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MEMBERS OF THE B.C. COURT OF APPEAL

Chief Justice

The Honourable Chief Justice Finch

May 5, 1983 (Supreme Court)

May 28, 1993 (Court of Appeal)

June 6, 2001 (Chief Justice of British Columbia)

Justices of the Court of Appeal

The Honourable Mr. Justice Lambert*

July 14, 1978 (Court of Appeal)

June 30, 1995 (Supernumerary)

The Honourable Mr. Justice Esson*

February 20, 1979 (Supreme Court)

May 5, 1983 (Court of Appeal)

June 30, 1989 (Chief Justice of Supreme Court)

October 2, 1996 (Court of Appeal)

February 12, 2001 (Supernumerary)

The Honourable Madam Justice Southin

March 11, 1985 (Supreme Court)

September 8, 1988 (Court of Appeal)

The Honourable Mr. Justice Hollinrake*

June 1, 1988 (Supreme Court)

February 16, 1990 (Court of Appeal)

September 1, 1999 (Supernumerary)

The Honourable Madam Justice Rowles

March 31, 1983 (County Court)

January 1, 1987 (Supreme Court)

October 11, 1991 (Court of Appeal)

The Honourable Madam Justice Prowse

January 1, 1987 (County Court)
September 8, 1988 (Supreme Court)
June 24, 1992 (Court of Appeal)

The Honourable Madam Justice Ryan

May 26, 1987 (County Court)
July 1, 1990 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Mr. Justice Donald

June 30, 1989 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Madam Justice Newbury

July 9, 1991 (Supreme Court)
September 26, 1995 (Court of Appeal)

The Honourable Madam Justice Huddart*

September 4, 1981 (County Court)
May 26, 1987 (Supreme Court)
March 19, 1996 (Court of Appeal)
June 30, 2003 (Supernumerary)

The Honourable Mr. Justice Braidwood*

December 5, 1990 (Supreme Court)
December 19, 1996 (Court of Appeal)
December 29, 2000 (Supernumerary)

The Honourable Mr. Justice Hall

July 11, 1991 (Supreme Court)
December 19, 1996 (Court of Appeal)

The Honourable Mr. Justice Mackenzie

May 5, 1992 (Supreme Court)
June 23, 1998 (Court of Appeal)

The Honourable Madam Justice Saunders

December 23, 1991 (Supreme Court)

July 2, 1999 (Court of Appeal)

The Honourable Mr. Justice Low

March 31, 1977 (County Court)

July 1, 1990 (Supreme Court)

July 28, 2000 (Court of Appeal)

The Honourable Madam Justice Levine

September 26, 1995 (Supreme Court)

February 6, 2001 (Court of Appeal)

The Honourable Mr. Justice Smith

May 31, 1993 (Supreme Court)

October 1, 2001 (Court of Appeal)

The Honourable Mr. Justice Thackray*

February 16, 1990 (Supreme Court)

December 19, 2001 (Court of Appeal)

October 28, 2002 (Supernumerary)

The Honourable Mr. Justice Oppal

April 9, 1981 (County Court)

February 16, 1990 (Supreme Court)

June 18, 2003 (Court of Appeal)

The Honourable Mr. Justice Lowry

October 11, 1991 (Supreme Court)

June 30, 2003 (Court of Appeal)

* Supernumerary

STAFF OF THE B.C. COURT OF APPEAL

Jennifer Jordan	Registrar
Meg Gaily	Law Officer
Maria Littlejohn	Associate/Deputy Registrar
Patrick Boyer	Manager/Deputy Registrar
Alix Going	Executive Assistant to Chief Justice Finch
Julie Warren	Executive Secretary to Chief Justice Finch

Law Clerks 2003–2004

Sarah Bevan
Shadrin Brooks
Dean Dalke
Ryan Dalziel
Tim Dickson
Michael Feder
Maegen Giltrow
Carol Liao
Scott Nesbit
Ryan Parsons
David Takagawa

Judicial Staff

Susan Devenish
Elise Du Mont
Jackie Helmersen
Ada Jansen
Margaret Lewis*
Lorraine Maze
Charmaine McBride
Cherry Mills
Patricia Pang
Stella Phillip
Teresa Smith

Registry Staff

Kathy Amantea**
Torri Enderton
Judie Epp
Karm Khunguray
Diane Schwab
Moira Syring*
Pat White*
Janice Wilson

*Victoria
**Kamloops

Ushers

Bill Deans
Thomas Huang
Alex Sashaw

Webmaster

Patricia Pang

SUPERIOR COURTS JUDICIARY STAFF

Judicial Administration

Alix Campbell	Director, Judicial Administration
Margaret Neuhaus	Manager, Support Services
Bill Prentice	Financial Officer
Tammy McCann	Director's Secretary
Yvonne Samek	Finance and Administration Clerk
Michelle Sam	Judicial Administration Clerk

Judges Library

Anne Rector
Diane Lemieux
Leaellen Gurney
Myrna Hawes*

Information Technology Consultant

Steve Blanchard

***Victoria**

REPORT OF THE HONOURABLE CHIEF JUSTICE FINCH

The Court's Complement

Effective 30 June 2003, Madam Justice Huddart elected supernumerary status. Her first judicial appointment was in 1981 as a Judge of the County Court of Vancouver. She was then appointed a Justice of the Supreme Court of British Columbia in 1987, and a Justice of the Court of Appeal in 1996. The court is most fortunate in retaining the services of a judge with Madam Justice Huddart's extensive and varied experience.

Two new appointments to the court were made in 2003. Mr. Justice Oppal was appointed June 18, 2003 to fill the vacancy created by Mr. Justice Thackray's supernumerary election in October 2002. Mr. Justice Lowry was appointed June 30, 2003 to fill the vacancy created by Madam Justice Huddart's election of supernumerary status.

Mr. Justice Oppal was appointed a Judge of the County Court of Westminster in 1981. He was appointed a Justice of the Supreme Court of British Columbia in 1985. He is recognized nationally for his expertise in the field of criminal law. Mr. Justice Oppal has presided over many difficult criminal jury trials, and has made generous contributions of time, effort and experience to a wide variety of criminal law projects and educational programs.

Mr. Justice Lowry was appointed a Justice of the Supreme Court of British Columbia in 1991, and served in that court until his appointment to the Court of Appeal in June 2003. As a lawyer, Mr. Justice

Lowry had a substantial practice in maritime law, marine insurance and commercial litigation. He is generally credited with drafting the Supreme Court of British Columbia Rule giving that court *in rem* jurisdiction in maritime law.

Both new judges are most welcome additions to the court, and bring the court's complement to full strength. At present there are 14 full-time members of the court in addition to the Chief Justice, and 6 supernumerary judges. Of the court's full-time complement, there are 7 women and 8 men. Of the 6 supernumerary judges, there are 5 men and 1 woman.

The Work of the Court

Criminal and civil law statistics for 2003, and comparable numbers for the years since 1995 are attached to this report as appendices.

Following the trend of recent years, the number of new appeals filed, both criminal and civil, is smaller than in previous years. This appears to reflect the pattern in the Supreme Court of British Columbia from which most of our cases come, and in the Provincial Court, which is the largest source of sentence appeals.

The number of new filings is not, however, a measure of the court's workload. A more significant statistic is the number of dispositions (or judgments) of the court. This number, 585 for 2003, is a small increase over the preceding year. Perhaps even more significant are the

number of reserve judgments delivered, 290 for the year. This is a greater number than for the preceding four years, and not far off the recent high, 304 reserve judgments in 1997.

These numbers in general suggest that fewer notices of appeal are being filed in unmeritorious cases, or in cases where there is a fairly high level of predictability in the result. Judgment is reserved most frequently in those cases that are difficult, complex, or where the law is less than clear. Reserve judgments were written in almost 50% of all dispositions by the court in 2003. That compares with a reserve judgment ratio of about 34% in 1998 (1996 and 1997 are anomalous because of a rule change).

In short, the volume of difficult cases has remained virtually unchanged in recent years, and actually appears to have increased as a percentage of all cases heard.

The vast bulk of cases disposed of by written reserve judgment continues to be dealt with in a timely way. Over 80% of civil cases were decided within less than 6 months from the date of hearing, and over 80% of reserve judgments in criminal appeals were disposed of within the same timeframe.

Case Tracking

The Court looks forward to improved case management tools with the implementation of the new case tracking system WebCATS. This web-based system replaces the DOS-based CATS system which the Court of Appeal has used since 1986.

WebCATS provides all users with an easy to use system for managing all information relating to Court of Appeal case files, including the judges' sitting schedule and the scheduling of appeals as well as chambers applications. In addition, the system prints out reports for daily and weekly sitting schedules as well as indices and statistics.

In the near future, information such as parties, filings, dates and results of hearings will be available to the public (for a fee) over the internet.

Sittings of the Court

In 2003, Division 1 sat for 40 weeks, including two weeks during the summer; Division 2 sat for 29 weeks; and Division 3 sat 11 weeks. In addition, the Court sat for 8 weeks in Victoria, one week in Kamloops/Kelowna and one week in the Yukon. The total number of sitting Divisions/weeks was 90. This is a decrease of three divisions over the 2002 schedule.

Except for the one week in the Interior, demand for hearing time in Kamloops, Kelowna and Prince George has remained minimal. The scheduled weeks for sitting in those other locations were cancelled for lack of work.

Staff

The Court lost a valuable staff member in 2003. Carol Ensor had served as the Deputy Registrar for many years and entered the Associate/ Deputy registrar's position in July, 2002 on the departure of longtime employee Cecilia Low. In the spring of 2003, Ms. Ensor made the difficult decision to leave Vancouver for

Australia. The Court was fortunate in hiring Maria Littlejohn as the Associate/Deputy Registrar of the Court of Appeal. Ms. Littlejohn had worked in the Court of Appeal from 1986 to 1998, before leaving to raise a family. She returned to work part time in the Supreme Court as a Deputy District Registrar in 2000.

Patrick Boyer has been the acting Deputy Registrar since Ms. Ensor assumed the Associate Registrar's position in July, 2002. This Deputy Registrar/Manager position is a dual judicial and Court Services position. Mr. Boyer was officially appointed to the position in December, 2003. The Court welcomes Mr. Boyer, who served as a Justice of the Peace for the Provincial Court for many years.

The staff changes serve to underline the valuable assistance the Court receives from all employees of Judicial Administration, and Court Services, who provide us with support. We are most grateful to all of them, with a special thanks to our Registrar Jennifer Jordan, and the Court's Law Officer, Meg Gaily.

A Final Word

I end these comments by expressing my thanks to all members of the Court for their support and assistance in every area of the Court's work during the past year and in continuing to pursue the highest standards of appellate decision-making.

COMMITTEE REPORTS

RULES COMMITTEE

Members

The Honourable Mr. Justice Hall (Chair)
The Honourable Madam Justice Rowles
The Honourable Madam Justice Huddart
The Honourable Mr. Justice Low
The Honourable Mr. Justice Smith
Jennifer Jordan, Registrar
Meg Gaily, Law Officer

Meetings

The Court of Appeal Rules Committee meets regularly throughout the year to discuss proposals by the judges of the Court, the Registrar and lawyers for amendments to the Court of Appeal Act and Rules. The Committee reports to the full Court on recommendations for amendments. We consult with members of the bar when there is a proposal that significantly changes the practice and procedure of the Court

Yukon Civil Appeal Rules

Pursuant to s. 3 of the *Court of Appeal Act* (Yukon) 1986 c. 37, the British Columbia Court of Appeal justices are also justices of the Yukon Court of Appeal. Thus the work of the B.C. Rules Committee has extended to facilitating the amendment of the Yukon Civil Appeal Rules.

There was a Yukon Rules Committee established to discuss a proposed a new set of rules and forms based on the current B.C. Court of Appeal Rules. The Yukon

Rules incorporate some provisions found in the *B.C. Court of Appeal Act* which are not found in the *Yukon Court of Appeal Act*. The Yukon Rules and forms have been drafted to eliminate all references to British Columbia, except for a provision allowing the Registrar to schedule hearings in Vancouver or Victoria. The Rules Committee approved the proposed Yukon Rules. The Rules and Forms were circulated to the Court for final approval according to s. 11 of the *Yukon Court of Appeal Act*. The Court approved the Rules and they have now been forwarded to the Yukon for translation and enactment.

Practice Directives have also been amended and signed for the Yukon.

Transcript Extracts

In some instances, transcript extracts have proven inadequate for the panel hearing the appeal. The Committee recommended to the Court, and it was approved, that in some instances counsel may decide to file 4 copies of the full transcript from the

court below instead of one copy and 3 transcript extracts. This will become a Practice Directive in 2004.

Stay of Proceedings

The Committee considered an issue about whether appeals where there were stays of proceeding were being caught by the s.25 inactive appeal rule. The Committee agreed that time should continue to run for the purposes of the stay and that once the one year mark is reached these matters should be placed on the inactive list. It was suggested that the judge in chambers, when granting the stay, should also indicate that the “time continues to run for the purposes of s. 25 of the Court of Appeal Act.”

Perfected Appeals

The Registry staff raised the issue of an appellant who has perfected an appeal by filing a Certificate of Readiness, but has failed to take further steps to set the hearing date or has adjourned generally the hearing of the appeal. The Committee recommended that the Registry staff be directed to notify counsel that the matter will be set on the chambers list and the parties required to appear before a judge of the Court to explain the delay. If there is no reasonable explanation of the delay, counsel will be advised that the matter will be set before a division of the Court for dismissal for want of prosecution.

E-Filing Rules

A Joint E-Filing Rules Committee has been struck to draft amendments to the civil rules of procedure of each of the British Columbia courts to accommodate the advent of electronic filing. The Joint

E-Filing Rules Committee will identify issues relevant to each court and the Rules Committee of each Court will assist with the drafting of required amendments.

Criminal Factums

The Committee discussed the application of the civil rules regarding factums in criminal cases. To resolve the issue a Practice Directive will be drafted advising that the civil rules regarding the form of factums apply to criminal cases.

Amendment to Form 9

Form 9 will be amended to add a clause allowing the party to insert a blank page in the appeal record (as is allowed for Part II Orders in the form) if an entered copy of the order granting leave is not yet available.

Refusal of extension of Time to file Books

Where a judge refuses to extend the time for filing books or factums on an appeal, the appeal is effectively over. The appeal would be dismissed in due course under s. 25. However, judges will use their discretion in asking opposing counsel if they want an order dismissing the appeal.

Certificate of Readiness

The Committee agreed that the Certificate of Readiness should be amended to include a phrase stating “I undertake to pay all hearing fees payable under Supreme Court Rules Appendix C, Schedule 1, Item 6”.

Notices to the Profession

The Committee discussed whether certain existing Notices to the Profession should be converted to Practice Directives. Often the Notices to the Profession are not as

available to the profession as Practice Directives. A review will be conducted to see if some Notices could become Practice Directives.

PLANNING COMMITTEE

Members:

The Honourable Chief Justice (*ex officio*)
The Honourable Mr. Justice Low (Chair)
The Honourable Mr. Justice Donald
The Honourable Mr. Justice Mackenzie
The Honourable Madam Justice Levine
Ms. Jennifer Jordan, Registrar

Madam Justice Prowse retired as chair of this committee after 8 years. Her valuable service to the Court over these years has assisted the Court in making sitting times more efficient and creating more time for the judges to spend on preparing cases and writing judgments. The largest boon to this development was the move to a rota where the judges sat for two weeks and had two weeks off for writing judgments and preparing for cases. The Committee also saw the introduction of Criminal sentence statements to assist in sentence appeals and started the expedited family law project. This Committee also has the oversight of the internet and was instrumental in starting the practice of providing brief headnotes for judgments published on the internet. The Committee continues to deal with the ongoing issues of privacy and publication of judgments on the internet. Another project for this Committee was the reduction in the time for hearing appeals, which are now regularly set for one-half day. Madam Justice Prowse has presided over this Committee in a time of change and improvement, and she is to be thanked for her outstanding contributions.

At the end of the year, the Committee welcomed Mr. Justice Low as the new chair of the committee. Mr. Justice Lowry joins the Committee in February, 2004 as its new member to replace Madam Justice Prowse.

The major focus of the committee over the past year has been the privacy issues in judgments, a protocol for signing orders and judgments when a member of the panel is away, and how to deal with unrepresented litigants in criminal appeals.

Family Law

After only five months of judgments in family law appeals appearing with initials instead of full names, the Planning Committee was asked to revisit the decision, which had been approved by the Court. The issues arising from the lack of identity in the family law judgments had led to a difficulty in researching and citing relevant authorities. A subcommittee was formed to report back to the full committee. The recommendation, which was adopted, was that the Court would return to the use of full names in family law judgments while at the same time

preparing guidelines for the protection of privacy interests of the parties and their children. The work of preparing guidelines is still in progress.

Unrepresented Litigants in Criminal Appeals

The Committee and the Court approved a uniform way of assisting unrepresented litigants in criminal appeals. After consultation with the other Provinces, it was agreed to follow this procedure:

- Where time limits have not been met, the appellant is told to apply for legal aid;
- If legal aid is refused, the appellant is told to apply for the appointment of counsel under s. 684 of the Criminal Code;
- If assistance is needed in applying for counsel, the chambers judge might authorize legal assistance for the limited purpose of completing the application;
- If there appears to be an aspect of the case worthy of further investigation, counsel might be appointed to argue the s. 684 application itself;
- The chambers judge should be satisfied that all the materials necessary for a fair assessment of the merits are available. This does not mean a full transcript in every case.

Reduction of Hearing Times

The Planning Committee continues to monitor time estimates for appeal and to recommend reductions in the hearing time where appropriate. Most appeals are set for one-half day hearing. Of the cases in

which a one day hearing time is requested, approximately one-fifth are reduced to hearing times of one-half day by the registrar. A smaller proportion of cases in which one or more days are requested for hearing are reduced. Very few appeals exceed the allotted or reduced time limit. The Committee notes it is difficult to estimate the time if the respondent's factum is not filed at the time a date for the hearing is obtained.

Television in the Court of Appeal

In March, 2002 the Canadian Judicial Council modified its stand on televising court proceedings by exempting appellate courts from its position that "TV in the courts is not in the best interests of the administration of justice". The BC Court of Appeal has not, as yet, had a request for televising a court proceeding. If a request is received, it will be referred to the Chief Justice for direction.

Videoconferencing

The Committee recommended to the Court that the *Court of Appeal Act* be amended to permit appeals to be heard by videoconference. Currently the Court will continue with the informal procedure of having applicants request videoconferencing facilities for their application or hearing. The use of such technology is always subject to the discretion of the judge in chambers or the panel hearing the appeal. The Court will also issue a Practice Directive on the procedure for applying to use videoconferencing.

Digital Recording/Transcript Requests

1) Proceedings in Court of Appeal chambers are currently recorded digitally. The tape machines are still in the other courtrooms. Proceedings from chambers are currently retained for three months and then the disc is destroyed. Anyone requiring a transcript of proceedings in chambers (other than the reasons, which are automatically transcribed) should be referred to the tape management office in the Supreme Court. Arrangements will be made to have a transcriber produce the transcript for the usual fee.

2) There has not yet been a request from a non-party for access to an electronic trial transcript in the Court of Appeal. If a request is received, the matter will be referred to the Chief Justice for directions.

Peremptory List

The Committee approved the removal of the word “peremptory” from the court lists and recommends that the daily list be headed “Hearing List”.

Victoria Sittings

The periodic partial collapse of the list in Victoria prompted the Planning Committee to look at ways in which this could be avoided. The committee concluded that it would be appropriate for the Registry to contact counsel the week before the sitting to confirm the list of appeals scheduled.

Tape Recording of Court of Appeal Proceedings

The Committee decided that the Court of Appeal needed a protocol to follow when a journalist makes a request to tape record proceedings in court or chambers. The Court of Appeal policy will refer to the Supreme Court protocol and indicate that if a member of the press has been accredited by the Supreme Court, that accreditation is also accepted for Court of Appeal purposes. This policy will be drafted and considered at a subsequent meeting.

CSOnline

The Committee was involved in vetting the proposed information in the Court of Appeal case tracking system which will eventually be made available to the public, for a fee, over the internet. This system is currently being developed and it is hoped will be available late in 2004.

Bulk Access Agreements

The Judicial Access Policy Working Group is proposing an amendment to the Electronic Access Policy concerning reduced fees for bulk access to electronic information by credit and other agencies. The Technology Committee is also dealing with this issue. The Committee approved the amendment which requires an application procedure for the company which is vetted by the Judicial Access Policy Working Group. Access to court information will only be allowed where the primary purpose of providing the court record information is to better facilitate the conduct of civil proceedings and to improve access where the public interest is served.

LAW CLERK COMMITTEE

Members:

The Honourable Madam Justice Saunders (Chair)
The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Smith

At the beginning of 2003, Madam Justice Newbury retired from the Law Clerk Committee and Mr. Justice Smith joined the committee. Madam Justice Saunders agreed to chair the committee.

The law clerks' terms at the Court of Appeal commence in September of each year and finish at the end of June (for those serving a ten-month term) or the end of August (for those serving a twelve-month term). In September 2003, eleven clerks began their clerkships with the Court of Appeal for the 2003-2004 term.

In February 2003, Meg Gaily, Law Officer to the Court of Appeal, and Judith Hoffman, Law Officer to the Supreme Court, received approximately ninety-one applications for the 28 law clerk positions at the Court of Appeal and Supreme Court for the 2004-2005 term. After reviewing the applications, the Law Officers interviewed many of these candidates during February 2003. Of these candidates, the Court of Appeal Law Clerk Committee interviewed 20 and selected eleven candidates for the law clerk

positions for the 2004-2005 term. Of the eleven law clerks who will commence their terms with the Court of Appeal in September 2004, five are graduates of UBC Law School, two are graduates of the University of Victoria Law School, and the remaining law clerks are graduates of Dalhousie, Queen's, the University of Alberta, and the University of Saskatchewan. The Law Officers and the members of the law clerk committee continue to refine the recruitment processes for the court's law clerks.

In November 2003, Madam Justice Saunders and Mr. Justice Mackenzie, together with members of the Supreme Court law clerks committee, the Law Officers and current law clerks, attended law clerk recruitment information sessions at the Universities of British Columbia and Victoria.

The Committee members wish to thank Ms. Gaily and Ms. Hoffman for their assistance during the year.

LIBRARY COMMITTEE

Members:

The Honourable Madam Justice Newbury (Chair)
The Honourable Mr. Justice Hood
The Honourable Madam Justice Humphries
The Honourable Madam Justice D. Smith
Ms. Diane Lemieux

The theme for 2003 was one of adjustment and change. With many of the technological advances over the last few years and some personnel changes, the timing was right for a complete look at the library services provided for the members of the judiciary. In order to help us plan, a survey was sent out at the end of September to all judges and masters to establish what their user preferences and library needs currently are and what we could expect them to be in the foreseeable future. The results of the survey were somewhat varied, but not surprising. They will help us decipher what the pace of change should be and where the library should be heading. We reached the following conclusions:

- Subscriptions should continue for annual hard bound volumes to federal and provincial statutes.
- Subscriptions should continue to the annual hard bound copies of the Rules of Court.
- Subscriptions to the various case law reporters should continue, with the cost of upkeep continually checked against the cost of on-line subscriptions where available.

- Subscriptions to case law digests should continue.
- Annotation of case law reports should continue for the time being.

Networking with other law libraries through memberships with CALL (Canadian Association of Law Libraries) and VALL (Vancouver Association of Law Libraries) continues our ability to access legal information resources and services from other law library members coast to coast. As well, registration with the National Library of Canada now allows us access to inter-library loan services with other libraries across Canada.

An upgrade to the library's software program, DBTextworks was purchased in December, which will enable us to enhance our research capabilities and streamline operations. A programme of regular weeding, repair and binding to improve functionality, condition and accessibility of the collection has continued with additional involvement in the New Westminster Judges' Library.

The library continues the administration of the Superior Courts Quicklaw account for

the purpose of passwords and training for law clerks and judicial staff. Enhancement and maintenance of the library pages in our in-house 'Intranet' site keep our links to the Internet resourceful and up-to-date. Suggestions to include links to in-house conference papers and course materials have begun and will continue to be implemented in the new year.

The year 2003 would not be complete without the mention of the retirement of Anne Rector last spring. Anne will be fondly remembered for years to come by many of the judges and law clerks who partook of her assistance during the last 28 years. Anne worked not only in the current courthouse located at 800 Smithe St. but also at the grand "Old" courthouse location (now the Art Gallery on Georgia St.). We wish her a long and happy retirement.

EDUCATION COMMITTEE

Members:

The Honourable Madam Justice Huddart
Then Honourable Madam Justice Levine

In 2003, the Education Committee, consisting of Madam Justice Huddart and Madam Justice Levine, continued to provide learning opportunities within the Court.

The Law at Lunch Program, started in the Fall of 2002, continued in 2003. Speakers on a variety of topics enhanced our understanding of issues relating to our judicial work.

In the Spring, our guests discussed learning styles, and how they affect decision-making and problem-solving; judicial computer services; “junk science”; and the International Centre for Criminal Law Reform and Criminal Justice Policy, including their study on marijuana grow operations in British Columbia. In the Fall, the topics included “The Modern Practice of Law” and “Consumers/Investors and the Financial Services Industry”.

Law at Lunch continues in 2004. Speakers will include Dean Mary Anne Bobinski of the Faculty of Law at the

University of British Columbia. Her attendance will be co-sponsored with the Education Committee of the Supreme Court.

In March 2003, a successful joint educational conference was held with the Supreme Court of British Columbia. The program included panels on the use of historical evidence, international law, and issues in judicial ethics.

In addition to the programs offered within the Court, judges of the Court are offered numerous learning opportunities through such educational institutions as the National Judicial Institute, the Canadian Institute for the Administration of Justice, the Federation of Law Societies, the Continuing Legal Education Society of British Columbia, the Canadian Bar Association and university law faculties.

PRO BONO COMMITTEE

Members:

The Honourable Chief Justice Finch
The Honourable Mr. Justice Donald
Then Honourable Madam Justice Levine
Meg Gaily, Law Officer

The Pro Bono Project for appeals to the Court of Appeal is well underway and appears to have completed its first year of operation successfully.

The Salvation Army screens applicants and a group of senior lawyers, acting under the auspices of the Canadian Bar Association – BC Branch, assigns files from a roster of volunteer lawyers.

On 30 October 2003 the committee hosted a reception for participants in the project. Chief Justice Finch thanked the participants for their generous efforts and invited informal discussion of the process. It was generally agreed that the project was worthwhile and should continue.

Pro Bono Net BC, the major coordinating agency for services in this area, has agreed to conduct an evaluation of the project.

The Committee wishes to thank the following people for their efforts in establishing the program:

Geoffrey Cowper, Q.C.
Carmen Overholt, Q.C.
Richard C.C. Peck, Q.C.
John Pavey (Salvation Army)
Georgiale Lang

The Committee also thanks the following lawyers who have participated in the Pro Bono program. The Committee apologizes if anyone has been missed in this list.

James C. MacInnis
Craig A.B. Ferris
Lisa Warren
Simon Coval
Michelle Booker
Elizabeth S. Liu
Peter Juk
Errin Poyner
George McIntosh, Q.C.
Andrew I. Nathanson
Rose-Mary Basham, Q.C.
Josiah Wood, Q.C.
Stephen Antle
John Hunter, Q.C.
Jeffrey Campbell
Thomas R. Berger, O.C., Q.C.
Peter Brown
Lisa Claxton
K. Michael Stephens
Nikos Harris
April Lee
Lorne MacLean
Kelly Doyle
Beth Livingstone

TECHNOLOGY COMMITTEE

Members:

The Honourable Mr. Justice Tysoe (Chair)
The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Pitfield
The Honourable Madam Justice Boyd
Alix Campbell, Director, Judicial Administration
Jennifer Jordan, Registrar, B.C. Court of Appeal
Judith Hoffman, Law Officer Supreme Court
Cindy Friesen, Manager, Trial Coordinators
Steve Blanchard, IT Consultant

The mandate of the Technology Committee is to deal with the technology requirements of judges, including software and hardware, and security concerns arising from use of the judicial network, including the e-mail system. The Committee meets generally once a month. The following topics were discussed at the meetings over the past year.

The Committee welcomed Judith Hoffman and Cindy Friesen as new members of the Committee. It was felt that as representatives of other judicial users they could make valuable contributions.

Court of Appeal WebCATS

Replacement of the Court of Appeal Tracking system with a new web-based case tracking system called WebCATS was completed in 2003.

Supreme Court Trial Scheduling System (SCSS)

Work has begun on replacing the Supreme Court Scheduling system. The same

company developing WebCATS is doing the trial scheduling system. A steering Committee has been created with Mr. Justice Tysoe as chair. The implementation for the scheduling system is planned for spring 2004.

Electronic Filing

CSONline is currently being developed by Court Services. The Committee attended a demonstration of the proposed electronic search facility and were favourably impressed. Electronic filing will be developed after the electronic search capabilities on the new case tracking systems in the Supreme Court and Court of Appeal. Eventually, counsel or a member of the public will be able to do basic searches on civil files to find out case details such as next hearing date and the results of the hearings. It is anticipated that electronic search will be implemented for the Supreme Court in the spring of 2004. Electronic filing is being scheduled for implementation in the fall of 2005. In

the meantime, e-filing rules are being developed for all courts.

Internet/Intranet Design

The Courts' Website and the intranet have been redesigned and were deployed in February, 2004. The redesign allows the IT staff to take advantage of current technology to update the site automatically. The design of the site will resemble the current design of WebCATS and Supreme Court Scheduling System. In addition, the site will adopt some of the government standards for websites. There is a working committee involved in reviewing the design and content.

Report from IT Services

In late spring all of the servers were replaced and upgraded with the current software. This is part of the Transition Project undertaken by IT Services. All courtrooms have been wired to the judicial network so a judge may take a laptop into the courtroom and be connected to the network. Cables are to be provided by Court Services. The current focus of the IT group is on customer satisfaction. The Committee agreed that IT Services has been performing admirably to date. Mark Hujanen, the manager of IT Services, is looking forward to undertaking some more long term projects such as external access for judges (VPN and Citrex) as well as security upgrades and the monitoring of the servers and network for performance.

Bulk Access Agreements

There are currently several bulk access agreements between Court Services and private companies who access current

Supreme Court civil new files. A flat fee is charged for the access. With the advent of electronic filing, there will be an increased demand for electronic access to court information. The Committee has been asked to consider an amendment to the Electronic Access Policy (which was approved by all three courts in 2002) to include access to bulk material. The Supreme Court Executive Committee and the Court of Appeal Planning Committee are also being asked to look at the proposed amendment.

Links to the Courts' Website

There have been a few requests to the webmaster to add links to specific websites on to the Courts Website. The Committee decided to adopt a policy forbidding any links from the courts' website to any commercial site.

Judgment Templates

New judgment templates for the Supreme Court and Court of Appeal were approved by the Committee. The revised templates take into account the revisions to the document "Canadian Guide to the Uniform Preparation of Judgments." The guide was approved in 2002 by the Canadian Judicial Council.

Security Blueprint

A draft "Blueprint for the Security of Judicial Information" was circulated in the summer of 2003 for feedback. The report was reviewed by Tysoe, J., Steve Blanchard and Mark Hujanen and the comments were then forwarded to Martin Felsky, a member of the Security Subcommittee of the Judges' Technology Advisory Committee. Comments were

favourable to the blueprint although there was some concern expressed about the mandatory language of the report. The Blueprint is currently on the Canadian Judicial Council website for consultation purposes (www.cjc-ccm.gc.ca).

Security of E-mail Transmissions

The Committee discussed the security of e-mail transmissions within the courts' network. It was brought to the Committee's attention that e-mails sent from court locations outside of the lower mainland relied on the B.C. government's network which did not have the same firewall protection as did the courts in Vancouver. The IT department implemented encryption of e-mails on all judicial computers as a response to the problem.

Acceptable Use Policy

The Judges' Technology Advisory Committee of the Canadian Judicial Council has prepared an "Acceptable Use Policy" for judges and judicial staff. This policy has been reviewed by the Committee and will be approved, with a few changes, before it is sent to the full court meetings for adoption by the judges.

DivorceMate Software Program

This program was purchased for Supreme Court judges and installed for use on the network. It was brought to the Committee's attention that DivorceMate was using this purchase as a marketing device in literature that boasted "the BC judiciary have embraced the program. The Director of Judicial Administration wrote to the company and asked for a retraction of the statement, which was accomplished.

Computer Use by Juries

A judge allowed a member of a jury to take notes on his laptop, provided that all notes taken during the trial or deliberations were eliminated from the computer once the jury left the courthouse. The Committee will be asking the Supreme Court Executive Committee whether there is a need for a policy on the use of laptops by jurors.

JUDICIAL ACCESS POLICY WORKING COMMITTEE

Members:

Jennifer Jordan, Registrar, Court of Appeal (Chair)
Alix Campbell, Director Judicial Administration, Superior Courts
Virginia Day, Director, Business Development and Change Management, Court Services
Meg Gaily, Law Officer, Court of Appeal
Judith Hoffman, Law Officer, Supreme Court
Gene Jamieson, Legal Officer, Provincial Court
Mike Smith, Director Judicial Administration, Provincial Court
Kathryn Thomson, Legal Policy Consultant

Mandate of the Committee

With the introduction of electronic case tracking systems in the courts of British Columbia, and the future plan to introduce electronic filing, it was necessary to consider the development of policies relating to access to court record information by the public and other interested parties. Since the judiciary create policies governing access to this information while Court Services is charged with the collection and storage of this information, a joint committee was contemplated which would bring together all three levels of courts. The Committee is a working group which develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies. The Chief Justices and Chief Judge are then consulted before a policy is adopted.

Work of the Committee

In 2002 the Chief Justices, Chief Judge, the Deputy Minister and Assistant Deputy Minister approved the Electronic Access Policy. This is a policy governing access

to an electronic system which ensures that the proper level of judicial control over civil court information and processes is maintained. The Policy is considered a work in progress and it is anticipated that as issues develop the policy will be amended in order to accommodate particular issues. This draft policy, managed by the Access Policy Working Committee, is intended to form the basis for the development and maintenance of an electronic access policy governing an electronic court services system.

Since access is such a large issue in the Courts, the Committee will also be charged with considering all access to court records generally, without limiting the policy development to electronic access.

In 2003 the Committee, which meets monthly, was involved in several requests relating to access to court record information. The Committee also reviews proposals relating to specific topics which need further investigation in the electronic world. What follows is a small list of items considered:

- Bulk and special access (commercial access) to electronic court records
- Status of court records under the *Freedom of Information and Protection of Privacy Act*
- Traffic tickets – disclosure of personal information
- Consultation regarding access to court records in administering the *Unclaimed Property Act*
- Court Services Online, including E-Search of court records
- Policy with respect to access to records where pardons have been issued
- Electronic signatures in employment standards decisions
- Schedule for retention of court record information
- Access to criminal record information
- Whether Chambers Lists are “records in a court file” for the purposes of the privacy legislation

- Formalizing the application procedure for access to the various court systems

Many of the issues which arise in the electronic environment relate to the tension between the openness of the court process and the desire for the protection of private information of those involved in the court process. Reference to the complexity of the issues may be found in the excellent discussion paper issued by the Canadian Judicial Council entitled “Open Courts, Electronic Access to Court Records, and Privacy” May, 2003 (http://www.cjc-ccm.gc.ca/english/news_releases/2003_09_04.htm) The discussion paper was prepared by the Council's Judges Technology Advisory Committee, whose mandate includes examining the effective use of technology in Canada's courts. The paper surveys the rapid move across North America to electronic filing and electronic retrieval of court records and docket information, and examines significant policy and practical issues which "e-access" presents for courts and others.

JOINT COURT E-FILING RULES COMMITTEE

Members:

Mr. Justice Macaulay (Supreme Court), Chair
Mr. Justice Mackenzie (Court of Appeal)
Judge Gill (Provincial Court)
Judge Cohen (Provincial Court)
Ken Downing, Senior Legislative Counsel
Ken McEwan, Member of the Bar
Meg Gaily, Law Officer Court of Appeal
Judith Hoffman, Law Officer Supreme Court
Gene Jamieson, Legal Officer Provincial Court
Jennifer Jordan, Registrar Court of Appeal
Kathryn Thomson, Legal Policy Consultant

Mandate of the Committee

Late in 2003, the Joint E-Filing Rules Committee was formed drawing members from the three levels of court; a bar representative and senior legislative counsel (both of whom are members of the Supreme Court Rules Committee); the law officers from the three courts; the Court of Appeal Registrar and the Court Services consultant, both of whom sit on the Court Services Online Management Committee.

The electronic filing of documents is planned for implementation in September 2005. The Pilot Project is expected to run in the spring of 2005. The mandate of the Committee is to prepare draft rules which each member can then take back to their respective rules committees and make whatever changes are necessary for their individual courts. It is anticipated that there will be draft rules by April, 2004.

The Committee expressly agreed that issues of access and privacy are beyond the scope of the mandate of this

Committee. These are obviously issues which need to be addressed, but this work should be left to the Judicial Access Policy Working Committee and the policy committees for each of the courts.

Issues

Various issues were identified and discussed before legislative counsel could begin drafting. An example of the issues discussed follows:

- Who can file electronically
- Timing and effect of e-filing
- Format of documents
- Which documents can be electronically filed
- Payment of fees
- Signatures
- Electronic service
- Original documents
- Affidavits and exhibits
- Amendments to the *BC Evidence Act*

STATISTICS

SUPREME COURT OF CANADA

There were 49 applications for leave to appeal from decisions of our Court filed with the Supreme Court of Canada in 2003.

The Supreme Court considered 60 applications for leave to appeal and 1 extension of time was dismissed. Of these applications, 8 were granted, 39 were dismissed and there are 13 decisions pending at the end of 2003.

In 2003, the Supreme Court of Canada heard 22 appeals from B.C. cases. Of these appeals, 4 appeals were allowed, 13 appeals were dismissed and there were 5 reserve judgments pending at the end of 2003. In addition to these decisions, another 23 judgments were rendered in B.C. cases which had been heard in previous years. Of these, 7 appeals were allowed and 16 appeals were dismissed.

B.C. Court of Appeal

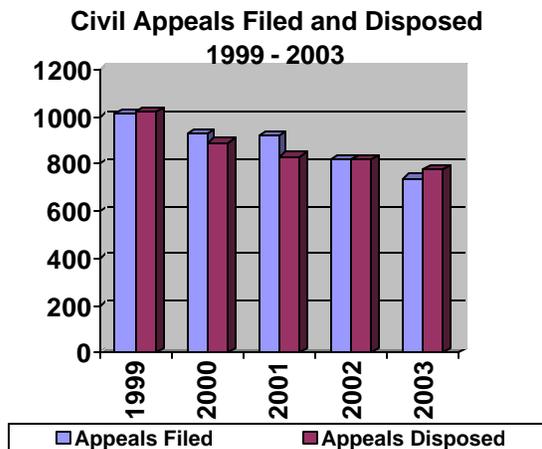
Volume of Litigation*

The charts on this page show the volume of litigation and compare the number of appeals filed, both civil and criminal, and the number of appeals disposed for the years 1999-2003.

Civil

Figure 1 demonstrates the decline in the number of civil appeals filed and disposed over the last five years. This figure also shows that 2003 was successful in having the number of dispositions slightly exceed the number of filings. As Appendix 1 indicates, dispositions were 105% of the filings for civil appeals.

Figure 1

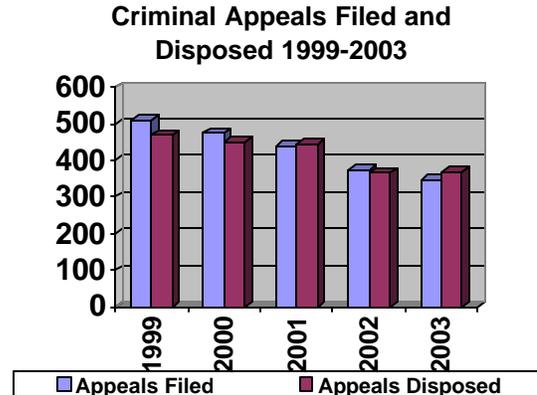


Criminal

Criminal filings amount to less than half the number of civil filings. Figure 2 shows that the number of criminal appeals disposed of finally exceeded the number of appeals filed, which assists in clearing out a small part of the backlog of criminal

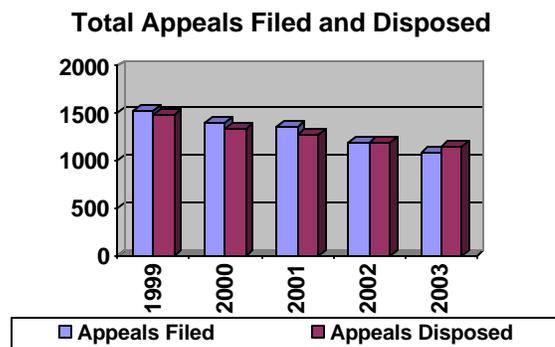
appeals. For 2003, dispositions were 107% of filings (see Appendix 2).

Figure 2



For a more complete picture of total court activity, Figure 3 combines the civil and criminal filings and dispositions. As is evident, there has been a marked decrease, since 1999, of both filings and dispositions in the Court of Appeal. However, 2003 is the first year where dispositions exceeded filings.

Figure 3

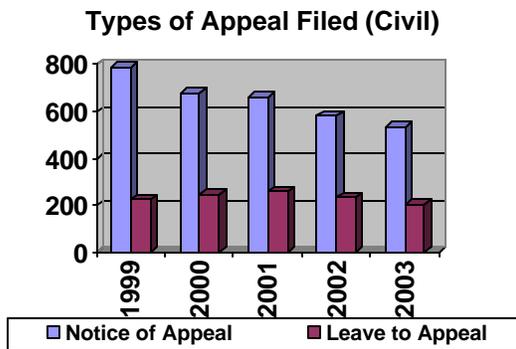


*Please refer to the appendices for the actual numbers in these charts.

Types of Appeals Filed

About 28% of the civil appeals filed in 2003 were applications for leave to appeal. These appeals require the permission of a justice before they can be heard by a panel of three judges. In 2003, about 65% of the applications for leave to appeal were granted. Figure 4 shows the comparison of applications for leave to appeal with appeals as of right.

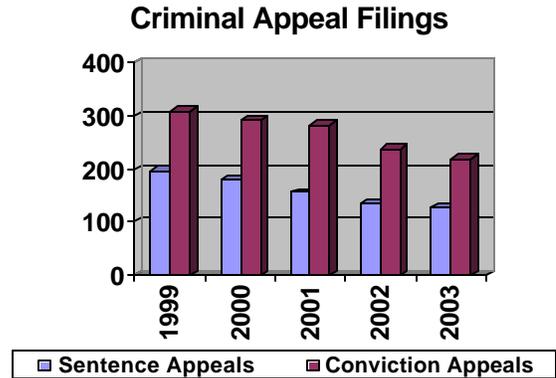
Figure 4



Criminal Case Types

In criminal appeals, appeals from convictions and acquittals take up most of the hearing time of the court, while sentence appeals and summary conviction appeals require less time. Figure 5 gives a comparison of criminal appeals filed between 1999 and 2003. Sentence appeals amount to less than half (36%) of the total criminal appeals filed.

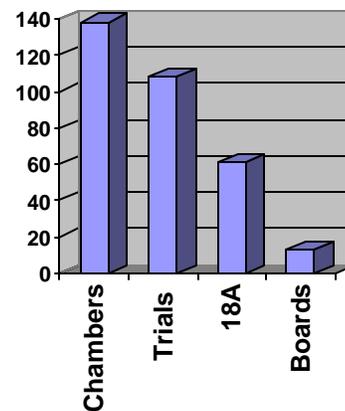
Figure 5



Origin of Appeals

Another way to categorize the civil work of the court is to look at the type of proceeding which gave rise to the appeal. The majority of appeals arise from chambers matters and summary trials. The 2003 figures show there were substantially more appeals from chambers matters as there were appeals from trials. Figure 6 shows the types of appeals according to the initiating proceeding.

Figure 6

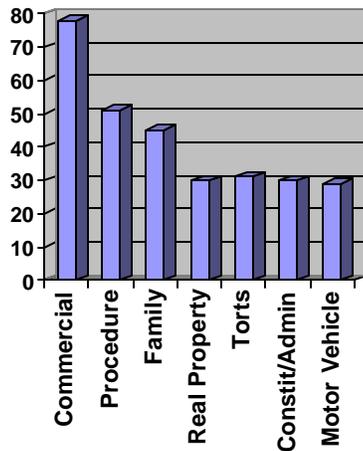


Civil Case Categories

In addition to the origin of civil appeals, there are nine broad categories of civil appeals. Figure 7 gives a flavour of the variety of cases which are heard by the Court of Appeal.

Figure 7

Civil Categories Appeals Heard 2003

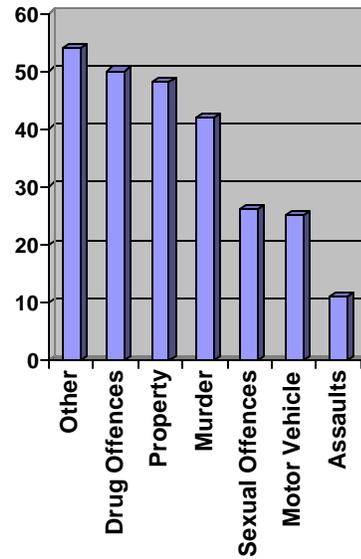


Criminal Case Categories

Another interesting breakdown is for the types of criminal cases which are dealt with by the Court. Drug offences and property offences form the largest categories, amounting to over 38% of the cases before the Court. "Other" covers various offences (such as arson, and mischief and extradition and habeas corpus cases). Figure 8 gives the top seven distinct categories.

Figure 8

Criminal Categories Appeals Heard 2003



Appeals Allowed

The rate of civil and criminal appeals allowed over the past five years remained relatively constant until this year, where the rate dropped from 43% to 38%. Figure 9 shows the number of civil appeals allowed and Figure 10 shows the number of criminal appeals allowed.

Figure 9

Civil Appeals Allowed/Dismissed 1999-2003

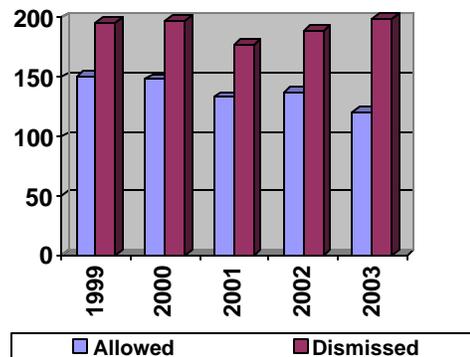
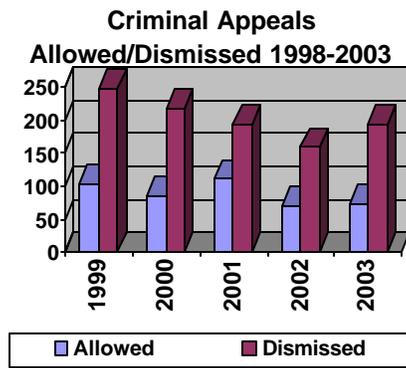


Figure 10



Appendix 1 – Civil Appeals

British Columbia Court of Appeal

Civil Statistics 1995-2003

	1995	1996	1997	1998	1999	2000	2001	2002	2003
APPEALS FILED:									
Notice of Appeal	929	902	854	822	787	679	660	582	532
Leave to Appeal	355	272	273	272	224	248	258	236	204
TOTAL FILED	1284	1174	1127	1094	1011	927	918	818	736
COURT DISPOSITIONS:									
Appeals Allowed	146	174	159	142	151	148	133	137	121
Appeals Allowed %	38%	39%	39%	37%	43%	42%	43%	42%	38%
Appeals Dismissed	237	271	250	241	196	197	177	189	199
Appeals Dismissed %	62%	61%	61%	63%	57%	58%	57%	58%	62%
TOTAL COURT DISPOSITIONS	383	445	409	383	347	345	310	326	320
Appeals Concluded in Chambers or Abandoned	559	1055	988	744	673	544	522	492	455
TOTAL DISPOSITIONS	942	1500	1397	1127	1020	889	832	818	775
Dispositions as % of Filings	73%	128%	124%	103%	101%	96%	91%	100%	105%
Judgments Reserved	179	210	188	182	174	197	178	193	181
Appeals with 5 Judges	10	27	3	5	3	12	16	10	16
Court Motions: Reviews	11	8	10	13	16	10	7	17	13
Granted	9	4	5	6	0	3	6	2	7
Refused	2	4	5	7	16	7	1	15	6
Chambers Motions	745	736	643	664	568	530	419	427	451
LEAVE TO APPEAL									
Granted	86	95	74	65	18	80	75	65	56
Refused	51	76	71	48	39	37	35	26	30
Total	137	171	145	113	57	117	110	91	86

Appendix 2 – Criminal Appeals

British Columbia Court of Appeal
Criminal Statistics 1995-2003

	1995	1996	1997	1998	1999	2000	2001	2002	2003
APPEALS FILED:									
Sentence	237	207	249	219	199	182	156	133	126
Conviction	232	220	232	231	203	174	177	128	130
Summary Conviction	44	29	48	54	39	40	37	47	33
Acquittal & Other	77	69	50	63	68	78	69	64	57
TOTAL FILED	590	525	579	567	509	474	439	372	346
COURT DISPOSITIONS:									
Appeals Allowed	127	92	115	127	103	84	111	70	72
Appeals Allowed %	33%	26%	31%	31%	29%	28%	37%	31%	27%
Appeals Dismissed	254	266	253	283	248	218	193	159	193
Appeals Dismissed %	67%	74%	69%	69%	71%	72%	63%	69%	73%
TOTAL	381	358	368	410	351	302	304	229	265
Summary Dismissals Abandonments in Court/Chambers	317	176	193	134	118	149	139	137	105
TOTAL DISPOSITIONS	698	534	561	544	469	451	443	366	370
Appeals Disposed % of Filings	118%	102%	97%	96%	92%	95%	101%	98%	107%
Appeals Heard by 5 Judges	2	2	3	3	4	5	5	0	1
Judgments Reserved	101	92	116	117	78	89	89	86	109
Chambers Motions	329	302	332	316	305	218	260	230	219

Appendix 3 – Total Appeals

British Columbia Court of Appeal

Total Appeals Filed and Disposed 1995-2003

	1995	1996	1997	1998	1999	2000	2001	2002	2003
APPEALS FILED:	1874	1699	1706	1661	1520	1401	1357	1190	1082
COURT DISPOSITIONS:	764	803	777	793	698	647	614	555	562
Appeals Allowed	273	266	274	269	254	232	244	207	193
Appeals Allowed %	36%	33%	35%	34%	36%	36%	40%	37%	33%
Appeals Dismissed	491	537	503	524	444	415	370	348	392
Appeals Dismissed %	64%	67%	65%	66%	64%	64%	60%	63%	67%
TOTAL	764	803	777	793	698	647	614	555	585
Appeals Concluded in Chambers or Abandoned	876	1231	1181	878	791	693	661	629	560
TOTAL DISPOSITIONS	1640	2034	1958	1671	1489	1340	1275	1184	1145
Dispositions as % of Filings	88%	120%	115%	101%	98%	96%	94%	99%	106%
Judgments Reserved	280	302	304	299	252	286	267	279	290
Appeals with 5 Judges	12	29	6	8	7	17	21	10	17
Chambers Motions	1074	1038	975	980	873	748	679	657	670