

## Justice reform reports ignored, critics say

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Police tape cordons off a shooting scene at an underground parking lot at 15 Brookbanks Dr. in 2005.

Many have sought ways to fix problems affecting the justice system. But in most cases, their reports have led to few perceptible changes

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Just last week, at virtually the same time a 15-year-old was charged with murdering Brampton teenager Rajiv Dharamdial, government printing presses were gearing up to publish a major new report on preventing youth crime.

Commissioned last year by Premier Dalton McGuinty after 15-year-old Jordan Manners was shot dead in a Toronto school, the report examines the "root causes" of youth criminal behaviour. It represents months of work by Roy McMurtry, Ontario's former chief justice, and former Liberal cabinet minister Alvin Curling.

"I'm sure the premier ... is going to take the report seriously," McMurtry said in an interview. "But there will certainly be other people in government who might be quite happy to see it buried."

While McMurtry doesn't doubt the sincerity of McGuinty or his cabinet in wanting to do something about youth crime, a lowering of expectations might be prudent.

In recent years, the province has appointed a host of prominent people to find ways to fix big problems affecting the justice system, including a legal aid program in peril, a civil court system that bankrupts users and a victims' services regime that's confusing and insensitive.

One by one, the reports have piled up. But in most cases, they have produced few perceptible changes, leaving some to question whether the government is truly committed to reforms.

"I've been disappointed at the lack of any formal reaction by the government to my report," said Michael Trebilcock, a University of Toronto law professor. His blueprint for repairing the legal aid system was quietly slipped onto a government website one Friday at the height of barbecue season last summer, without even a press release to notify reporters.

Attorney General Chris Bentley acknowledges many recommendations in the reports would cost little, but is focusing his attention on reducing waiting times for criminal trials. It's what he calls his "Justice on Target" strategy and "the right thing to do."

That may be so, but Joe Wamback, who met with McMurtry for several hours for a report on assisting crime victims, says governments are engaging in a "deliberate manipulation of the conscience of the public" when they announce, with great fanfare, that experts are being appointed to study a problem – only to have the results disappear into an abyss.

Officials assume the public's attention span is short and there will be little political fallout from ignoring recommendations that arise from inquiries, said Wamback, a victims' rights advocate. The lesson was driven home eight years ago when he attended "candidates' school" after deciding to run for federal office as a Conservative.

"One thing they told us is, 'If you really screw up and it hits the paper, don't worry about it: the public's memory is 48 hours,' " Wamback said. "It's a tragedy, but that's the way our system works."

Further exacerbating the problem is that, around the cabinet table, spending money on the justice system usually isn't a top priority, compared to hospitals and education. "The difficulty the criminal justice system has within any government is that the vast majority of the public never expect to be victims of crime and they never expect to be in a courthouse on a civil matter or a criminal matter," said McMurtry, who served 10 years as attorney general.

But the Liberals showed last week they can act quickly when they want to. On Thursday, Community Safety Minister Rick Bartolucci introduced legislation that would adopt all of Justice Stephen Goudge's recommendations for improving Ontario's pediatric forensic pathology system. Goudge's report was released on Oct. 1.

By contrast, Bentley shot down a key recommendation from a McMurtry report last May that the province establish an independent advocate for crime victims.

Wamback, whose son Jonathan was left comatose and paralyzed for months after a beating in 1999, is angry about the decision, saying the appointment of an advocate is "a moral imperative" because crime victims are often too distressed to speak for themselves.

"Victims of violence traditionally seek seclusion because it is so incredibly difficult and painful to talk about their experiences and to beat their heads against the wall of indifference," he said.

Calling crime victims the often "forgotten individuals" in the criminal justice system, McMurtry also urged the government to continue providing them with financial assistance, a significant recommendation because some senior government officials want to kill the troubled Criminal

Injuries Compensation Board. The issue was part of McMurtry's mandate.

But Bentley said his ministry has no plans to cut off funding.

He also disputes that his office had done little to respond to reports delivered by McMurtry, Trebilcock and former associate chief justice Coulter Osborne, who made 81 recommendations for improving access to the civil justice system.

Ministry officials are "working steadily every day" on implementing Osborne's recommendations and the government plans to follow through on his call to raise the monetary claims limit in Small Claims Court, Bentley said.

Meanwhile, Bentley announced on Friday that teams of ministry officials and "process experts" will be arriving next week in courthouses in Newmarket, London and 1000 Finch Ave. W. in conjunction with his four-year strategy to reduce by 30 per cent the time it takes for criminal cases to get to trial. On average, it takes 205 days, a near-doubling since 1992.

The teams will document steps taken from the moment a charge is laid until a case is resolved.

"The key here is to identify how many people touch (a court file). Because every touch is time," said Bentley, who expects to see potential solutions by spring.

McMurtry said he can't quarrel with Bentley's focus, given the "Askov" crisis of 1990, named for a court decision that resulted in some 50,000 criminal charges being thrown out of court because of unreasonable trial delays.

The prospect of another Askov would be "a regular nightmare" for any attorney general, he said.

Bentley said he's also driven by other considerations. Reducing court appearances frees up others in the justice system to spend more time doing their jobs, whether it's police officers or Crown attorneys.

Frank Addario, president of the Criminal Lawyers' Association, said McGuinty's government has inherited a justice portfolio that "has been neglected for almost two decades." While the public's high expectations for the justice system haven't changed over the years, the number of cases has increased as Ontario's population has grown. Government funding hasn't kept pace, he said.

That includes increases to the tariff for lawyers handling legal aid cases. Trebilcock recommended they be raised which, unlike other proposed changes, would require tens of millions in funding.

Bentley said he's "determined to get legal aid to a better place" but says it "won't happen overnight."

Meanwhile, he's awaiting another report. In recent weeks, Patrick LeSage, former chief justice of Ontario's Superior Court of Justice, and Michael Code, a University of Toronto law professor, handed in recommendations for improving the prosecution of complex criminal cases.

They were appointed in February, after corruption charges against Toronto drug squad officers were thrown out by a judge, who ruled a 10-year delay in bringing the case to trial violated their right to be tried within a reasonable time.

"We're looking forward to (the report)," said Bentley.

## **CRIME VICTIMS**

**Report Author:** Roy McMurtry

**Notable Recommendation:** Appoint independent advocate for victims and streamline victims' services

**Consultations:** 50 groups and individuals; 41 submissions

**Total time:** One year

**Date delivered:** May 2008

**Change:** Attorney General Chris Bentley says advocate not a priority; working on making victims' services easier to find

## **LEGAL AID**

**Report Author:** Michael Trebilcock

**Notable Recommendation:** Allow middle class to get basic legal advice

**Consultations:** 43 groups and individuals

**Total time:** 18 months

**Date delivered:** March 2008

**Change:** People can apply for legal aid in courthouses, but no change to who qualifies access to justice

## **ACCESS TO JUSTICE**

**Report Author:** Coulter Osborne

**Notable Recommendations:** Raise small claims court limit from \$10,000 to \$25,000 and expand "simple trials" system

**Consultations:** More than 50 groups and individuals

**Total time:** One year

**Date Delivered:** June 2007

**Action:** None so far, but Attorney General Chris Bentley has discussed recommendations with judges and lawyers