

**B.C. COURT OF APPEAL
2005
ANNUAL REPORT**

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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)
June 30, 2005 (Retired)

*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)
November 1, 2005 (Retired)

The Honourable Madam Justice Southin

March 11, 1985 (Supreme Court)
September 8, 1988 (Court of Appeal)

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)
December 29, 2005 (Retired)

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)

April 8, 2005 (Resigned)

The Honourable Mr. Justice Lowry

October 11, 1991 (Supreme Court)

June 30, 2003 (Court of Appeal)

The Honourable Madam Justice Kirkpatrick

November 20, 1989 (Supreme Court Master)

November 27, 1992 (Supreme Court)

June 2, 2005 (Court of Appeal)

* Supernumerary

STAFF OF THE B.C. COURT OF APPEAL

Jennifer Jordan	Registrar
Meg Gaily	Law Officer
Jill Leacock	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 2004–2005

Oren Bick
Jason Fisher
Kristin Gardner
Alison Kearns
Lisa Kerr
Adam Perry
Elizabeth Reid
Elin Sigurdson
Jessica Spraggs
Jennifer Stewart
Shauna Towriss

Judicial Staff

Diane Berry
Susan Devenish
Elise Du Mont
Jackie Mangan Karm
Lorraine Maze
Cherry Mills
Patricia Pang
Sandra Smith*
Teresa Smith

Registry Staff

Kathy Amantea**

Torri Enderton
Khunguray
Jennifer Rahiman
Diane Schwab
Moira Syring*
Pat White*
Janice Wilson

***Victoria**

****Kamloops**

Ushers

Bill Deans
Thomas Huang
Alex Sashaw

Webmaster

Angela Allwood
Patricia Pang

SUPERIOR COURTS JUDICIARY STAFF

Judicial Administration

Alix Campbell	Director, Judicial Administration
Margaret Neuhaus	Manager, Support Services
Colin Sharwood	Manager, Information Technology and Finance
Tammy McCann	Director's Secretary
Yvonne Samek	Finance and Administration Clerk
Michelle Sam	Judicial Administration Clerk

Judges' Library

Diane Lemieux
Angela Allwood
Myrna Hawes*

Manager, Project Management Office

Bob Braganza

IT Services

Mark Hujanen, Service Delivery Manager

***Victoria**

REPORT OF THE HONOURABLE CHIEF JUSTICE FINCH

The Court's Complement

In 2005 the Court lost one full-time member, and gained a new appointment to fill that position. In addition, the Court lost the services of three supernumerary judges.

The Honourable Wallace T. Oppal resigned from the Court on 8 April 2005. He was appointed to the Court of Appeal on 19 June 2003, following a long and distinguished career in the trial courts – four years as a judge of the County Court of Westminster, and eighteen years as a judge of the Supreme Court of British Columbia.

Before his appointment as a judge, Mr. Oppal practised criminal law as both prosecutor and defence counsel. During his time as judge he presided over a number of difficult and high profile criminal trials. He contributed his time generously to legal and judicial education programs, and was much in demand as a speaker at a wide range of public events.

Mr. Oppal left the Court to commence a new career in politics. He is presently Attorney General for the Province of British Columbia. Members of the Court miss his presence, and wish him well in his new and important role in public life.

Madam Justice Pamela Kirkpatrick was appointed on 2 June 2006 to fill the vacant position created by Mr. Justice Oppal's resignation. The new judge was first appointed to the B.C. Supreme Court on

30 November 1992, following fifteen years of practise in commercial and real estate law with a major Vancouver law firm. Her extensive experience both as a practitioner and judge, and her quick legal mind, have made her a welcome addition to the Court.

Three of our senior supernumerary judges reached the mandatory retirement age in 2005. The Honourable Douglas Lambert was appointed to the Court of Appeal on 5 September 1978, directly from the practising bar. His tenure in the Court of Appeal spanned twenty-seven years. His professional practise was mainly in commercial and banking law. Prior to that he worked for the Federal Justice Department drafting financial legislation, and for the legal department of the B.C. Hydro and Power Corporation. He was a member and a chairman of the B.C. Law Reform Commission.

During his time on the Court, Mr. Justice Lambert wrote a vast number of scholarly judgments in all fields of law. He will be remembered especially for his judgments in the field of aboriginal law, often in dissent, which have helped to transform the approach to this emerging and difficult area.

The Honourable William Esson reached the mandatory retirement age on 1 November 2005. He was first appointed a judge of the Supreme Court of British Columbia on 20 February 1979. He moved to the Court of Appeal on 5 May 1983.

On 30 June 1989 Mr. Justice Esson returned to the Supreme Court of British Columbia, this time as Chief Justice of that Court, newly merged with the Provincial County Courts. He served as Chief Justice of the Supreme Court with great distinction during the challenges of merger, and thereafter for seven years. On 2 October 1996 he returned to the Court of Appeal, where he continued to serve until his retirement last year. He is only one of two judges (the other being Chief Justice Nemetz) ever to have been appointed twice to both the Supreme Court of British Columbia and the B.C. Court of Appeal.

Mr. Justice Esson's broad experience, scholarship and wisdom combined to produce a wealth of careful, well reasoned and thoughtful judgments, a profound contribution to all fields of jurisprudence.

The Honourable Thomas Braidwood was appointed a justice of the B.C. Court of Appeal on 19 December 1996. He had served as a judge in the B.C. Supreme Court for the previous six years. His retirement at the mandatory age on 31 December 2005 marked the end of a distinguished fifteen year career as a judge.

Mr. Justice Braidwood was called to the B.C. Bar in 1957. He practised with the late Angelo Branca Q.C., until the latter's appointment as a judge in 1963. Thereafter Mr. Braidwood continued to lead his firm as counsel in cases of all kinds. Although he conducted many difficult and high profile criminal cases for both prosecution and defence, he also acted as counsel in labour, commercial, family law, wills, and negligence cases.

His broad range of experience, uncommon among modern practitioners, made Mr. Justice Braidwood a most balanced and versatile jurist. In addition to his legal ability he has a wonderful sense of humour, and was a fine colleague in all respects.

Finally, and on a sadder note, one of our former colleagues passed away on 26 June 2005. The Honourable Samuel Martin Toy retired from the B.C. Court of Appeal on 18 November 1993 on his sixty-fifth birthday. He enjoyed his subsequent years of retirement with his wife and family, and in sailing, skiing, golfing and watching football.

Sam Toy was called to the Bar in 1955, and practised mainly criminal law, as both prosecuting and defence counsel. He was appointed a justice of the B.C. Supreme Court on 4 February 1974, and then of the Court of Appeal on 19 September 1988. His experience in criminal law was of considerable benefit to both Courts, and he presided over many troubling criminal trials and appeals. Sam Toy was a very private person and a devoted family man. He was also a generous, good natured and witty colleague, to all the judges he served with in both Courts.

The changes to the Court's complement in 2005 have left it with all fifteen full-time positions filled, and two supernumerary judges, one of whom, Madam Justice Huddart, will take up residence in Victoria at the beginning of 2006. Of the seventeen judges in the Court, there are nine women and eight men.

The Work of the Court

Statistics for criminal and civil caseloads in 2005, and comparative numbers since 1995 are attached to this report as Appendices. Until last year the number of new appeals filed was decreasing at a more or less constant rate.

The year 2005 marked a sharp change in this trend. The number of new appeals filed jumped to 1,169 from 1,046, an increase in excess of 11%. (In some criminal appeals the notice of appeal combines appeal against conviction and appeal against sentence, so the number of actual notices of appeal filed was counted as 1,106. However since sentence and conviction appeals are almost invariably heard in separate hearings, the number of new appeals filed is more accurately stated as 1,169.)

As with the downward trend in years leading up to 2004, we are unable to determine the reason for the sharp increase in the number of new filings in 2005. The increase was evident in both criminal and civil cases. There were 393 new criminal appeals filed in 2005, compared with 354 in 2004. There were 776 new civil appeals filed in 2005, compared with 692 in 2004. It is too early to say whether the increased number of new filings (coupled with the loss of three supernumerary judges) will have an effect on the availability of hearing dates.

The Court reserved judgment in 325 cases (including reserve chamber judgments) in 2005; 85 in criminal appeals, 166 in civil appeals, and 74 on chamber applications.

The total number of reserve judgments is down from 2004, when the Court reserved

judgment in 397 cases, the all time high for the recorded period.

Sittings of the Court

In 2005, Division 1 sat for 39 weeks, Division 2 sat for 33 weeks, and Division 3 sat for 12 weeks. In addition, the Court sat for 8 weeks in Victoria, one week in Kamloops, one week in Kelowna and one week in the Yukon. The total number of sitting Divisions/weeks was 95.

Timeliness of Judgments

The Court continued generally to render reserve judgments in compliance with the six month maximum guideline established by the Canadian Judicial Council. Of the 79 reserve judgments pronounced in criminal cases in 2005, all but six were delivered within the six month guideline. The vast majority (77%) were pronounced in less than three months.

On the civil side, of the total number of reserve judgments pronounced, 194, only 13 were delivered beyond the six month guideline. 80% of all reserved civil judgments were rendered in less than three months. The number of reserved judgments, both civil and criminal, delivered beyond the six month guideline in 2005 amounted to about 7% of the total. This is a slight increase from the comparable figure for 2004, 4.5%.

The Court continues to strive for full compliance with the six month guideline.

Finality

Our statistics do not permit an accurate annual comparison of cases where leave to appeal to the Supreme Court of Canada

has been granted, as against the total number of dispositions made by the Court of Appeal during the period when the Court decided those cases where leave is granted.

However, the statistics available indicate that leave to appeal to the Supreme Court of Canada is granted in only a very small percentage of cases. In 2005, the Supreme Court of Canada considered 64 applications for leave to appeal from judgments pronounced by the B.C. Court of Appeal. Leave was granted in 8 cases, 45 applications were dismissed, and 11 applications were still pending decision at the end of 2005.

Taking the total number of dispositions in 2004, 519, as the basis for comparison, fewer than 2% of B.C. appeals resulted in successful leave applications. Even if all 11 pending applications for leave are successful, leave will have been granted in less than 4% of cases decided by the B.C. Court of Appeal in the preceding year. This means that the B.C. Court of Appeal is the Court of final resort for over 95% of all appeals heard.

According to Supreme Court of Canada statistics for 2005 (not attached), applications for leave to appeal from British Columbia accounted for about 11% of all leave applications received by the Supreme Court of Canada. Of the 93 appeals heard by the Supreme Court of Canada in 2005, 21 originated in British Columbia, or about 23% of the total.

Self-Represented Litigants and Pro Bono Assistance

The number of litigants appearing without counsel in the Court of Appeal continues

to be a source of serious concern. Of the 1,102 new appeals filed in 2005, 236 involved at least one in-person litigant. This represents 21% of all new cases, and the proportion of in-person litigants is similar in both civil and criminal appeals – 18% of new criminal appeals have in-person accused, and 23% of new civil appeals involve an in-person litigant.

The numbers are only slightly lower than those for 2004, when 190 of all new filings, or 23%, had an in-person litigant.

The statistics for appeals heard are slightly better. Of 285 civil appeals heard in 2005, 37 or 13%, involved an in-person litigant. Of 184 criminal appeals heard 34, or 18%, involved an in-person accused. In addition 440 civil appeals were summarily dismissed – either as abandoned or because leave to appeal was refused. Of those 440 summarily dismissed appeals, 101, or 23%, involved at least one in-person litigant.

The Bar has been, and continues to be, most generous in providing pro bono legal assistance to needy litigants with meritorious cases. Pro Bono Law B.C. (a joint enterprise of the Law Society of British Columbia and the Canadian Bar Association, B.C. Branch) has taken a number of useful initiatives (including insurance coverage for lawyers engaged in pro bono work) and has established a number of progressive programs to facilitate the delivery of free legal services to those in need. The Court is most grateful to all lawyers who have provided free advice, counsel, or other assistance to those Court of Appeal litigants who have benefited from their generosity.

Even so, the statistics show that there is still a significant number of persons who appear in the Court of Appeal in-person, and who have had no help in preparing their case. These litigants are at a serious disadvantage in the adversarial judicial process. The Court continues to look to the Bar to do all it can to reduce the number of persons who do not have access to legal services.

Electronic Filing and Case Tracking

In 2005, the Court of Appeal continued to enhance WebCATS, the new Court of Appeal case tracking system. The enhancements include: adding a shortcut to view all appearances in court and chambers for a case; an ability to more easily enter a large number of parties; new reports; an ability to perform ad hoc reporting queries on a database; create a full master/sub file relationship so that filings to multiple files can be easily entered and the scheduling of multiple cases is improved; security roles have been defined in more detail, allowing internal court services employees (including sheriffs) access to the basic case tracking system; add the ability to delete a file; create a letters and documents function where documents are automatically created in the registry and filed with a link to the document; and an archiving and indexing facility for old files.

In addition to the enhancements, the daily court lists were made available on the internet as an enhancement to Court Services online. As well, basic information about an appeal filed after 2004 is available, for a fee, through CSOnline. The public is also able to

search, for free, the Court of Appeal index back to 1986.

A consultation document has been on the courts' website asking for feedback to a proposal to make certain documents which are electronically filed with the Court available, for a fee, over the internet. The list includes all of the regular forms (such as Notice of Appeal, Application for Leave to Appeal) but does not include any book which is filed with the Court (such as transcripts or factums). A decision will be made in 2006 as to which e-filed documents will be publicly accessible.

The Court of Appeal is continuing to prepare and plan for electronic filing. It is hoped that there will be a pilot project sometime in 2006.

Security

Current events around the world in 2005 have again reminded us how fortunate we are to live in a free and democratic society governed by the Rule of Law. Security in the courtroom is a fundamental requirement for the orderly disposition of the Court's business.

The judges and staff in the Court of Appeal again express their appreciation for the effective, but largely unseen, protection provided in our courthouses, and to all who use them, by sheriff services, a division of B.C. Court Services.

Registry and Staff

The senior staff positions in the Court of Appeal Registry remained unchanged in 2005. Jennifer Jordan has continued to serve as the Registrar of the Court providing effective leadership, especially

in the emerging area of electronic technology. Maria Littlejohn continues as Associate/Deputy Registrar of the Court, and Patrick Boyer continues as the Deputy Registrar/Manager for the Court. The Court's Law Officer, Meg Gaily, returned to duty in May 2005 following a leave. In her absence, her replacement, Jill Leacock, served us well. She is now Law Officer in the Supreme Court of British Columbia.

In addition to these dedicated public servants, the Court is also served by a body of fine personnel in the Court Registry, in the courtrooms, and by their judicial assistants and law clerks.

To all these persons who contribute to the effective operation of the Court, the judges express their sincere gratitude.

And to all members of the Court, I give my sincere thanks for another year of tireless effort in the cause of justice.

COMMITTEE REPORTS

RULES COMMITTEE

Members

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

Committee Membership

Mr. Justice Hall retired as chair from the Rules Committee after many years of service. Madam Justice Rowles was welcomed as the new Chair in January, 2005. The committee members wish to thank Mr. Justice Hall for his efforts over the years. The Committee also welcomed as its new member Mr. Justice Lowry.

New Practice Directives

A series of new Practice Directives and Notices to the Profession were approved in

2005 and circulated to the profession. They were:

- Transcripts – a full transcript may be filed in lieu of transcript extracts
- Joint Appeal Books and Transcript Extracts – The timing for filing joint books is allowed at 120 days from the filing of the Appeal Record
- Criminal Factums – the 30-page limit on factums specifically applies to criminal factums
- Ineffective Assistance of Trial Counsel – A procedure is set out for the appellant to notify the registrar and trial counsel of allegations concerning ineffective assistance of counsel at trial
- Frequently Cited Authorities – Pursuant to Rule 40(9) a list of frequently cited authorities has been published. Where counsel wish to rely on any of these authorities, they do not need to

- include a copy in the Book of Authorities.
- Citation of Authorities – This Directive was amended to stipulate that all authorities should be in at least 12 point type and can be cited from any electronic service. The Committee discussed the placement of the “In Chambers” designation and the citation of QuickLaw.
 - Electronic Factums - There is now a requirement that both Civil and Criminal factums be filed electronically.
 - Settlement Conferences – The Pilot Project for Court of Appeal Settlement Conferences was announced in November, 2004 and implemented in 2005. There is an extensive Practice Directive on this Project.
 - Leave to Appeal – A new Practice Note gives a respondent the ability to apply for directions when the respondent believes the appellant has filed the wrong initiating document.

Criminal Appeal Rules

The Criminal Appeal Rules were last amended in 1986. There have been changes to the practice and it is time the Rules were reviewed and updated. As a preliminary step, some research is being done on the Criminal Rules used in other provinces. One area that was agreed upon is that it would be useful for a chambers judge to have the authority to order a post sentence report.

Hearing of Criminal Appeals

Based on recent s. 13 (3) references, it appears there may be some problems with criminal appeals not proceeding as quickly as they should through the system. There may be a number of explanations for this. The Committee would like to review the criminal delay statistics for the last 5 years in order to see if there is a problem with delay and, if so, what the likely causes are.

Increased Costs

There was a discussion about continuing the increased costs provision where it has been abolished in the Supreme Court. In the Court of Appeal, scales 1 to 3, increased costs and special costs continue to be available. Under the case authorities, some sort of wrongdoing in the conduct of the litigation is generally required to attract an award of special costs whereas an order for increased costs is available in those instances where there would be an "unjust result". Registrar Jordan reported that, in cases where the tariff is well below 50% of reasonable fees, applying a higher scale than 1 may avoid an "unjust result". There are cases, such as the tobacco case, aboriginal land claims and complex commercial appeals, where there may be an unjust result unless increased costs are awarded. After reviewing the few cases dealing with requests for increased costs, it was decided that there is still good reason to retain increased costs in the Court of Appeal.

Short Style of Cause

Complaints of confusion have been reported when the short style of cause on an appeal is different from the style of cause used in the Supreme Court. The

new case naming guidelines being prepared by the Canadian Citation Committee ask that appeal judgments retain the lower court short style of cause. A memo will be circulated to judges and staff asking that the short style of cause be the same as the short style of cause in the lower court.

Electronic Filing Rules

In anticipation of electronic filing in the Court of Appeal, the Electronic Filing Pilot Project Rule 54.1 was enacted in 2005. The scheme excludes all books filed in an appeal from electronic filing. However it is envisioned that some documents will be collected in electronic format (e.g. electronic transcripts and electronic factums) for use by the court.

Orders and Electronic Files

The Committee agreed that once the orders are collected electronically, there was no need for Court of Appeal Rule 51 which required Court orders to be collected separately in order books. In the new regime, counsel will supply the court with an electronic copy of the order (scanned) and it will be electronically signed by the judges, electronically stamped by the registry and electronically stored in the case tracking system.

Yukon Civil Appeal Rules

The Yukon Civil Appeal Rules were translated into French and issued in the Yukon in 2005. Work remains to be done on the translation of the Practice Directives, including a Practice Directive providing for a procedure of notification where the respondent wants to file an appearance in an official language other than the language used by the appellant.

Withdrawal of Solicitor of Record

The Committee discussed the procedure for the withdrawal of the solicitor of record. After some discussion, it was agreed that the procedure set out in the Supreme Court Rules would apply to the Court of Appeal, giving a party the right to object to the withdrawal of counsel.

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
The Honourable Mr. Justice Lowry
Ms. Jennifer Jordan, Registrar
Ms. Meg Gaily, Law Officer
Ms. Jill Leacock, Law Officer

100th Anniversary of the Court of Appeal

In recognition of the 100 years the Court of Appeal will have existed in 2010, the committee is exploring different ways of celebrating the occasion. The Chief Justice met with the bar on September 20th, 2005. The bar divided responsibilities and assigned members to chair the subcommittees. The areas of interest were as follows:

1. Publications, including oral history of senior members of the bench and bar, a written history of the Court and a commemorative edition of *The Advocate*;
2. Symposium – a two day symposium could be arranged which might coincide with the Appellate Judges’ Seminar that year and would include a public lecture and a gala dinner;
3. Law School moots – the possibility of UBC and UVic dedicating their moot that year to the centenary;

4. Special Sitting of the Court of Appeal – this should be on the date of the anniversary (January 4, 2010). There should be sittings in both Vancouver and Victoria.
5. Funding – There may be the need to incorporate a non-profit society.
6. A Judges’ Committee was formed whose members are Chief Justice Finch, Rowles, Huddart, Saunders, and Kirkpatrick J.J.A.

Media Relations

The Canadian Judicial Council has a policy encouraging judges to become more involved in educating the media and the public about the work of the Court of Appeal. The Planning Committee looked into what practices could be adopted to assist the media with respect to access to and easier understanding of our judgments. The website is the main vehicle for improving access to the judgments. The proposal of the Committee is to use the website to give advance warning to the press of the release

of reasons for judgment in appeals of interest or even press releases for important judgments. The Law Officer, Ms. Gaily, would be given as the contact person for the media. The judge writing the reasons would be asked to provide a comprehensive summary of the case which Ms. Gaily would then use in briefing the press. This proposal will be further discussed at the 2006 court meeting.

Lost Court Time 2005

Between January, 2005 and May, 2005 over 27 court days lost by appeals being adjourned or otherwise not going ahead. Some appeals scheduled for 2 days took only one day. Counsel are adjourning appeals where they consider another factum or argument is required. There is the problem of criminal appeals not proceeding. The Planning Committee asked the Registrar to issue a Notice to the Profession reiterating the circumstances in which the Court will entertain an adjournment application at the last minute. The notice is on the Court Website: www.courts.gov.bc.ca under "Notices to the Profession".

Access to Electronic Court Documents

There has been a general discussion about which documents could be made available to the public once there is electronic filing. The public would have access to view a limited number of documents for a fee. Affidavits and applications for indigent status will be the type of document excluded from access. Since all of the factums, books and transcripts will not be filed electronically, these do not form part of the current discussion. The addresses of in person litigants, which are included in initiating documents, should be

excluded from public access. The type of documents which would be available online would be the Notice of Appeal and Application for Leave to Appeal, Appearances, Notice of Motion, Certificate of Readiness, Orders, Appointments before the Registrar, Bills of Cost, Certificate of Costs.

Compendium Update

A review was conducted of the Compendium website and in a 5 month period in 2004 there were almost 7,000 hits to the Legal Compendium website. The hits came from many sources. It is useful to note that there are links to the compendium from CLE, the Courthouse Library, the Vancouver Library, SFU, UBC, UVic, and Kwantlen College as well as other web sources.

Ms. Gaily reviewed other material on the internet which duplicates material found in the Compendium. Much of the material is available on other sites and is kept current. It was decided that the Courts' website would be redesigned - including links to the other material on the web and assessing what material in the Compendium needs to be retained, such as the legal history. Once the change is complete the Compendium will be removed from the website with a note explaining the removal.

Manuals Update

The update of the court manuals was concluded in 2005. Revisions to the Family Law Manual, the Chambers Manual and the Appellate Review Principles were circulated to the Court. The Committee wishes to specifically

thank Ms. Gaily for all of her editorial work in overseeing this large project.

Rota Access

There was a discussion about whether it would be possible to remove the rota from the intranet and have the judges and staff rely on the rota provided by the case tracking system. It was agreed that both rotas be maintained as the intranet rota provides more weeks at a glance.

Judgment Books

Since 1971, and perhaps earlier, the registry staff have been preserving the original signed Court of Appeal reserve judgments in separate bound volumes. These volumes are expensive to prepare and are never referred to. There is a question of whether this practice is to continue. In the process of investigating, it was determined that provincial archives have judgments on microfiche from 1910 to 1971 and there are judgment books in storage covering the years 1951 to 2004. Current judgments have not been bound yet.

Professor DeLloyd Guth was contacted for his views on the retention of the original signed reserve reasons for judgment of the Court. It was decided that, even though this collection is not accessed regularly, it was important to preserve these documents separately from the files. Ms. Jordan will prepare a summary of the inventory of Court of Appeal material, including material in storage and with Provincial Archives.

Appellate Court Best Practices

Mr. Justice Coté of the Alberta Court of Appeal has prepared a report on Appellate Best Practices for the Canadian Judicial Council. There are 152 recommendations which the Committee will review and discuss. Each Committee member has prepared a review of specific sections of the report which will be discussed over the next few committee meetings in 2006.

Judgment Protocol

A document entitled "Use of Personal Information in Judgments and Recommended Protocol" was released by the Canadian Judicial Council. The Committee recommended that this document be approved by the Court of Appeal and included in the material already used by the Court of Appeal judges when preparing judgments.

Criminal Scheduling

The statistics for criminal appeals are showing that the appeals are not being disposed of as quickly as they should be and filings are increasing for 2005. A study will be conducted on the pending criminal appeals to try and determine where the delay is coming from.

JUDICIAL SETTLEMENT CONFERENCE COMMITTEE

Members:

The Honourable Chief Justice Finch (Chair)
The Honourable Madam Justice Rowles
The Honourable Madam Justice Prowse
The Honourable Mr. Justice Donald
The Honourable Madam Justice Levine
Ms. Jennifer Jordan, Registrar
Ms. Meg Gaily, Law Officer
Ms. Jill Leacock, Law Officer

The bar and the public have shown little interest in accessing the Judicial Settlement Conference Pilot Project initiated in November 2004. In the few cases that have utilized this service, primarily family law cases, a successful settlement has been achieved.

The Settlement Conference Pilot Project will remain posted on the Court's website in 2006, and the Court will continue to offer this service for the remainder of the two year period for which the project was proposed.

The usefulness of the program, and the advisability of continuing to offer judicial settlement conferences, will be assessed at the end of 2006.

LAW CLERK COMMITTEE

Members:

The Honourable Madam Justice Saunders (Chair)
The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Smith
Jill Leacock & Meg Gaily, Law Officer

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 2005, eleven clerks began their clerkships with the Court of Appeal for the 2005-2006 term.

In February 2005, Jill Leacock, Law Officer to the Court of Appeal, and Judith Hoffman, Law Officer to the Supreme Court, received approximately eighty-five applications for the 28 law clerk positions at the Court of Appeal and Supreme Court for the 2005-2006 term. After reviewing the applications, the Law Officers interviewed many of these candidates during February 2005. Of these candidates, the Court of Appeal Law Clerk Committee interviewed 21 and selected eleven candidates for the law clerk positions for the 2006-2007 term. Of the eleven law clerks who will commence their terms with the Court of Appeal in September 2006, five are graduates of UBC Law School, three are graduates of the University of Victoria Law School, and the remaining law clerks are graduates of Dalhousie, and the Universities of Saskatchewan and Windsor. 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 2005, Madam Justice Saunders and Mr. Justice Mackenzie, together with members of the Supreme Court law clerk's committee, the Law Officers and current law clerks, attended law clerk recruitment information sessions at the Universities of British Columbia and Victoria.

This year, at the end of the 2004-2005 term, the committee's membership rotated, with Mr. Justice Mackenzie withdrawing and the addition of Madam Justice Ryan in his stead. We thank Mr. Justice Mackenzie for his years of contribution to the law clerks program. The Committee members also wish to thank Ms. Leacock, 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. Alix Campbell, Director of Judicial Administration
Ms. Diane Lemieux, Librarian

As usual, our Library staff have been busy this year coping with the continuing development of electronic systems, but balancing them with the printed word wherever possible. Early in the year we finalized an agreement with the Queen's Printer, and then made QP LegalEze training available in early March for our judges, masters, registrars, legal officers, law clerks, and other judicial staff members of the Superior Law Courts. QP LegalEze is the web-based subscription service to the current laws and regulations of British Columbia. These 90-minute sessions were graciously offered and taught by the Queen's Printer representative in-house and were well-attended. Training will continue to be provided on an on-going basis at the start of each fall season or as demand requires.

A major overhaul of the Victoria Judges' Library was accomplished during the summer month of August. Although the library had "good bones" -- with sturdy shelving and natural lighting-- the space was starting to look cramped. Duplicative material was weeded out and recycled, and spent and obsolete items were disposed of. With a little elbow grease provided by

three library staff members and a new and improved arrangement of materials, the Judges' Library in the Victoria Law Courts is now more inviting than ever.

In Vancouver, the Judges' Library has undergone a few changes as well. At the end of the year, the staff who are involved in the distribution of judgments were all moved to a central location within the library. A full-time librarian, library technician, and a part-time annotator are now able to work closely with the judgment clerks, making for a more cohesive and efficient group who will not only be able to back each other up but will make it much easier for those needing help in finding past and recent judgments.

The cost factor in providing loose-leaf services is another area which is being looked at "strategically" throughout the year. With the number of releases per year increasing in some circumstances and a general rise in cost, it has become important to look at all our subscriptions on a case-by-case basis. This occurs not only with textbooks, but with legislative materials as well. Following a survey sent to our Supreme Court judges, where we examined the number of loose-leaf

provincial statutes (RS BC) available for their use, we decided to cancel these sets. While online sources will continue to improve our quick access to legal materials, the general consensus continues to be that a balanced approach is still necessary. Factors including proximity to materials, ease of perusal, electronic and paper formats and cost will all continue to play important roles in any future decisions related to the purchase of library materials.

Although the trend among the legal community seems to be to the cancellation of law reports in lieu of online sources, we continue to subscribe to national, provincial, and topical law reporters that are relevant to the needs of our library users. These reports include the Supreme Court Reports, Dominion Law Reports, Western Weekly Reports and the British Columbia Law Reports. As online usage increases, however, the cancellation of law reports will continue to be a possibility. With the cost of the average law report exceeding \$200.00 per volume, it has become imperative that we keep abreast of research trends not only among ourselves but with the legal community as a whole. Our ability to focus on current research trends in the present will lead us to our vision for the future.

EDUCATION COMMITTEE

Members:

The Honourable Madam Justice Huddart
Then Honourable Madam Justice Levine

The education program for the Court has two basic components: “Law at Lunch” and an education feature at each of the semi-annual meetings of the Court.

Law at Lunch is an informal lunch meeting of the judges, held about once a month, at which a speaker presents a topic that relates generally to our work as judges and its impact on others.

In 2005, Law at Lunch programs included a presentation on mediation as an alternative to commercial litigation; a discussion on homelessness and the work of the Lookout Shelter in Vancouver; a review of the Draft Spousal Support Advisory Guidelines; a presentation on Crown liability; a paper on the new Supreme Court of the United Kingdom; and a presentation and discussion on relief programs in Ethiopia.

At the 2005 Spring Court meeting, Professor Kim Hart Wensley discussed the Nunavut Law School Program.

No education program was held at the Fall Court meeting, so the judges of the Court could attend a lecture given by Chief Justice Beverley McLachlin comparing the Supreme Courts of Canada and the United States.

Judges of the Court are offered the opportunity to attend educational programs offered by various organizations including 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 schools.

All of these education activities are designed to assist judges to remain current in our understanding of substantive and procedural legal developments as well as some of the broader issues that form the background to judicial work.

PRO BONO COMMITTEE

Members:

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

The Committee wishes to thank the lawyers who have volunteered their time and expertise in the Pro Bono Program:

Participating Lawyers (Vancouver)

Rose-Mary Liu Basham, Q.C.
Marilyn Bjelos
Michelle J. Booker
Jeffrey Campbell
D. Geoffrey Cowper, Q.C.
Simon R. Coval
Craig A. B. Ferris
Betty Gabriel
Michael Galambos
Eric Gottardi
Angus M. Gunn, Jr.
Nikos Harris
John Hunter, Q.C.
Randal J. Kaardal
Georgiale A. Lang

Participating Lawyers (Victoria)

Elizabeth S. Liu
James C. MacInnis
George Macintosh, Q.C.
David Mackenzie
Andrew I. Nathanson
Ryan W. Parsons
Richard C. C. Peck, Q.C.
Errin A. Poyner
K. Michael Stephens
Paul W. Walker, Q.C.
Lisa A. Warren

JOINT COURTS TECHNOLOGY COMMITTEE

Members:

The Honourable Mr. Justice Tysoe (Chair)
The Honourable Madam Justice Levine
The Honourable Madam Justice Boyd
The Honourable Mr. Justice Groberman (New Chair)
The Honourable Mr. Justice Masuhara
Alix Campbell, Director, Judicial Administration
Colin Sharwood, Manager, Information Technology
Jennifer Jordan, Registrar, B.C. Court of Appeal
Judith Hoffman, Law Officer Supreme Court
Jill Leacock, Law Officer Supreme Court
Cindy Friesen, Manager, Trial Coordinators

Mandate of the Committee

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.

Committee Changes

At the end of 2005, Mr. Justice Tysoe retired as chair of the Technology Committee and Mr. Justice Groberman assumed the chair. Mr. Justice Tysoe will continue as a member of the Committee as long as he represents B.C. on the Judiserve Committee. Mr. Justice Masuhara was welcomed as a new member on the Committee. The Committee bid farewell to Judith Hoffman in 2005, as she left the Supreme Court for other pursuits. Her replacement, Jill Leacock, was welcomed to the Committee in December, 2005.

Laptop Rollout

The desktop computers for all Superior Court judges were scheduled for replacement by laptops, docking stations and flat screens. The IT group gave a presentation to the Committee about the various models of laptops which could be chosen for the courts. The differences include a lightweight model for those judges who travel a lot and a larger screen model, which includes a DVD player. Rollout was substantially completed in 2005. Judges were given their choice of laptop. Visiting chambers throughout the province (including Vancouver) will retain the old desktop as well as provide a docking station for those judges who travel with their laptop. The scope of the laptop project was broadened to include the distribution of LCD screens for most staff users. This was completed province-wide by in December 2005.

SPAM

The IT Department purchased a product called Sybari SPAM Manager product. The Committee approved a change in the management of the SPAM by creating a centralized system. The Committee also approved a change in the handling of SPAM, where blocked material was not being reviewed by IT. The IT department will now read all email which has been identified as SPAM rather than simply isolating the suspected spam email and forwarding it to the recipient judge for his or her review. Preceding the implementation of the new system, Mr. Hujanen circulated an email to the judiciary advising of the acquisition of the new SPAM manager program and explaining that the IT Department will assume all responsibility for reviewing all potential SPAM.

Courtroom Access to the Network

There are connections to the network on all the benches in the Vancouver courtrooms. However, the connections are mostly found on the floor under the benches. There is a recommendation that the benches be refitted with an outlet at the desktop level. This initiative will also impact the ergonomic bench initiative. Mr. Sharwood will be the liaison with Court Services as the courtrooms get upgraded.

Technology Conferences

There have been a number of court and legal technology conferences in the fall. The *Court Technology Conference* of the National Center for State Courts was held in Seattle in September. The Canadian Institute for the Administration of Justice sponsored the *Technology, Privacy and Justice Conference* in Toronto at the end

of September and the *Pacific Legal Technology Conference* for lawyers was held in October in Vancouver and the Association of Canadian Court Administrators held the yearly conference in Victoria in November.

Electronic Evidence

The Committee hosted, along with the Canadian Bar Association, a dinner featuring Sandra Potter, an international expert in electronic evidence standards. The dinner was well attended. Ms. Potter will return to Vancouver in 2006 to assist in the drafting of a Practice Direction on Electronic Evidence Standards for British Columbia. It is anticipated that members of the bar will participate in information gathering workshops and that eventually there will be a committee responsible for the approval and implementation of the Practice Direction.

CSOnline

A number of Court Services personnel gave a presentation on the model for electronic filing with a view to receiving comments from judges on how they might use this in their daily work. During the course of the demonstration, various issues were raised including:

- the need for a future seamless interface of all systems including intranet, SCSS, and CS Online;
- a judge's need to actually handle documents so as to be able to highlight and make marginal notes;
- the need for access to electronic versions of court file documents in Chambers; and

- the need to keep the overall vision of the project in focus. Will the electronic handling of documents and the focus on a multiplicity of monitors in Chambers and courtroom detract from the work at hand—that is, a consideration of the individual litigants and the disputes which come before the court for legal resolution?

Digital Auto Recording System (DARS)

Court Services will be equipping courtrooms with Digital Audio Recording Systems in 2006. The Superior Court Judiciary has taken ownership of DARS for the Court of Appeal and will be doing a separate installation. There was a general discussion about a policy regarding access by litigants to the audio recording. Currently the litigant may request a time to come to the registry to listen to a part of a tape. For the Supreme Court, the Committee generally agreed that any party to a proceeding should be entitled to a access to the audio recording, provided such access was subject to certain conditions. The proposal is where parties are represented by counsel, such conditions could be part of an overall undertaking by counsel. In cases where an in-person litigant was involved, that individual's access would be subject to conditions which could be set out in a consent desk order. Further consultation with the Supreme Court needs to take place before a policy is approved. There is a separate discussion underway in the Court of Appeal with judges of the Planning Committee.

Wireless Hotspots in Courthouses

Groberman J. advised that sometime ago a lawyer requested that Chief Justice Brenner arrange to have a wireless "hotspot" developed in the Courthouse. IT Services looked in to the possibility of preparing a cost estimate. While it was agreed it was a good idea for hotspots to be developed in public areas within the Courthouse, it was also agreed no hotspots should be installed in any courtrooms and that "hotspot" development was ultimately a matter for Court Services to address. This matter has been referred to Court Services.

Use of Summation

The judiciary have a licence for the litigation support software Summation. However, the usual practice is for a trial judge to request training on Summation just before a trial is about to begin. It is not practical at this point to ask for training for judges as a group. When electronic evidence becomes more available, there might be a greater demand for use of the program.

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
Jill Leacock, 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

The Committee is a joint Committee consisting of Judicial and Court Services members. The working group develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies relating to access to court records, specifically in electronic format. The Chief Justices and Chief Judge are consulted before a policy is adopted. In addition to the policy work, the Committee also reviews access applications for those seeking bulk access to court information.

In 2005 work of this Committee revolved around issues relating to the advent of electronic filing through CSONline, which commenced in the fall of 2005. The initial e-filing project was in Kelowna and included Provincial Court and Supreme Court civil filings. The project will be expanded throughout the province in 2006.

Work of the Committee

In 2005 the Committee, which meets monthly, was involved in several requests

relating to access to court records information. The Committee also reviewed proposals relating to specific topics which need further investigation in the electronic world. The following is a partial list which demonstrates the types of issues considered:

- Consultation with public regarding public access to specified electronically filed court documents
- Information available to the public in court lists appearing on the internet
- Electronic signatures on court orders and how to capture the electronic document
- Judicial module for judges receiving electronic documents from the registry
- Electronic registry module for the processing of court documents filed electronically
- Authentication of e-filing user agreed upon as login and password

- Display information on criminal JUSTIN public terminals, specifically with respect to publication bans
- Review of Canadian Judicial Council's *Model Policy for Access to Court Records in Canada* with a view to comparing it to the *BC Electronic Access Policy*
- Review of access applications to the civil case tracking system (CEIS) from the Family Maintenance Program, Child Support Recalculation Services, Maintenance, Enforcement and Locate Services Division, Prevention and Loss Management Services Branch, Child & Youth officer
- Review of proposals for a new definition of "record in a court file" in Freedom of Information and Protection of Privacy Act
- Discuss policy regarding access to audio recordings once Digital Audio Recording Equipment is installed in BC courtrooms
- Discuss proposed membership in and structure of Electronic Court Committee

STATISTICS

SUPREME COURT OF CANADA

There were 62 applications for leave to appeal from decisions of our Court filed with the Supreme Court of Canada in 2005.

The Supreme Court considered 64 applications for leave to appeal (some of these were from 2004 filings). Of these applications, 8 were granted, 45 were dismissed and there are 11 decisions pending at the end of 2005.

In 2005, the Supreme Court of Canada heard 21 appeals from B.C. cases. Of these appeals, 6 appeals were allowed, 8 appeals were dismissed and there were 7 reserve judgments pending at the end of 2005. In addition to these decisions, another 18 judgments were rendered in B.C. cases which had been heard in previous years. Of these, 7 appeals were allowed and 11 appeals were dismissed.

In 2005, 11% of the applications for leave to appeal to the Supreme Court of Canada were from B.C. appeals. Of the judgments rendered in 2005, 21% of the judgments rendered were appeals from B.C.

B.C. COURT OF APPEAL

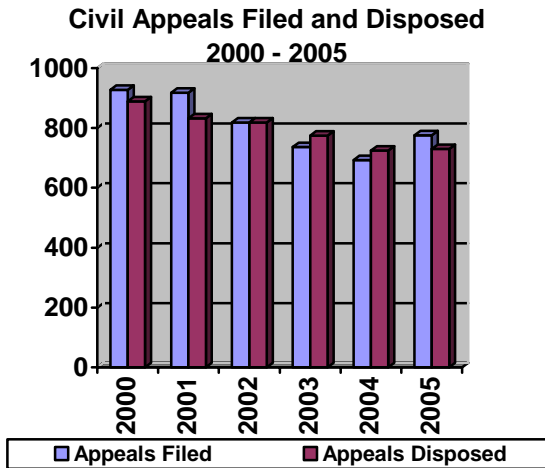
Volume of Litigation*

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 2000 - 2005.

Civil

Figure 1 demonstrates the declining number of civil appeals filed between 2000 and 2004 and the increase in appeals filed for 2005. The disposed appeals between 2004 and 2005 have remained the same. The result of the increase in filings is that the disposition rate for the first time in 4 years is under 100% of filings.

Figure 1

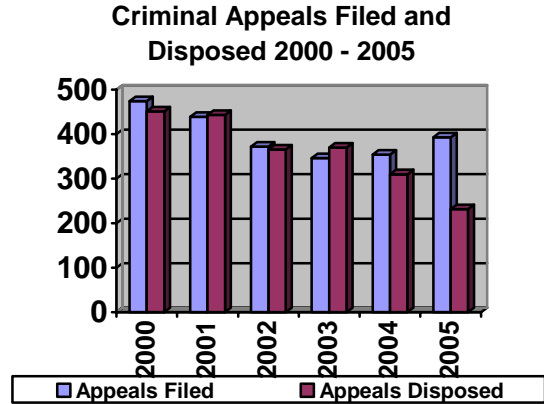


Criminal

Criminal filings are almost half the number of civil filings. Figure 2 shows that the number of criminal appeals disposed of failed to exceed the number of appeals filed, which results in a growing backlog of criminal appeals. For 2005, dispositions were 54 % of filings (see

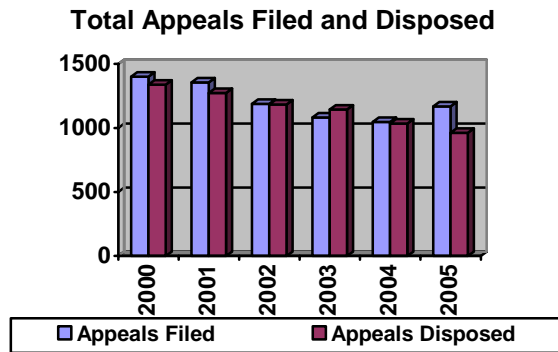
Appendix 2). The number of dispositions is the lowest in the past 11 years.

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 slower decrease, over the last 3 years of both filings and dispositions until the 2005 figures. The increase in filings is an anomaly and is similar to the filings in 2002. The disposition rate is the lowest in the past 11 years.

Figure 3

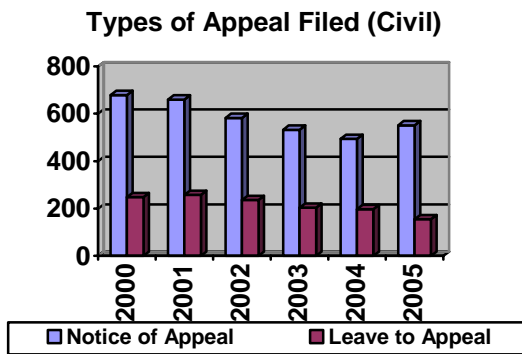


*Please refer to the appendices for the actual numbers in these charts.

Types of Appeals Filed

Only 20% of the civil appeals filed in 2005 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 2005, over 85% 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.

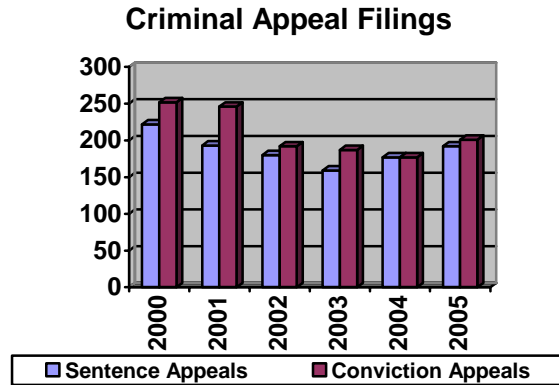
Figure 4



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 2000 and 2005. Sentence and summary conviction appeals amount to just under half (49%) of the total criminal appeals filed.

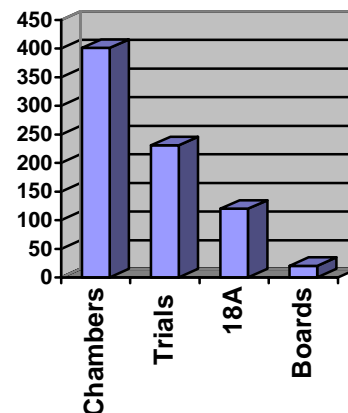
Figure 5



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 2005 figures show there were substantially more appeals from chambers matters and 18A appeals than there were appeals from trials. Figure 6 shows the types of appeals according to the initiating proceeding.

Figure 6

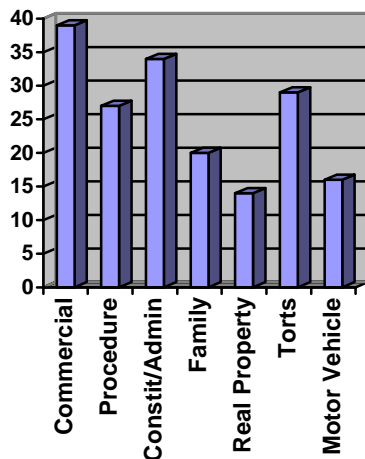


Civil Case Categories

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 2005

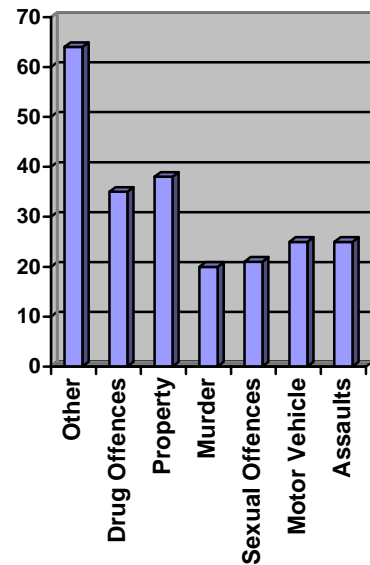


Criminal Case Categories

Another interesting breakdown is for the types of criminal cases which are dealt with by the Court. Property offences form the largest category of criminal appeals, amounting to almost 20% of the cases before the Court. "Other" covers various offences such as arson, mischief, extradition and habeas corpus cases. Figure 8 gives the top seven distinct categories.

Figure 8

Criminal Categories Appeals Heard 2005



Appeals Allowed

The rate of civil and criminal appeals allowed over the past six years remained relatively constant until this year, where the rate increased from 40% to 45%. 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 2000 - 2005

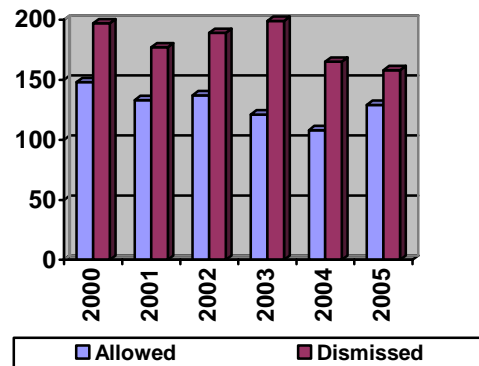
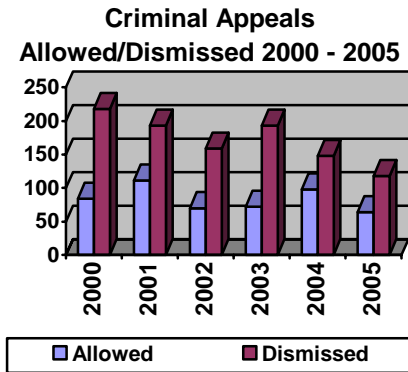


Figure 10



The largest fluctuation over the years is the difference in the number of criminal appeals allowed. The percentage comparison is 28% allowed in 2000 and 40% in 2004. In 2005, the rate dropped again to 35%. The statistics take into account partial appeals allowed as well as the substantial appeals where new trials may be ordered.

Self-Represented Litigants

Figure 11

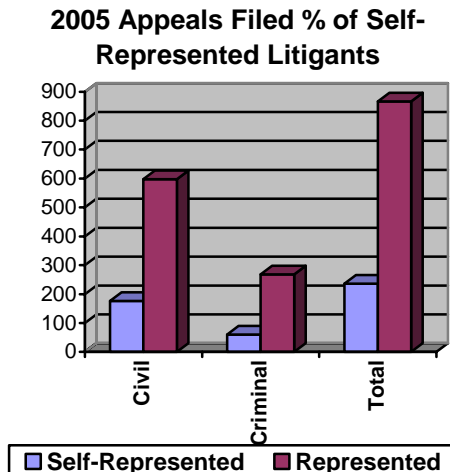


Figure 11 represents the percentage of self-represented litigants out of the total number of litigants, who filed appeals in 2005. This number does not capture those litigants who file their own appeal but subsequently retain counsel. This year the percentage of civil self-represented litigants is 23%, an increase of 3% over last year. The criminal unrepresented litigant amounts to 18% of all the appeals filed.

Figure 12

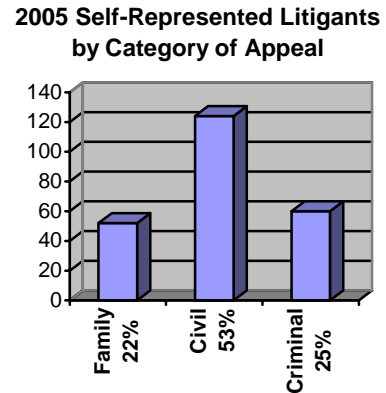


Figure 12 represents the percentage of self-represented litigants, by category, out of the total number of self-represented litigants.

British Columbia Court of Appeal

Civil Statistics 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
APPEALS FILED:											
Notice of Appeal	929	902	854 82	2 78	7 67	9 66	0 58	2 53	2 49	4 55	1
Leave to Appeal	355	272	273 27	2 22	4 24	8 25	8 23	6 20	4 19	8 15	5
Notice of Appeal and Leave			70								
TOTAL FILED	1284	1174	1127	1094	1011	927	918	818	736	692	776
COURT DISPOSITIONS:											
Appeals Allowed	146	174	159 14	2 15	1 14	8 13	3 13	7 12	1 10	8 12	9
Appeals Allowed %	38%	39%	39%	37% 43%	42%	43% 42%	38%	40%	45%		
Appeals Dismissed	237	271	250 24	1 19	6 19	7 17	7 18	9 19	9 16	5 15	8
Appeals Dismissed %	62%	61%	61%	63% 57%	58%	57%	58%	62%	60%	55%	%
TOTAL COURT DISPOSITIONS	383	445	409	383	347	345	310	326	320	273	287
Appeals Concluded in Chambers or Abandoned	559	1055	988 74	4 67	3 54	4 52	2 49	2 45	5 45	1 44	3
TOTAL DISPOSITIONS	942	1500	1397	1127	1020	889	832	818	775	724	730
Dispositions as % of Filings	73%	128%	124% 1	03% 1	01% 9	6%	91%	100% 1	05% 1	05% 9	4%
Judgments Reserved (Court)	179	210	188 18	2 17	4 19	7 17	8 19	3 18	1 20	0 16	6
Judgments Reserved (Cham)			10							4	64
Appeals with 5 Judges	10	27	3	5	3	12 16 1	10 16 4				1
Court Motions: Reviews	11	8	10 13 1	6 10 7				17 13 1	14 13		
Granted	9	4	5 6 0 3	6 2 7 3 5							
Refused	2	4	5 7 16			7 1 15			6 11		8
Chambers Motions	745	736	643	664	568	530	419	427	451	397	298
LEAVE TO APPEAL											
Granted	86	95	74 65 18	80 75	65 56 47	46					
Refused	51	76	71 48 39	37 35	26 30 11	8					
Total	137	171	145	113	57	117	110	91	86	58	54

British Columbia Court of Appeal

Criminal Statistics 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
APPEALS FILED:											
Sentence	237	207	249 21	9 19	9 18	2 15	6 13	3 12	6 15	0 17	5
Conviction	232	220	232 23	1 20	3 17	4 17	7 12	8 13	0 12	4 13	7
Summary Conviction	44	29	48 54 39	40 37	47 33 27	17					
Acquittal & Other	77	69	50 6	3 6	8 7	8 6	9 6	4 5	7 5	3 6	4
TOTAL FILED	590	525	579	567	509	474	439	372	346	354	393
COURT DISPOSITIONS:											
Appeals Allowed	127	92	115 12	7 10	3 84		111 70		72	98	66
Appeals Allowed %	33%	26%	31%	31% 29%	28%	37% 31%	27%	40% 35%			
Appeals Dismissed	254	266	253 28	3 24	8 21	8 19	3 15	9 19	3 14	8 11	8
Appeals Dismissed %	67%	74%	69%	69% 71%	72%	63%	69%	73%	60%	65%	%
TOTAL	381	358	368	410	351	302	304	229	265	246	184
Summary Dismissals Abandonments in Court/Chambers	317	176	193 13	4 11	8 14	9 13	9 13	7 10	5 64		47
TOTAL DISPOSITIONS	698	534	561	544	469	451	443	366	370	310	231
Appeals Disposed % of Filings	118%	102%	97% 96%	92%	95%	10%	1%	98% 10%	7%	88% 54%	%
Appeals Heard by 5 Judges	2	2	3 3 4 5	5 0 1 0 1							
Judgments Reserved	101	92	116	117	78 89 89	86 10			9	93 85	
Judgments Reserved Chambers											10
Chambers Motions	329	302	332	316	305	218	260	230	219	172	137

British Columbia Court of Appeal

Total Appeals Filed and Disposed 1995-2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
APPEALS FILED:	1874	1699	1706	1661	1520	1401	1357	1190	1082	1046	1169
COURT DISPOSITIONS:	764	803	777	793	698	647	614	555	562	519	471
Appeals Allowed	273	266	274	269	254	224	240	217	220	199	195
Appeals Allowed %	36%	33%	35%	34%	36%	40%	37%	32%	40%	41%	
Appeals Dismissed	491	537	503	524	441	537	340	838	331	327	6
Appeals Dismissed %	64%	67%	65%	66%	64%	60%	63%	68%	60%	59%	
TOTAL	764	803	777	793	698	647	614	555	562	519	471
Appeals Concluded in Chambers or Abandoned	876	1231	1181	878	791	693	661	629	560	515	490
TOTAL DISPOSITIONS	1640	2034	1958	1671	1489	1340	1275	1184	1145	1034	961
Dispositions as % of Filings	88%	120%	115%	101%	98%	96%	94%	99%	106%	99%	82%
Judgments Reserved	280	302	304	299	228	266	227	229	39	7*	325*
Appeals with 5 Judges	12	29	6	8	7	17	21	10	17	4	2
Chambers Motions	1074	1038	975	980	873	748	679	657	670	569	435

*Now includes chambers reserved judgments