you satisfied with the outcome? Why or why not?
 - b. (If went to trial) Did you have representation by counsel at trial? Did Criminal Duty Counsel refer you to other legal services? Did you receive a legal aid referral for a lawyer, did you hire a lawyer on your own, or did you receive free legal help from another service like Access Pro Bono? Were you satisfied with the outcome? Why or why not?
10. Was there any type of legal assistance that you think you needed but did not get from the Criminal Duty Counsel? (Q8)
11. Did the Criminal Duty Counsel refer you to any other types of services to assist with your non-legal issues, such as housing, substance abuse, income assistance, counselling, anger management? Did you use these referrals? Did you find them helpful? Why or why not? (Q14)
12. Overall, were you satisfied with the services you received from the Criminal Duty Counsel? Do you have any improvements that you would like to suggest? (Q10)
13. Have you had assistance from legal aid before? How would you compare the most recent experience to the one you had before – was it better, worse, or the same? Please explain.

Thank you for your participation.

**Legal Services Society of British Columbia
Expanded Criminal Duty Counsel Pilot Project Evaluation**

**Interview guide for internal stakeholders
(Project Lead, Pilot lead CDC, Pilot administrator and LSS intake)**

The Legal Services Society of British Columbia (LSS) requires an evaluation of the Expanded Criminal Duty Counsel (EXP CDC) pilot project, which has been implemented under the Justice Innovation and Transformation Initiative (JITI). LSS hired PRA Inc., an independent research company, to assist in the evaluation. One component of the evaluation is to conduct telephone interviews with stakeholders who are familiar with the EXP CDC project.

The interview should take no more than one hour. The information we gather through the interviews will be summarized in aggregate form. With your permission, we will audio record the interview for the purpose of note taking. No one outside of PRA will see your notes or hear your recording.

The current evaluation focuses on the implementation of the EXP CDC project to identify early issues and make recommendations to assist LSS management in improving/refining project implementation. This evaluation will also examine early indicators of success in meeting the project's objectives.

We realize you may not be able to answer all questions; please let us know, and we will skip to the next question.

Implementation of the EXP CDC pilot

1. Please briefly describe your role in the implementation and/or delivery of the EXP CDC pilot project.
2. Based on your observations, has the project been implemented as planned? If not, why not? Q1
3. In your opinion, does the EXP CDC have sufficient resources and capacity for providing the expected level of services to all eligible EXP CDC clients? Please explain why or why not. What steps has the EXP CDC taken to overcome any resource challenges. Q3
4. In your opinion, do the current structure and processes of the EXP CDC support its effective and efficient delivery? Do you have any suggestions for improvements to the model? Q4
5. Have any factors or stakeholders external to the EXP CDC project affected, either positively or negatively, the implementation and success of the model? (*Probe: judiciary, in particular assignment court; Crown; court administration; are referrals coming expected stakeholders?*) If yes, how has the project responded to mitigate problems or use opportunities? Q2
6. Are there any other challenges not already discussed that were encountered during the implementation of the EXP CDC? How were these challenges addressed? Q1
7. What has been learned from the early implementation experiences of the EXP CDC that would be useful to share with any future sites? (*Probe: what factors should be considered in any plans for expansion*) Q5

Progress towards achieving objectives

8. How are people getting referred to the EXP CDC? Who is referring them (e.g. judge, justice of the peace, CDC office, CDC in court, LSS intake, another JITI pilot or agency)? Are all relevant stakeholders referring people to the EXP CDC? Are they referring appropriate people to the EXP CDC? Q6
9. How efficient is the current intake and screening process? In your response, please consider the various points in the process (e.g., LSS intake, Pilot Admin, Lead Criminal Duty Counsel). In your opinion, are appropriate clients/cases being streamed into EXP CDC services? (*Probe: is LSS intake forwarding appropriate cases; do the criteria developed ensure that inappropriate cases are not accepted and that appropriate cases are not excluded?*) Are there any difficulties in assessing which clients/cases are appropriate for the pilot? Q6
10. At what point in the criminal justice process are clients typically referred to the EXP CDC? Do you consider referrals to EXP CDC to be timely? Is there anything that could be improved about the referral/intake/screening process? Q6 and Q7
11. What are the types of legal services that the EXP CDC provides clients? When and to what other legal services might the EXP CDC refer clients? In general, do you believe that the clients' legal needs are being met by the EXP CDC? Are there any gaps in legal services that you believe still exist for EXP CDC clients? Q8
12. Please describe the EXP CDC approach to referring clients to non-legal resources? For example, how does the EXP CDC determine when and to what other non-legal resources to refer clients? What activities has the EXP CDC undertaken to network with and connect to non-legal resources in the community? Based on the experiences to-date, what are the benefits of these referrals for clients? Q14
13. Based on your early experience, to what extent has the EXP CDC service led to earlier resolution of cases? Please be as specific as possible as to how and in what way cases have been resolved earlier. Are there any factors that have impeded or facilitated early resolution? Q9
14. Have you received any feedback from clients about their experiences with the EXP CDC? Do you have any suggestions for how clients' experiences with the EXP CDC can be improved? Q10
15. Based on your experiences working with the EXP CDC thus far, has the EXP CDC service had an impact, positive or negative on the efficiency of:
 - a. LSS criminal legal aid services in Port Coquitlam (e.g., reduction in number of cases that require a full LSS referral); and
 - b. the court process in Port Coquitlam?Q11 and 12
16. Have there been any unintended consequences of the EXP CDC project?
17. Do you have any other comments?

Thank you for your participation.

**Legal Services Society of British Columbia
Expanded Criminal Duty Counsel Pilot Project Evaluation**

**Interview guide for external stakeholders
(Court Services, Court Registry, Sheriffs, Judges, Justices Of The Peace, Crown)**

The Legal Services Society of British Columbia (LSS) requires an evaluation of the Expanded Criminal Duty Counsel (EXP CDC) pilot project, which has been implemented under the Justice Innovation and Transformation Initiative (JITI). LSS hired PRA Inc., an independent research company, to assist in the evaluation. One component of the evaluation is to conduct telephone interviews with stakeholders who are familiar with the EXP CDC project.

The interview should take no more than one hour. The information we gather through the interviews will be summarized in aggregate form. With your permission, we will audio record the interview for the purpose of note taking. No one outside of PRA will see your notes or hear your recording.

The current evaluation focuses on the implementation of the EXP CDC project to identify early issues and make recommendations to assist LSS management in improving/refining project implementation. This evaluation will also examine early indicators of success in meeting the project's objectives.

We realize you may not be able to answer all questions; please let us know, and we will skip to the next question.

Implementation of the EXP CDC pilot

1. Please briefly describe your involvement with the EXP CDC pilot project or with clients of the EXP CDC pilot project. (*Probe: do you refer people to do the pilot?*)
2. In your opinion, does the EXP CDC have sufficient resources and capacity for providing the expected level of services to all eligible EXP CDC clients? Please explain why or why not. To your knowledge, has the EXP CDC taken steps to overcome any resource challenges?
3. In your opinion, do the current structure and processes of the EXP CDC support its effective and efficient delivery? Do you have any suggestions for improvements to the model?
4. Have any factors or stakeholders external to the EXP CDC project affected, either positively or negatively, the implementation and success of the model? (*Probe: judiciary, in particular assignment court; Crown; court administration*) If yes, how has the project responded to mitigate problems or use opportunities?
5. Have you encountered any challenges in your interactions with the EXP CDC? If yes, have these challenges been addressed?

Progress towards achieving objectives

6. Do you think that criminal defendants are aware of the EXP CDC and how to apply for its services? If not, what could LSS do to make more criminal defendants aware of the services and how to access them?
7. Do you refer individuals to the EXP CDC? If yes, how does that typically occur? (*Probe: to whom do you refer clients, at what point in the criminal justice process do you typically refer clients*) Have you encountered any difficulties in making a referral? (*Probe: knowing to whom to refer — LSS intake or duty counsel; timeliness of decision making process related to EXP CDC*)
8. Do you think that appropriate clients/cases are being streamed into EXP CDC services? Why or why not?
9. In your opinion, is LSS making a timely decision on whether a criminal defendant is eligible for EXP CDC services? Do you have any suggestions for improving the referral/intake/screening process?
10. What are the types of legal services that the EXP CDC provides clients? In general, do you believe that the clients' legal needs are being met by the EXP CDC? Are there any gaps in legal services that you believe still exist for EXP CDC clients?
11. What non-legal resources would be most useful to this client group? Based on the experiences, what are the benefits of referrals to these types of resources for clients? If you can comment, how successful has the EXP CDC been in connecting clients to relevant non-legal resources?
12. Based on your early experience, to what extent has the EXP CDC service led to earlier resolution of cases? Please be as specific as possible as to how and in what way cases have been resolved earlier. Are there any factors that have impeded or facilitated early resolution?
13. Based on what you have observed, do you have any suggestions for how clients' experiences with the EXP CDC can be improved?
14. Based on your experiences working with the EXP CDC thus far, has the EXP CDC service had an impact, positive or negative on the efficiency of:
 - a. LSS criminal legal aid services in Port Coquitlam; and
 - b. the court process in Port Coquitlam?
15. Have there been any unintended consequences of the EXP CDC project?
16. Do you have any other comments?

Thank you for your participation.