

ANNUAL REPORT



Court of Appeal for British Columbia **2016**

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MESSAGE FROM CHIEF JUSTICE BAUMAN

In 2016, the Court of Appeal for British Columbia—effectively the court of last resort for British Columbians—disposed of 900 appeals. How many of our Court’s decisions were reviewed by the Supreme Court of Canada in 2016? Seventeen. With what result? Six appeals to the Supreme Court of Canada were allowed, four were dismissed and seven are under reserve at the time of writing. Out of 76 leave to appeal applications brought in 2016, the Supreme Court of Canada granted 12.

Our Court complement (currently 11 out of the 15 statutorily prescribed full-time justices, due to four vacancies at the time of writing, and ten supernumerary part-time judges) consists of 11 men and ten women—pretty good on gender diversity; not good on other forms of diversity.

The statistics included in this report tell part of the story of the judiciary and the justice system, but they do not do credit to the justices, professional staff, law clerks and judicial administrative assistants who perform the work of our Court year in and year out.

Nor do the statistics depict the efforts of Access to Justice BC, an initiative I chair, in partnership with a diverse leadership group dedicated to creating a movement aimed at making real change in the ability of ordinary British Columbians to access the promise of the rule of law in the context of civil and family justice issues.

Those of us who work within the justice system work within a set of limitations: limited time, limited resources, limited knowledge and experience (both professionally and personally). There have been points during the past year where specific events have raised broad and, in some cases, very public questions about the judiciary and justice system as a whole.

For example, *R. v. Jordan, 2016 SCC 27*, raised dialogue about the justice system as mired in a culture of complacency; judicial conduct issues prompted debate over the sufficiency of the judiciary’s training and diversity; the government’s changes to the judicial appointment process put transparency and, again, judicial diversity in the spotlight; new alternative dispute resolution forums brought explicit or implied suggestions that lawyers are not helpful to the process and, perhaps according to some views, that courts should be an avenue of last resort; in civil matters, the percentage of self-represented litigants continues to rise, nearly doubling in proportion since a decade ago.

None of the issues is new and, in fact, many are longstanding.

Within the judiciary and across the justice sector, we are trying to engage with these issues and to be “part of the solution”, as they say. For example, the Canadian judiciary has a program of continuing

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and **fairly**.”



The judiciary will **continue to rise** to meet our most challenging issues despite our limitations, and even while acknowledging our limitations.

judicial education which is emulated internationally. We recognize and support a role for non-judicial processes in resolving legal disputes. We work diligently within our limitations to manage cases both efficiently and fairly.

There is no doubt that the system can be and needs to be improved. At the same time, it concerns me that there are some who view Canada’s judges as hopelessly out of touch and Canada’s system of justice frustratingly anachronistic and beyond repair. I find these views cynical and dangerous. Cynical because I consider that the vast majority of Canadians believe our justice system and judiciary are society’s best defenders of the rule of law in Canadian society, and understand that it is the rule of law, not people, which lies at the very heart of our constitutional democracy. Dangerous because it is a fragile regime, one that can be quickly lost in a complacent society that too easily sacrifices its fundamental beliefs and institutions. We can all think of examples of decayed democracies that we once thought were grounded in the protection of basic human rights and freedoms. I proclaim the value, the absolute necessity, of an independent judiciary.

The judiciary will continue to rise to meet our most challenging issues despite our limitations, and even while acknowledging our limitations. As one commentator has said, judging requires moral imagination, which “is the ability to understand one’s own limitations, the limitations of perspective, the range of values at stake, and the possibilities for change inherent in the situation.”¹

While I sometimes despair of the attitudes towards our judicial institutions that I hear too often glibly expressed, I recognize that it is as much a reflection of the failure of judicial leadership to communicate to the greater public about who we are, what we do and why we do it. I promise to do my best to change that. This annual report is part of a larger project to communicate more openly and with public accountability as the ultimate objective. But communication is a two-way street. Talk with me about these critical issues: RJBauman@courts.gov.bc.ca.

¹ Susan A. Bandes, “Moral Imagination in Judging” (2011) 51 Washburn L.J. 1 at 24.



REGISTRAR'S REPORT

THE COURT'S ACTIVITY

The Court saw a further moderate decrease in new appeals filed in 2016. There were 832 new appeals filed, down from 940 new appeals filed in 2015. Detailed statistics for criminal and civil caseloads for the last 13 years can be found [in the three appendices](#) at the end of this annual report.

In 2016, the Court delivered written reserve judgments in 305 appeals (208 civil and 97 criminal) and pronounced judgment with oral reasons in a further 126 appeals (74 civil and 52 criminal). In chambers, the Court gave reserve judgments in approximately 103 civil motions and eight criminal motions.

SITTINGS OF THE COURT

To hear an appeal, the Court sits a minimum of three justices, known as a “division.” The Court sat a total of 86 divisions in 2016 in Vancouver, one more than in 2015. In addition to its Vancouver sittings, the Court sat for eight weeks in Victoria, three weeks in Kamloops and two weeks in Kelowna. The Court sat for eight days in Yukon in the spring and fall of 2016.

CRIMINAL APPEALS

For the last several years, the Court has seen a high number of criminal sentence appeals, in particular those that arise from the Supreme Court of Canada’s decision in *R. v. Summers, 2014 SCC 26*, a case giving rise to a recalculation of inmates’ custodial time. *Summers* appeals caused an increase in the number of sentence appeals in 2014 and the increase has now abated almost entirely. In 2016, there were only five appeals involving *Summers* criteria filed. This is in contrast to 52 in 2015 and 78 in 2014.

Even with the expected drop in the number of sentence appeals filed, the Court has seen a decrease in the number of criminal appeals filed in 2016. Two hundred and nine criminal appeals were filed in 2016, a drop from 296 in 2015 and 309 in 2014. Looking at the last ten years, the average number of criminal filings yearly from 2005 to 2015 was 318. There is no clear explanation for the further drop in filings in 2016.

CHAMBERS WORK

Motions brought prior to the hearing of an appeal are referred to as “chambers” or “interlocutory” motions. The Court has been tracking the number of chambers applications, which has been gradually increasing. This year’s total was the highest on record, with a total of 1,233 motions brought (719 civil

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In 2016, there were **832 new appeals filed**, down from 940 new appeals filed in 2015.”

“
In 2016, the Court confirmed an arrangement with Access Pro Bono that **allows litigants granted no-fee status (formerly indigent status) an automatic referral to a roster of lawyers.**

and 514 criminal). In 2016, and as part of the initiative to reform the Court’s enabling statutes, the Court has closely examined this trend and is considering measures to deal with the increase in chambers motions.

ENHANCEMENTS TO SERVICES FOR SELF-REPRESENTED LITIGANTS

In 2016, the Court developed the following projects to enhance the service it provides to self-represented litigants:

- ✓ **Justice Access Centres:** The Court confirmed that the Justice Access Centres (JACs) will continue to offer services to Court of Appeal litigants past the pilot project timeline set in 2015. In 2017, the Court will also look at expanding services to Victoria and Nanaimo.
- ✓ **Checklists and Templates:** As discussed in last year’s annual report, the Court completed a set of checklists and templates for criminal sentence appeals.
- ✓ **Updates to www.courtofappealbc.ca:** The Court continued, through its relationship with the Justice Education Society, to maintain and enhance the Court’s dedicated self-help website.
- ✓ **Access Pro Bono:** [Access Pro Bono](#) provides pro bono representation services for those who qualify. In 2016, the Court confirmed an arrangement with Access Pro Bono that allows litigants granted no-fee status (formerly indigent status) an automatic referral to a roster of lawyers. In 2016, every person who was granted no-fee status and agreed to be referred to Access Pro Bono was matched with a lawyer who provided that litigant with help in his or her appeal.

The Court is thankful for the assistance of the various organizations and individuals listed above, who are providing valuable and much-needed help to those who may be less able to afford access to an appeal of their case.

EXTRA-JUDICIAL APPOINTMENTS AND ACTIVITIES

In addition to the justices’ workload in hearing cases and issuing judgments, every justice is involved in activities in the legal profession, the judiciary, local communities, the Province and Canada.

Justices also attend continuing education seminars, for lawyers and for judges, in Canada and abroad, as participants and speakers. In 2016, justices of the Court participated in activities with the following bodies:

- ✓ UBC Trial Advocacy Course

- ✓ Canadian Judicial Council
- ✓ Vancouver Foundation
- ✓ British Columbia Law Institute
- ✓ Canadian Institute for Administration of Justice
- ✓ Mr. and Mrs. P.A. Woodward's Foundation
- ✓ University of British Columbia Peter A. Allard School of Law
- ✓ University of Victoria Faculty of Law
- ✓ Thompson Rivers University Faculty of Law
- ✓ Simon Fraser University
- ✓ Various moot court competitions
- ✓ Appellate Advocacy Section of the Canadian Bar Association
- ✓ Canadian Superior Court Judges' Association
- ✓ Continuing Legal Education Society of British Columbia
- ✓ British Columbia Rhodes Scholarship Selection Committee
- ✓ National Judicial Institute
- ✓ Provincial Court of British Columbia Judges' Conference
- ✓ Justice Education Society
- ✓ International Commission of Jurists
- ✓ Commissioner for Federal Judicial Affairs
- ✓ International Society for the Reform of Criminal Law
- ✓ Lawyers' Inn Program
- ✓ American College of Trial Lawyers
- ✓ L'Association des juristes d'expression française de la Colombie-Britannique
- ✓ Ride to Conquer Cancer
- ✓ National Center for State Courts (Technology)
- ✓ Canadian Bar Association of British Columbia Law Week
- ✓ Scouts Canada
- ✓ Access to Justice BC
- ✓ Law Society of British Columbia
- ✓ British Columbia Civil Liberties Association
- ✓ The Advocates' Club
- ✓ BC Council of Administrative Tribunals
- ✓ Vancouver Summer Mentorship Society
- ✓ Family Law Sourcebook



The Court of Appeal supports a records and information management program based on **sound policies and best practices** for records management.

- ✓ Fordham Law School
- ✓ American Bar Association

RECORDS AND INFORMATION MANAGEMENT

The Court of Appeal supports a records and information management program based on sound policies and best practices for records management. Appeal court records are of legal and historical significance and are retained permanently for the citizens of this province according to established government retention and disposition schedules. The Court of Appeal records and information management program is developed, delivered and maintained by the Supervisor and Appellate Court Records Officer. The position is also responsible for the supervision of the Records Technician and the Usher team.

The Records Technician manages the daily receipt, processing, organization, delivery, storage and disposition of Court of Appeal court records (i.e., the “books,” which include appeal books, appeal records, factums and transcripts) throughout the hearing process. Registry staff with Court Services Branch manages the case files (containing initiating records, motion materials, correspondence, etc.) separately from the books. The Usher team manages the daily processing, organization, photocopying and distribution of files, mail and court records.

In consultation with the Registrar and Director of Human Resources, the Court Records Officer develops annual priorities for the Court of Appeal records and information management program. The following are some of the highlights and accomplishments for 2016:

- ✓ The appeal records e-mail account was monitored daily to ensure books with no access restrictions were quickly made available by the Court following fee payment. A total of 132 records requests were processed.
- ✓ A fillable, online form was launched to provide a more efficient and centralized method for requesting books. Users can now submit completed request forms electronically or in hard copy, allowing the Court to accurately track requests and garner statistical data.
- ✓ On an annual basis, eligible closed case records are boxed and transferred to off-site storage according to established records retention and disposition schedules. In 2016, a total of 138 boxes of books and 93 boxes of case files were transferred off-site.
- ✓ A requirements checklist for appeal books in civil cases was developed and launched on the Court’s website. The checklist brings together in one document all of the format and filing

requirements for appeal books, including multimedia exhibits, from the *Court of Appeal Rules* and Practice Directives.

- ✓ Procedures for ensuring sealed paper and electronic records are managed appropriately by staff according to legislative requirements, court order or court policy requirements were reviewed and refined.
- ✓ With the new *Information Management Act* coming into force, a review of existing retention and disposition schedules for court records was initiated. Schedules will be modernized and updated as required to reflect the *Act* and current record-keeping practices.

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In 2016, the Court disposed of **657 appeals**, or **106% of the 623** civil appeals filed.”

STATISTICS

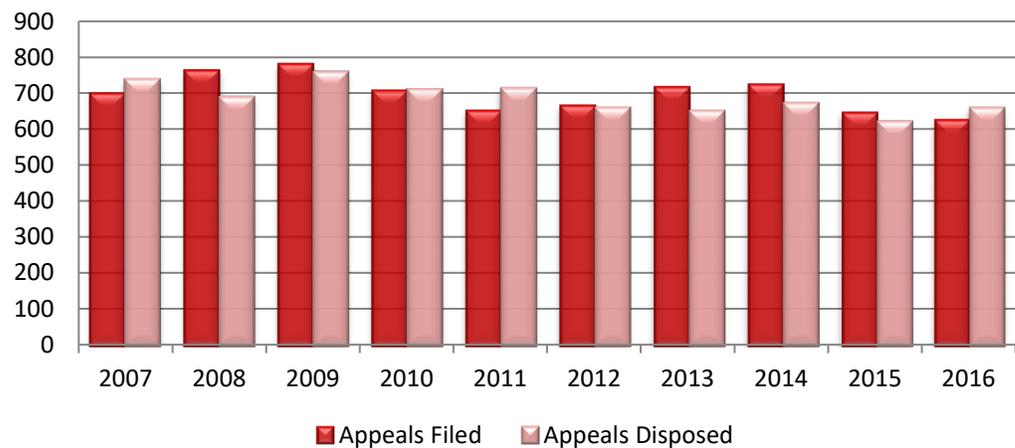
The charts below give a detailed account of the Court’s activity in 2016. The [three appendices](#) at the end of this report provide a detailed historical account of criminal and civil statistics over the last 13 years.

CIVIL APPEALS FILED AND DISPOSED

The chart below shows the number of civil appeals filed and disposed from 2007 to 2016. Since 2011, the number of civil appeals filed had been slowly rising, but has begun to drop in 2015 and 2016.

The Court measures the number of civil appeals disposed of as a percentage of the total number of civil appeals filed in a given year. In 2016, the Court disposed of 657 appeals, or 106% of the 623 civil appeals filed. For greater clarity, an appeal that is “disposed” or “disposed of” means that it has been dismissed, allowed or abandoned and is no longer on the Court’s docket. Though not a complete measure of the Court’s workload, the purpose of this chart is to show how the Court is keeping up with the appeals filed by looking at filings as “inputs” and disposed appeals as “outputs.”

Civil Appeals Filed and Disposed 2007 – 2016



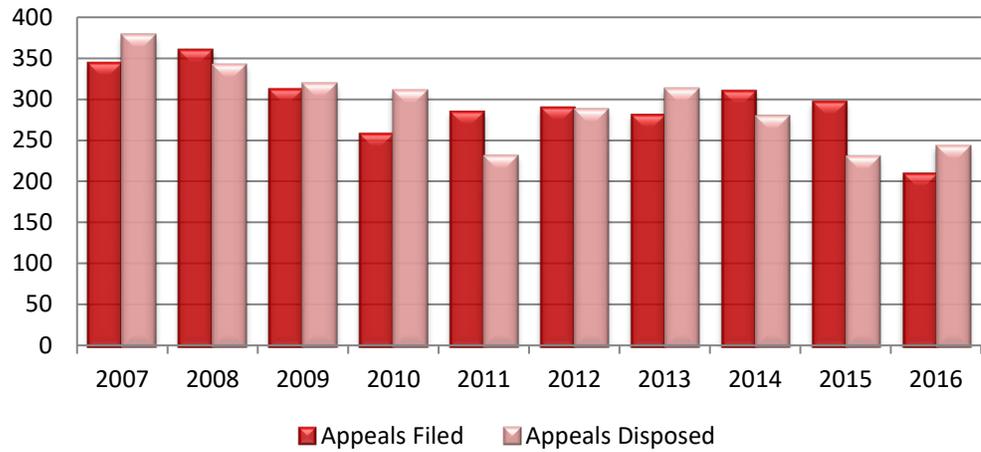
CRIMINAL APPEALS FILED AND DISPOSED

There was a decrease in criminal filings this year, down from 296 in 2015 to 209 in 2016. In 2016, the Court disposed of 243 appeals, or 116% of the 209 filed.



With 900 appeals disposed of and 832 appeals filed, **108% of appeals were disposed** as a percentage of filings.

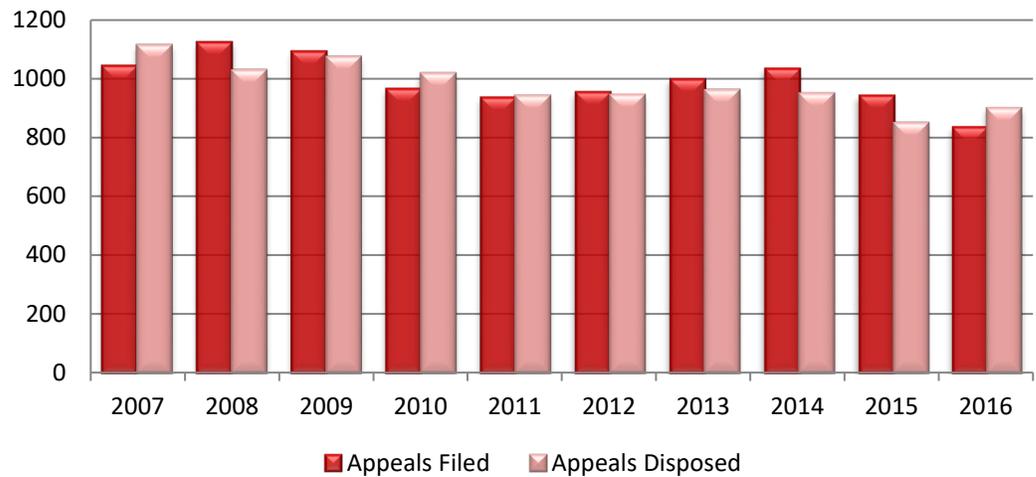
Criminal Appeals Filed and Disposed 2007 – 2016



TOTAL APPEALS FILED AND DISPOSED

For a more complete picture of total activity, the chart below combines the civil and criminal filings and dispositions. With 900 appeals disposed of and 832 appeals filed, 108% of appeals were disposed as a percentage of filings.

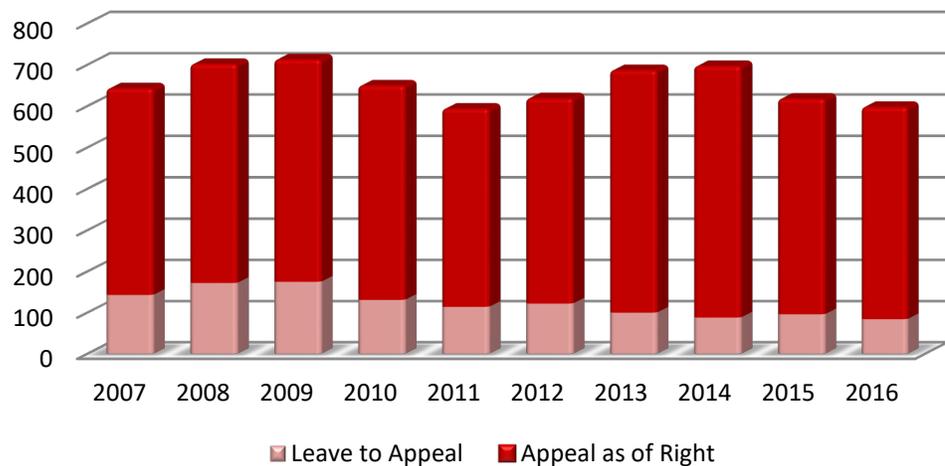
Total Appeals Filed and Disposed 2007 – 2016



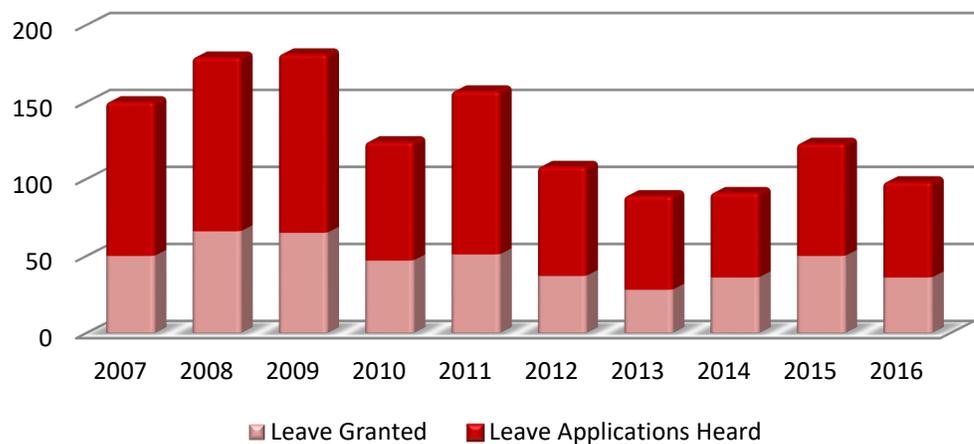
TYPES OF CIVIL APPEALS FILED

Of the civil appeals filed in 2016, 14% (84 of 598) were applications for leave to appeal. “Leave to appeal” is a process where litigants must get permission to bring an appeal to the Court. The Court heard a total of 62 leave to appeal applications in 2016, granting 36, or 58%. Neither of these statistics includes the 25 instances in 2016 when a litigant was uncertain whether leave was required. The first chart below shows appeals filed as of right versus those filed seeking leave. The second chart shows the number of applications for leave to appeal heard versus the number of those applications that were granted.

Filed as of Right vs. Filed Seeking Leave 2007 – 2016



Leave to Appeal Applications Heard vs. Granted 2007 – 2016

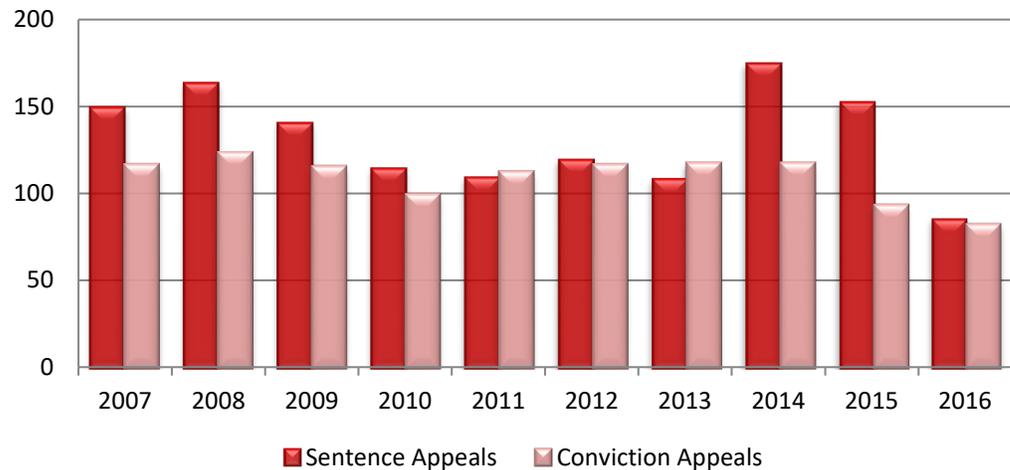


“ In 2016, approximately **68% of civil appeals** were from chambers matters and summary trials.

TYPES OF CRIMINAL APPEALS FILED

In criminal matters, appeals from convictions and acquittals take up most of the Court’s hearing time, with sentence appeals and summary conviction appeals requiring less time. The chart below gives a comparison of criminal appeals filed between 2007 and 2016.

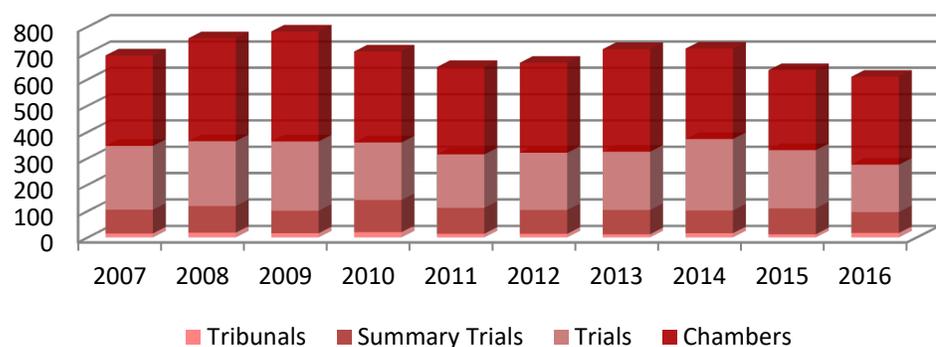
Criminal Appeal Filings 2007 – 2016



ORIGIN OF CIVIL APPEALS

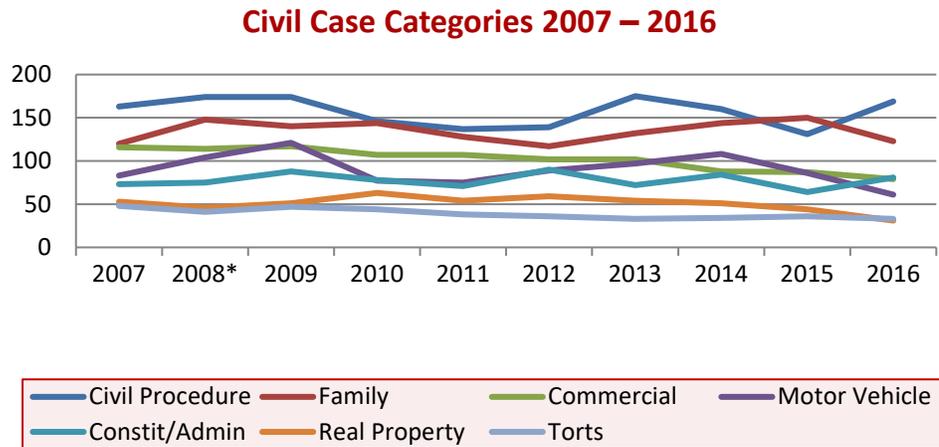
In most cases, the Court is able to determine the type of proceeding giving rise to an appeal. As in years past, figures show there were more appeals from Supreme Court of British Columbia chambers matters and summary trials combined than appeals from trials in that Court. The chart below shows the types of appeals according to the underlying proceeding. In 2016, approximately 68% of civil appeals were from chambers matters and summary trials.

Origin of Civil Appeals 2007 – 2016



CIVIL CASE CATEGORIES

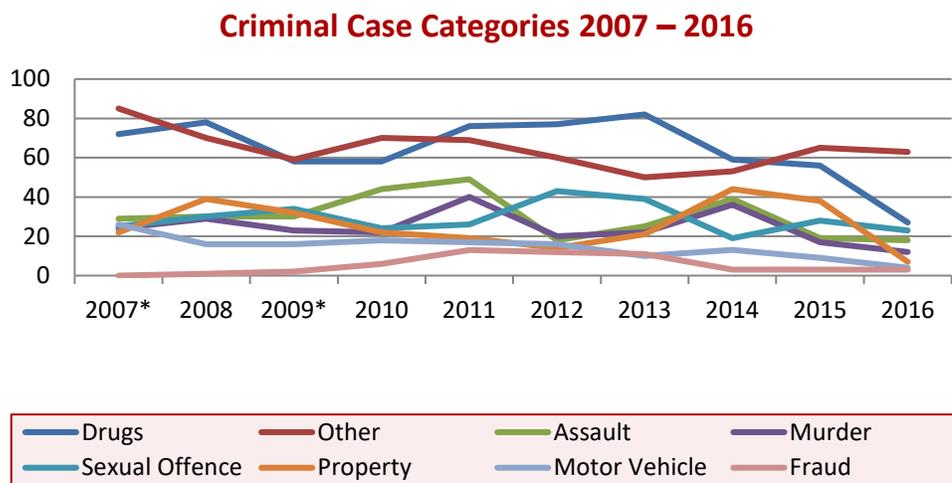
When a civil case is filed with the Court, litigants indicate the subject of the appeal in the document initiating their appeal. The chart below shows the top seven categories of cases filed between 2007 and 2016 by number of cases.



* Correction made

CRIMINAL CASE CATEGORIES

The Court also tracks the subject of the various criminal cases. The chart below shows the top eight categories of cases filed between 2007 and 2016 by number of cases. “Other” covers various offences such as arson, mischief, extradition and *habeas corpus* cases.



* These two years were revised

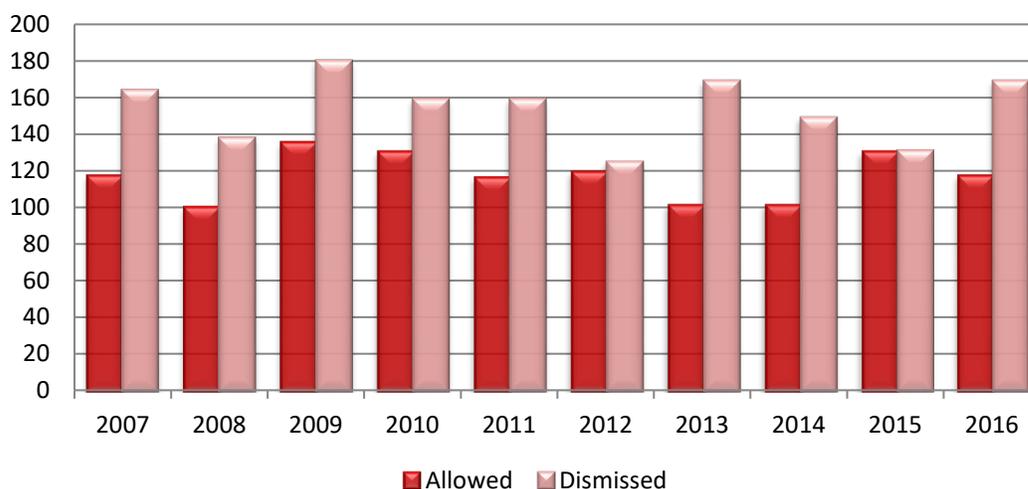
“
In 2016, the proportion of civil appeals allowed was **41% of the total civil appeals heard**

APPEALS ALLOWED AND DISMISSED

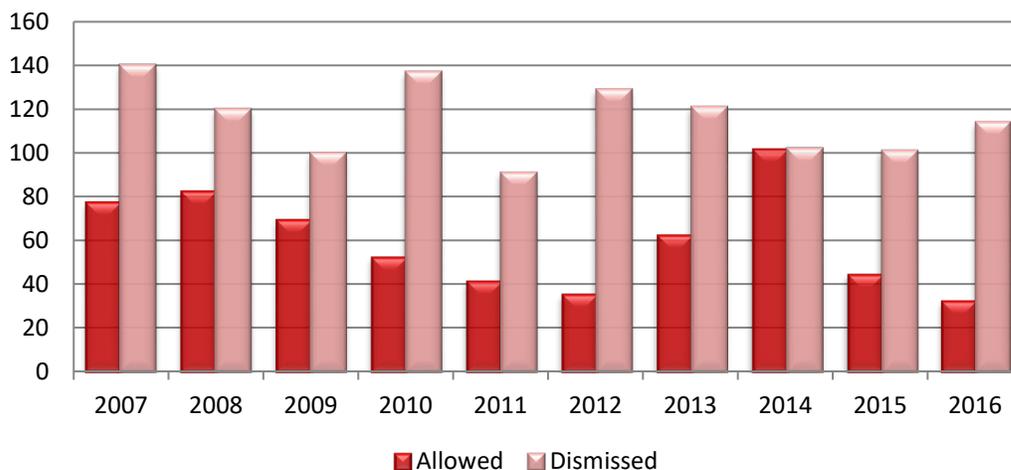
The rate of civil and criminal appeals allowed over the past seven years has varied. In 2016, the proportion of civil appeals allowed was 41% of the total civil appeals heard (117 allowed, 169 dismissed). For criminal appeals, 22% were allowed (32 allowed, 114 dismissed). The “allowed” statistics include appeals partially allowed by any variations in the order under appeal as well as appeals where a new trial was ordered.

The charts below show the number of civil and criminal appeals allowed and dismissed.

Civil Appeals Allowed/Dismissed 2007 – 2016



Criminal Appeals Allowed/Dismissed 2007 – 2016



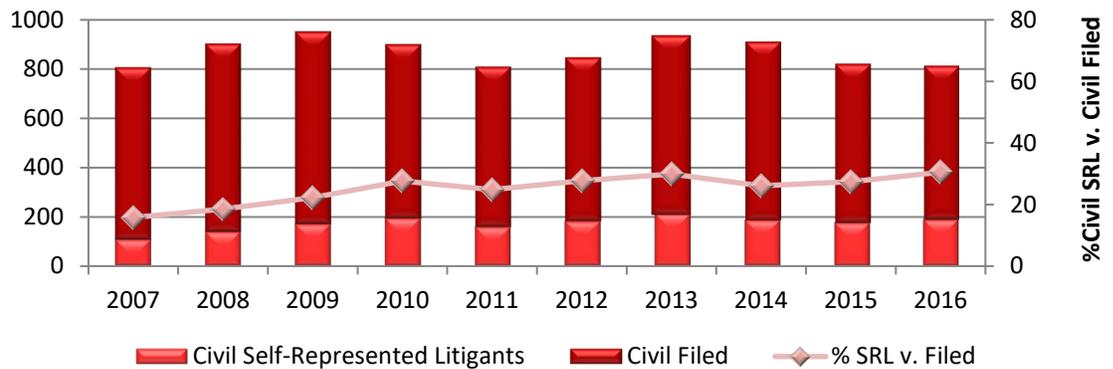
“ In 2016, out of 623 civil appeals and applications for leave to appeal filed, **190 appeals (30%)** involved at least one self-represented litigant.

SELF-REPRESENTED LITIGANTS

The charts below compare the number of appeals where at least one party was self-represented in a new appeal filed between 2007 and 2016 with the total number of appeals filed in those years. In 2016, out of 623 civil appeals and applications for leave to appeal filed, 190 appeals (30%) involved at least one self-represented litigant. This is a slight increase from 2015, where the figure was 27%. Out of the 190 appeals filed, 81% were self-represented appellants and 19% self-represented respondents. Of 286 civil appeals disposed of by the Court in 2016, 61 cases (21%) involved at least one self-represented litigant. This is an increase from 2015, where the figure was 42 of 261 (16%).

The graph below illustrates a slight increase from prior years of civil appeals involving self-represented litigants. The trend indicates, relative to the number of appeals filed, there has been an increase in self-represented litigants over the last three years.

Civil Appeals and Applications for Leave to Appeal Filed With Self-Represented Litigants/Civil Appeals Filed 2007 – 2016



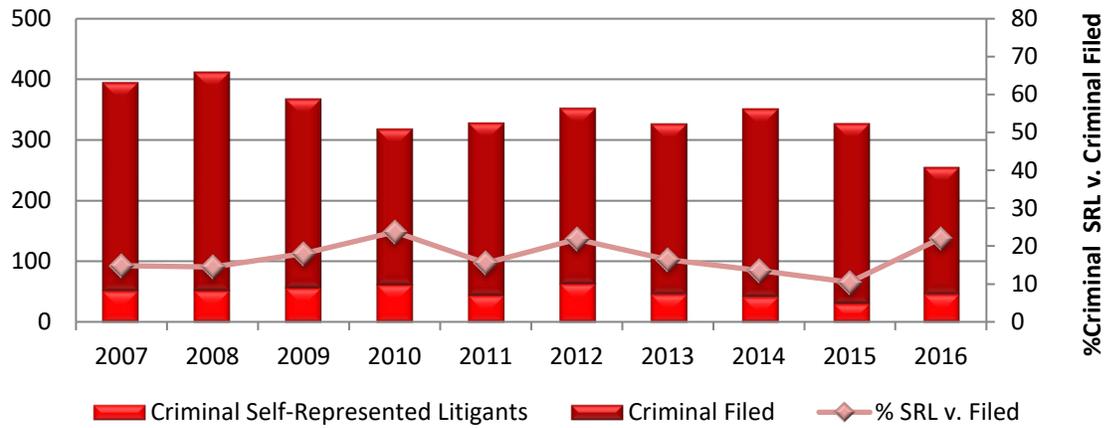
In 2016, out of 123 family appeals or applications for leave to appeal filed, 57 appeals (46%) involved at least one self-represented litigant. Out of the 57 appeals filed, 75% were self-represented appellants and 25% self-represented respondents. Of 155 family appeals disposed of by the Court in 2016, 57 cases (36%) involved at least one self-represented litigant.

Turning to criminal appeals, out of 209 appeals or applications for leave to appeal filed, 46 (22%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is an increase from 2015, where the figure was 14%. All self-represented litigants in criminal appeals were appellants. Of the 243 criminal appeals or applications for leave to appeal disposed by the Court in 2016, 33 (14%) involved at least one self-represented litigant. This is an increase from 2015, where the figure was 16 out 230 (7%).

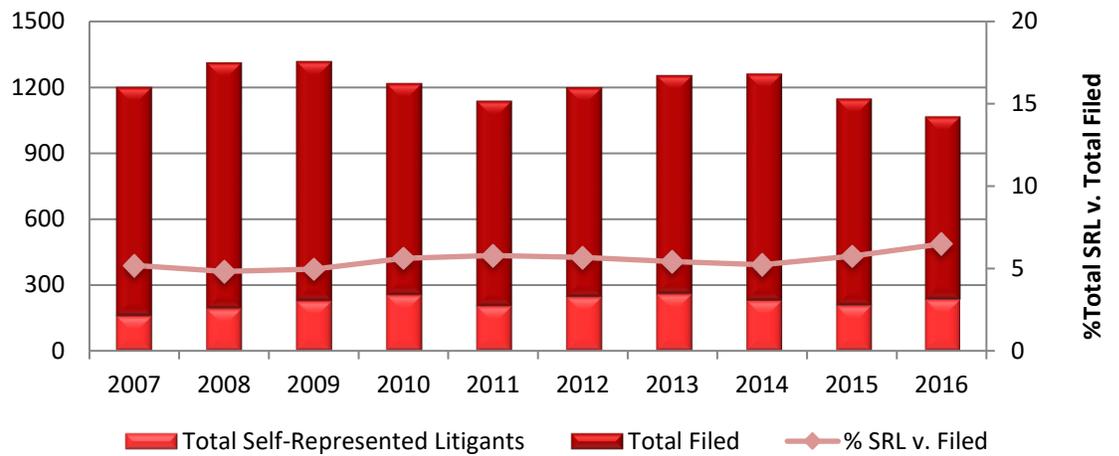


Of the 243 criminal appeals disposed by the Court in 2016, **33 (13%)** involved at least one self-represented litigant.

Criminal Appeals and Leave Applications Filed With Self-Represented Litigants/Criminal Appeals Filed 2007 – 2016



Total Appeals and Leave Applications Filed with Self-Represented Litigants/Total Appeals Filed 2007 – 2016

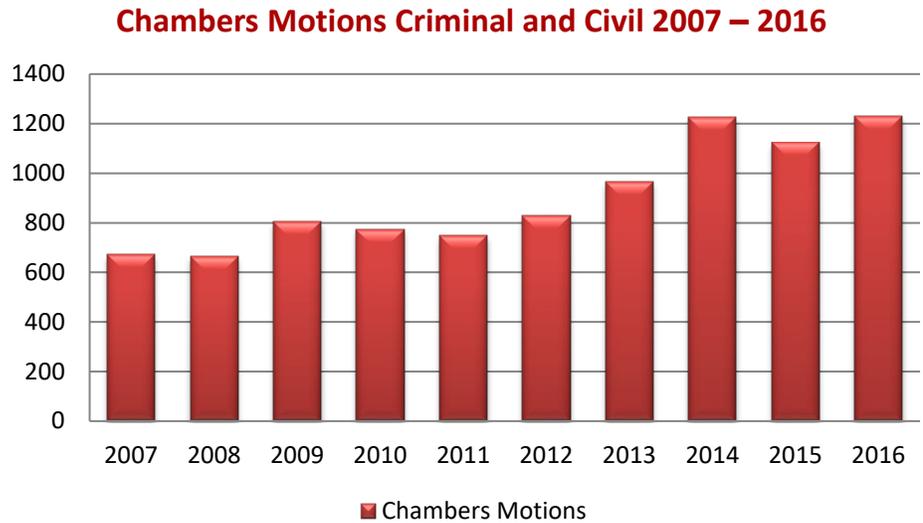


CHAMBERS AND CASE MANAGEMENT

Chambers motions are brought by litigants before a single justice seeking various forms of relief before an appeal is heard. The Court counts each individual motion brought by a litigant, even if multiple motions are brought during the same court hearing.

“ In 2016, there were **46 family law files** that qualified for case management and **eight** were subsequently managed.”

The Court has been monitoring the number of chambers motions brought over the last several years, given a general increase since 2012. The chart below shows the number of chambers motions brought in both civil and criminal appeals in a given year.



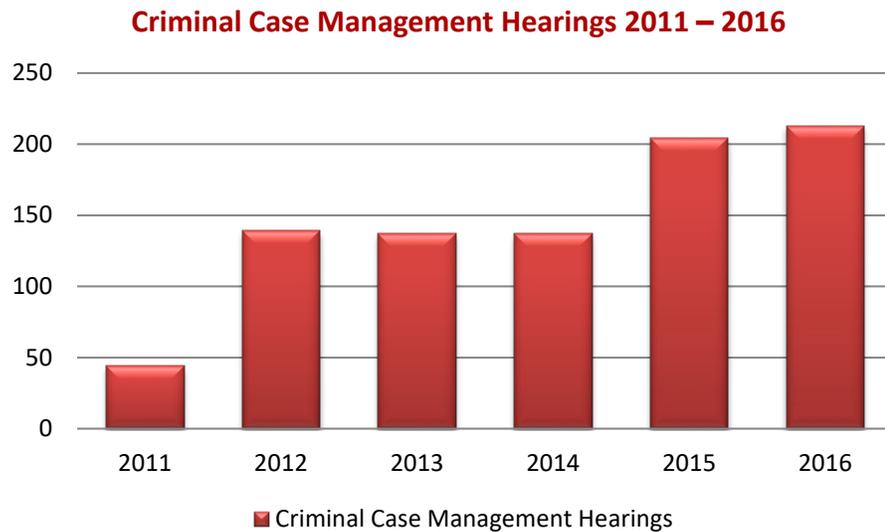
Part of the work in chambers includes the case management of appeals. The Court applies a form of focused case management, only seeking to manage those appeals where deadlines are missed or where the parties request the Court’s assistance.

Civil case management is largely confined to family law cases involving adoption, child support, custody and access or child protection issues. In 2016, there were 46 family law files that qualified for case management and eight were subsequently managed.

On the criminal side of the Court’s docket, case management is done more frequently pursuant to *Criminal Conviction/Acquittal Appeals Timeline* (Criminal Practice Directive, 13 January 2014). The chart below plots the number of criminal case management hearings year-over-year, showing a slight increase in 2016.



In 2016, the Registrar conducted **60 hearings out of a total of 85 scheduled**, a decrease in scheduled hearings from 2015.



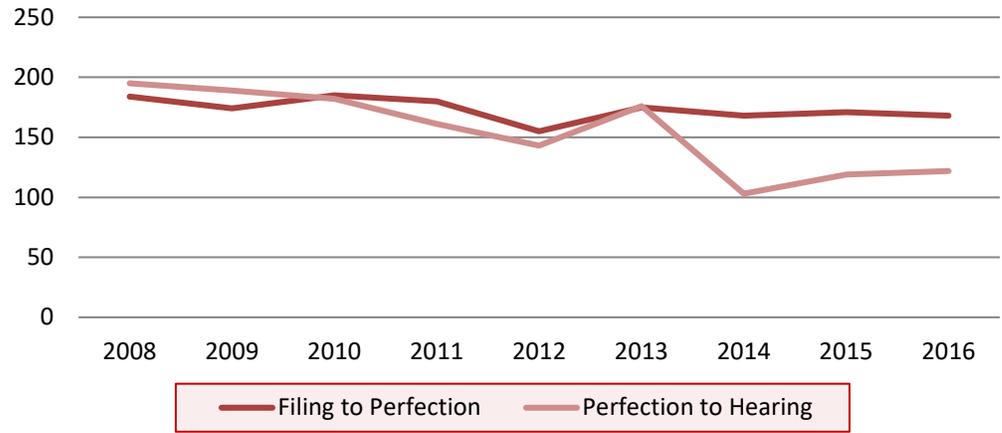
REGISTRAR’S HEARINGS

In 2016, the Registrar conducted 60 hearings out of a total of 85 scheduled, a decrease in scheduled hearings from 2015. Of those 60 hearings, 28 were for the assessment of costs, three were for the assessment of special or increased costs, 25 were to settle orders and four were to settle the contents of the transcript or appeal book. As well, one decision of the Registrar was reviewed in 2016 by a justice in chambers and the review was dismissed.

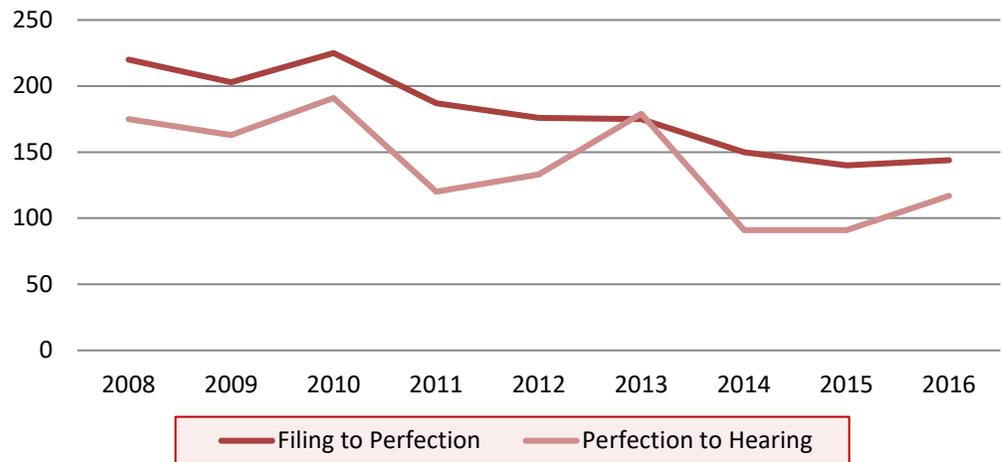
TIME LAPSE STATISTICS: FILING TO HEARING

The four charts below represent two timeframes showing the mean amount of time it takes for an appeal to progress through the Court for appeals heard in 2016. The term “filing to perfection” measures the time in days from the filing of the initiating document to the time an appeal is ready to be scheduled for hearing. The term “perfection to hearing” measures the time in days from when an appeal is ready to be scheduled until it is heard. The Court’s available dates fluctuate, but generally the parties may obtain a date for hearing the appeal within three months of a request. With certain limited exceptions, the parties choose the date on which they want the appeal to be heard.

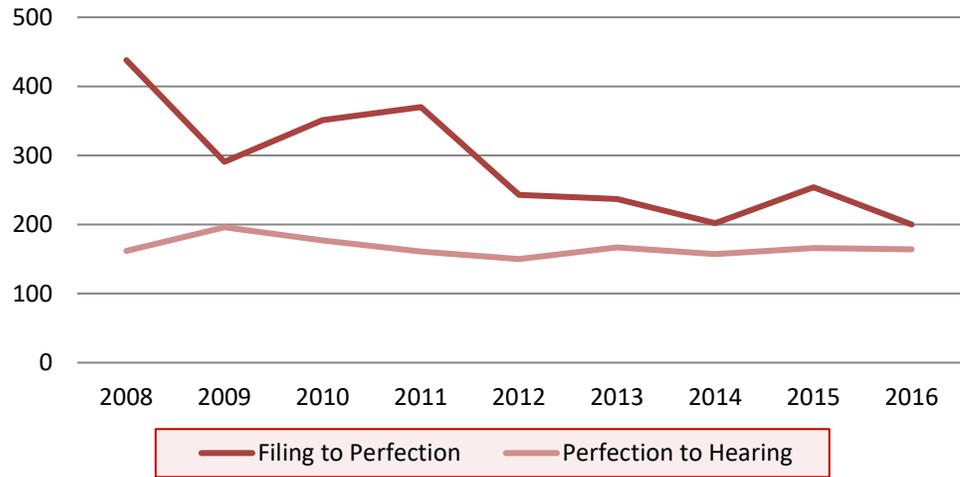
Civil 2008 – 2016



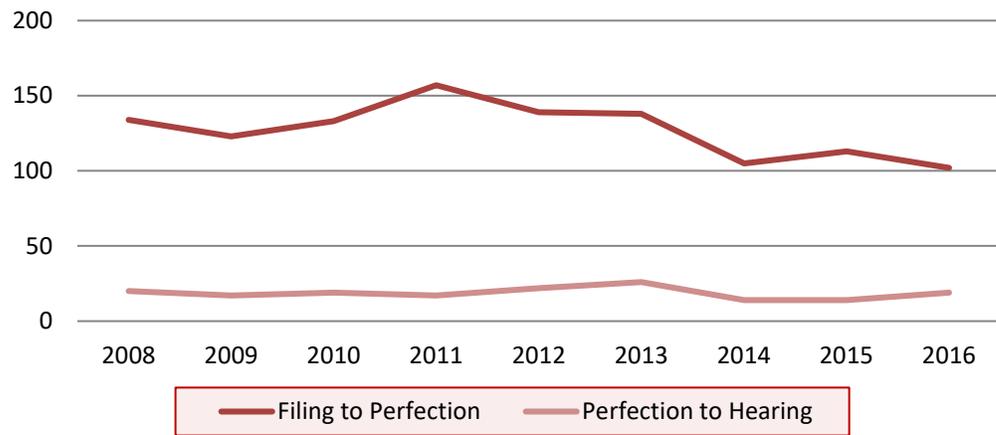
Family 2008 – 2016



Conviction 2008 – 2016



Sentence 2008 – 2016



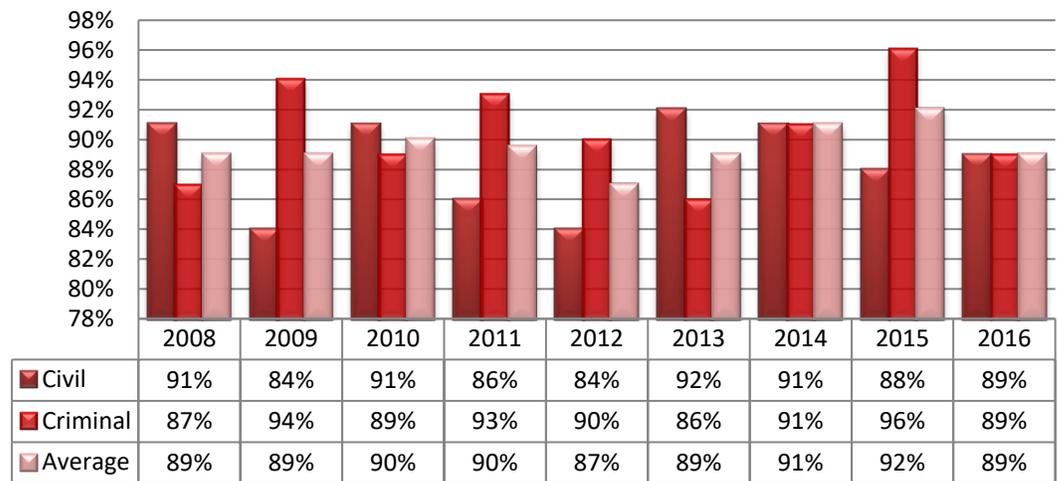


In 2016, the Court issued reserve judgments in **73%** of civil cases decided and in **46%** of criminal cases decided.

TIME LAPSE STATISTICS: HEARING TO JUDGMENT

The Canadian Judicial Council provides a six-month guideline for the release of reserve judgments, which are judgments given orally or in writing at least a day after the appeal concludes. The chart below represents the percentage of Court of Appeal reserve judgments released within that six-month period, sorted by civil, criminal and total reserve judgments. In 2016, the Court issued reserve judgments in 73% of civil cases decided and in 46% of criminal cases decided.

Percentage of Reserve Judgments Released within Six-Month Guideline 2008 – 2016



“ In 2016, 16% of leave applications to the Supreme Court of Canada were successful (12 of 76 considered). ”

APPEALS TO THE SUPREME COURT OF CANADA

Statistics from the Supreme Court of Canada show that the Court of Appeal is the court of last resort for most British Columbians. In most cases, litigants must seek permission/leave from the Supreme Court of Canada to appeal a case from the British Columbia Court of Appeal.

In 2016, 16% of leave applications from British Columbia to the Supreme Court of Canada were successful (12 of 76 considered). Out of the 121 appeals heard by the Supreme Court of Canada from British Columbia between 2006 and 2015 (inclusive), 52% (57) were dismissed and 48% (64) were allowed.

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
B.C. Leave Applications Considered	64	75	105	61	70	66	76	71	76	81	64	76
Granted	8	12	20	9	13	10	11	14	8	9	10	12
Dismissed (adjudicated)	55	60	83	50	56	52	60	54	62	71	51	60
Dismissed (by denial of extension)	0	3	1	1	1	2	2	2	2	1	1	1
Discontinued	1	0	1	0	0	1	2	0	0	0	1	2
Quashed	0	0	0	0	0	1	0	0	0	0	0	0
Remanded	0	0	0	1	0	0	1	1	4	0	1	1
Percentage from B.C.	11%	16%	17%	12%	14%	14%	14%	13%	14%	16%	13%	13%
B.C. Appeals Heard	21	9	13	20	9	13	13	14	12	8	10	17
Allowed	10	4	6	10	6	7	4	6	5	6	3	5
Dismissed	11	5	7	10	3	6	9	8	7	2	7	4
Reserved	0	0	0	0	0	0	0	0	0	0	0	8
Percentage from B.C.	23%	11%	25%	24%	13%	20%	19%	18%	16%	10%	16%	27%

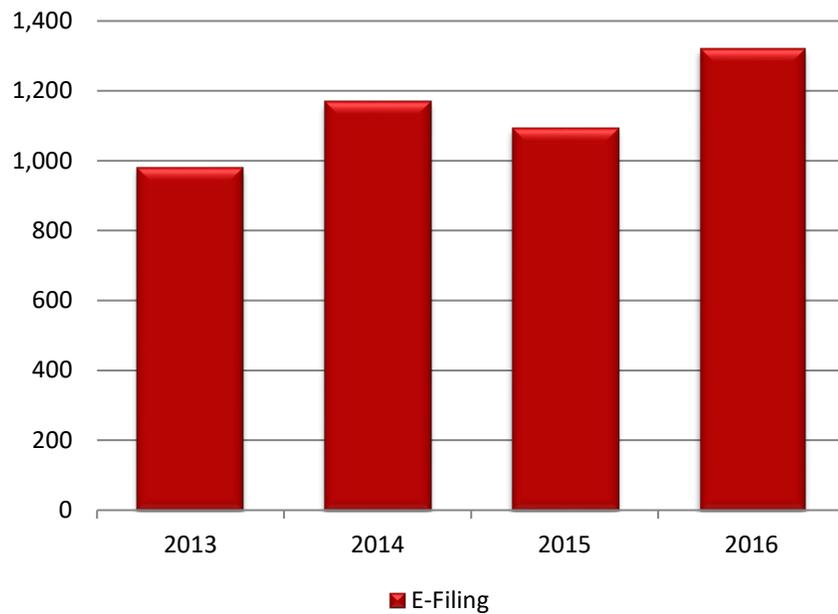
“ In 2016, the most commonly e-filed documents were the appearance with 241 documents, followed by affidavits with 159 filings and notices of appeal with 136 filings.”

ELECTRONIC FILING

WebCATS, the web-based Court of Appeal tracking system, is the Court’s electronic case management system. WebCATS has been available to the public through [Court Services Online \(CSO\)](#) since 2005, allowing the public to search civil and criminal indices for free and to view individual files for a nominal fee.

Court of Appeal e-filing was officially implemented in October 2012. The number of electronically filed documents by year is summarized in the chart below. In 2016, the most commonly e-filed documents were the appearance with 241 documents, followed by affidavits with 159 filings and notices of appeal with 136 filings.

Trends: E-Filing 2013 – 2016





While Access to Justice BC does not itself run projects, it provided support in 2016 to initiatives such as an unbundling legal services project, a family justice hub project and a presumptive consensual dispute resolution project.

PLANNING, PRIORITIES, AND ACCESS TO JUSTICE COMMITTEE

MEMBERS

The Honourable Chief Justice Bauman (Chair)
The Honourable Madam Justice Newbury
The Honourable Mr. Justice Frankel
The Honourable Madam Justice Smith
The Honourable Madam Justice Dickson
The Honourable Mr. Justice Savage
Timothy Outerbridge, Registrar
Frank Kraemer, Q.C., Executive Director and Senior Counsel
Sally Rudolf, Legal Counsel

The mandate of the Planning, Priorities, and Access to Justice Committee is to consider matters of general importance to the operation of the Court, including court reform, new policies, initiatives and changes to court administration. The Committee functions as the Court's Executive Committee.

The following matters were considered in 2016:

ACCESS TO JUSTICE BC & JUSTICE SUMMITS

As in 2015, the Chief Justice reported to the Court on the work of Access to Justice BC and the work of the government-led Justice Summits.

Access to Justice BC is a platform or network of justice system stakeholders committed to improving access to justice for British Columbians. It seeks to align network members in their efforts and to support collaborative, innovative, user-centered and evidence-based initiatives. While Access to Justice BC does not itself run projects, it provided support in 2016 to initiatives such as an unbundling legal services project, a family justice hub project and a presumptive consensual dispute resolution project. Updates on Access to Justice BC initiatives can be found on the Chief Justice's blog at www.accesstojusticebc.ca.

The 5th BC Justice Summit was held on 6 – 7 November 2015 and was attended by the Chief Justice and Legal Counsel Sally Rudolf. The Summit addressed the topics of a trauma-informed justice system response to victims of violent crime and better coordination and information sharing in and across

family justice, criminal justice and child protection proceedings. The 6th BC Justice Summit was held on 10 – 11 June 2016 and focused on justice, mental health and substance use issues, in particular linkages between participation in the criminal justice system and having a mental health and/or substance use diagnosis. Due to the unavailability of the Chief Justice, Madam Justice Saunders attended along with Legal Counsel Sally Rudolf. The 7th BC Justice Summit was held on 25 – 26 November 2016 and built on the spring theme.

BUSINESS PROCESS REVIEW

The Court of Appeal (along with the Supreme Court) has undertaken a project to review its business processes and has engaged a team of consultants, who will report to the Chief Justices in March 2017.

MEMORANDUM OF UNDERSTANDING WITH YUKON GOVERNMENT

The British Columbia Court of Appeal sits twice a year as the Yukon Court of Appeal in Whitehorse. On 27 May 2016, the Chief Justice entered into a Memorandum of Understanding with Yukon, the goal of which is to further consultation and collaboration on the development of court administration as it pertains to the Yukon Court of Appeal.

ELECTRONIC APPEALS TRAINING

The Committee was made aware of several electronic appeals taking place in 2016 and 2017 as well as the initiative to have most criminal appeals equipped with an electronic factum, transcript and appeal book. Mr. Justice Lane of the Saskatchewan Court of Appeal and the National Judicial Institute presented a training session on working with electronic documents on 14 – 15 March 2016. The Committee noted the uptick in the number of requests for electronic appeals and the need for the Court to keep pace in its training regime.

VIRTUAL COUNSEL AND MEDIA LOCKUP

The Court of Appeal will release decisions under embargo prior to their official release in Court to both counsel and the media on conditions in certain high-profile appeals. As in years past, the Court has received positive feedback on this initiative from both counsel and the media. The Court will continue this process for all higher-profile cases, so long as staffing and resource requirements permit. In 2016, the Court released reasons for judgment in *Trinity Western University v. The Law Society of British Columbia, 2016 BCCA 423* using the virtual counsel lockup and in-person media lockup process.

“The Committee is considering a process for developing a **strategic plan** for the Court. It was agreed in principle that a strategic plan would assist the Court in considering **priorities and proper allocation of Court resources** over time.”

STRATEGIC PLANNING PROCESS

The Committee is considering a process for developing a strategic plan for the Court. It was agreed in principle that a strategic plan would assist the Court in considering priorities and proper allocation of Court resources over time. In late 2016, the Registrar completed a draft of the Court’s strategic plan, which has been forwarded to the Chief Justice for consideration.

TRANSCRIPTION AND PUBLICATION OF ORAL JUDGMENTS

In 2015, the Court reported on changes made to its protocol for the transcription and publication of oral judgments. The Court has traditionally transcribed all of its oral judgments, including every time a single justice delivers an oral judgment in chambers. Many of these judgments did not have precedential value and were not being used by litigants or the bar.

In 2015, the Committee and Court agreed that oral judgments of a single justice in chambers ought to be transcribed only when requested by the parties or the justice. To facilitate quick transcription/publication, the responsibility for deciding whether an oral judgment is transcribed/published is now made by the justice when giving the oral judgment. The justice will consider whether the judgment has precedential value when deciding whether the judgment ought to be transcribed and/or published.

The Court continues to transcribe oral judgments involving self-represented litigants automatically, given that self-represented persons usually request transcription. Any party may request transcription of an oral judgment at any time, should they require it.

The change was implemented in September of 2015. During the period from 1 September 2014 – 1 September 2015, the Court transcribed 269 oral judgments in chambers. After implementation of the changes during the same period between 2015 and 2016, the number fell to 166, representing a 40% overall decrease.

ERRORS IN ORAL AND RESERVE JUDGMENTS

The Court noted an informal study published in the November 2015 edition of the *Advocate* magazine that noted the number of corrected judgments from 2012 to 2015 represented approximately 6.8% of the total judgments published over that period. The Committee instructed the Registrar to conduct a study on the reasons for the number of corrections and to report back to the Committee in 2017.

ENHANCEMENTS TO AUDIO REQUESTS

The Court of Appeal had previously used a burdensome process to accommodate requests for transcription of audio that involved the replication of an audio CD in the Court registry and its physical

“In 2016, the Court completed work on a **separate, secure network** for storing and using documents on high-security files.”

transfer to the Court Technologies Office. This process has been replaced with an online form that may be submitted to the Court Technologies Office, which can then grant the applicant direct access to the audio through WebCATS, the Court’s case management system. For files that are sealed or have publication bans, the Court Technologies Office continues to check with the Court of Appeal registry for permission prior to releasing the audio recording for transcription.

FILE SECURITY AND ESTABLISHING A SECURE NETWORK

The Committee adopted a proposal by the Registrar and Legal Counsel to review the Court’s current processes around sealing of certain court files and protecting confidential information. This process will be reported on further in 2017. In 2016, the Court completed work on a separate, secure network for storing and using documents on high-security files.

ROTA PROTOCOL

The “rota” is a term that describes the sitting schedules of the Court, which is prepared under the direction of the Chief Justice. As reported in 2015, the Court has established a rota protocol, the objective of which is to ensure a timelier preparation of the rota. In 2015, the rota was complete about six weeks earlier than in previous years. In 2016, the Court began considering the option of automating certain aspects of rota preparation to ensure an even faster turnaround, in particular with the development of an application that might set the rota automatically. Timely preparation of the rota ensures more predictability for the justices’ schedules leading to smoother scheduling of appeal hearings for the public.

WEBCASTING

As in 2014 and 2015, the Court did not conduct a webcast in 2016, but it continues to examine higher-profile cases to webcast as part of its pilot project in 2017.

SELF-HELP WEBSITE

The Court’s [self-help website](#) is a partnership between the Court of Appeal and the Justice Education Society. In 2016, the self-help website had 22,801 visitors with 70,427 page views and an average time on the website of two minutes and fifteen seconds. The Court is grateful for the relationship it has formed with the Justice Education Society and all of its work to maintain this important resource.

ACCESS PRO BONO

The Court continued to welcome the assistance of [Access Pro Bono](#) in addressing the needs of self-represented litigants. Access Pro Bono is an organization through which pro bono lawyers provide free

legal advice and representation to low- and modest-income individuals on a wide range of legal issues, including family, immigration, criminal and civil law (such as debt, employment, welfare and housing). For the Court of Appeal, Access Pro Bono provides both assistance in chambers through its Civil Chambers Program and assistance with full appeals through its Court of Appeal Roster Program. The lawyers in the Roster Program who provided pro bono services on Court of Appeal cases in 2016 are:

Ryan Androsoff	Alix Holliday	Tom A. Posyniak
Jacob Cabott	Jamie Maclaren, Q.C.	Rebecca Robb
Rosalie A. Clark	Joe McArthur	Marilyn Sandford, Q.C.
Caily DiPuma	Joel Morris	Mia Taghizadeh
Michael Feder	Sarah Nelligan	Brendan Ward
Bridget Gilbride	Brent Olthuis	

The Court of Appeal Roster Program coordinators also put in many volunteer hours reviewing cases for merit. These coordinators are Angus Gunn, Q.C. and Simon R. Coval (civil), Richard C.C. Peck, Q.C. (criminal), and Georgiale A. Lang (family). The services of all these lawyers, without fee, are of great assistance to the Court and the public, and are very much appreciated.

By the end of 2016, the Court had almost finalized the drafting instructions for the Act and Rules. The Committee **expects that further consultation and drafting will occur in 2017.**

RULES AND PRACTICE COMMITTEE

MEMBERS

The Honourable Chief Justice Bauman
The Honourable Madam Justice Newbury
The Honourable Madam Justice Garson (Chair)
The Honourable Madam Justice MacKenzie
The Honourable Mr. Justice Harris
The Honourable Mr. Justice Goepel
The Honourable Mr. Justice Fitch
Timothy Outerbridge, Registrar
Sally Rudolf, Legal Counsel

The mandate of the Court of Appeal Rules and Practice Committee is to review, enhance and simplify the practice and procedure of the Court. The Committee meets regularly throughout the year to discuss proposals by the justices of the Court, the Registrar, lawyers and the public for amendments to the *Court of Appeal Act* (the “Act”), the *Court of Appeal Rules* and the *Court of Appeal Criminal Appeal Rules, 1986* (together, the “Rules”). The Committee consults with members of the bar and other organizations, such as the Canadian Bar Association, when there is a proposal that significantly changes the Court’s practice and procedure.

The following matters were considered in 2016:

CIVIL APPEAL ACT AND RULE REFORM PROJECT

Work continued on the project to amend the Act and the Rules. As in 2015, the work of this project consumed most of the Committee’s time in 2016.

As the consultation process discussed in last year’s annual report drew to a close in April, the Committee focused on preparing drafting instructions for legislative counsel. For this purpose, external counsel was hired, Ms. Yun Li-Reilly. By the end of 2016, the Court had almost finalized the drafting instructions for the Act and Rules. The Committee expects that further consultation and drafting will occur in 2017.



At the November 2016 Court meeting, the Court **approved the proposed changes** and the new Yukon Practice Directives and Notes are presently being translated into their French equivalents.

CRIMINAL PRACTICE AND PROCEDURE ADVISORY GROUP

The Committee meets periodically with members of the criminal bar to consult on changes to practice and procedure in criminal appeals. This year, the following topics were discussed:

- ✓ concerns over the inappropriate adjournment of compliance hearings;
- ✓ the proper setting of dates for applications under s. 684 of the *Criminal Code*, in particular those where there is a limited retainer for counsel ordered by the Court;
- ✓ the increasing number of case management hearings taking place and theories as to what is driving the increase;
- ✓ a discussion on the use of electronic criminal transcripts and appeal books;
- ✓ the development of a new Practice Directive governing extradition appeals and sentence appeals;
- ✓ the electronic filing of criminal documents and the expense associated with moving to electronic filing on the criminal side;
- ✓ the Supreme Court of Canada’s practice to allow the use of headnotes and cited passages only rather than reproducing full authorities; and
- ✓ a proposed new form of letter for setting the filing schedule pursuant to *Criminal Conviction/Acquittal Appeals Timeline* (Criminal Practice Directive, 13 January 2014).

Appreciation is expressed to the following members of the Criminal Advisory Group:

Ursula Botz	Eric Gottardi	Paul Riley, Q.C.
Jim Blazina	Valerie Hartney	Marilyn Sandford, Q.C.
Greg DelBigio, Q.C.	Rod Holloway, Q.C.	Deborah Strachan, Q.C.
Ian Donaldson, Q.C.	Brock Martland	Shelley Sugarman
Richard Fowler, Q.C.	Gil McKinnon, Q.C.	Michael Tammen, Q.C.
John Gordon, Q.C.	Jeff Ray	

YUKON COURT OF APPEAL PRACTICE DIRECTIVES AND NOTES

As reported in 2015, the Court has been reviewing which of its current Practice Directives and Notes ought to be available in Yukon when the Court sits as the Yukon Court of Appeal. At the November 2016 Court meeting, the Court approved the proposed changes and the new Yukon Practice Directives and Notes are presently being translated into their French equivalents. It is expected that in 2017, these will be signed and issued by the Chief Justice and Registrar.

DOUBLE-SIDING OF APPEAL MATERIALS

Effective 29 January 2016, a number of amendments were made to the Court’s civil rules and forms requiring that all books filed be prepared double-sided, except for the factums. This change reduces the physical size of many of the Court’s books, allowing for a potential decrease in downstream storage costs.

PRACTICE DIRECTIVES AND NOTES ISSUED OR UPDATED

A [table of concordance](#) for both civil and criminal Practice Directives and Notes may be found on the Court’s website.

Double-Siding of Appeal Materials (Criminal Practice Note, February 9, 2016)

This Practice Note requires that all books in criminal appeals be double-sided except for factums. On the civil side, these changes were achieved through amendments to the Court’s forms made by a regulation deposited on 29 January 2016.

Sentence Appeals (Criminal Practice Directive, 11 March 2016)

This Practice Directive was updated effective 21 March 2016 to adjust certain timelines for the filing of statements and page limits in a sentence appeal in response to consultations with the Criminal Advisory Group.

Extradition Appeals (Civil & Criminal Practice Note, May 13, 2016)

This Practice Note was revised to include a new model order providing for the continuation of bail without another appearance once a committal order is made. This brings British Columbia’s criminal bail practice into alignment with that in other appellate courts, including the Court of Appeal of Ontario.

Electronic Media in Appeal Books (Civil & Criminal Practice Directive, 13 May 2016)

This Practice Note discusses the Court’s expectations when counsel wish to put multimedia exhibits in their appeal book. The Court continues to receive multimedia exhibits on DVD, CD or memory stick with some frequency. These are often “embedded” within appeal books. This creates a problem from an archival standpoint, as these formats will degrade and become unreadable over time. The Practice Directive alleviates this concern by stipulating that multimedia exhibits must be filed separately.



In 2016, a beta version of a program that is **designed to make filing a Notice of Appeal** was developed and limited trials commenced with specific users in late 2016.

COURT OF APPEAL TECHNOLOGY COMMITTEE

MEMBERS

The Honourable Chief Justice Bauman (*ex officio*)
The Honourable Madam Justice Bennett (Chair)
The Honourable Mr. Justice Willcock
The Honourable Mr. Justice Fitch
The Honourable Mr. Justice Savage
Timothy Outerbridge, Registrar
Frank Kraemer, Q.C., Executive Director and Senior Counsel
Sally Rudolf, Legal Counsel
Kevin Arens, Director of Information Technology and Finance

The Court of Appeal Technology Committee supervises projects meant to enhance the use of technology in the Court of Appeal. The following matters were considered in 2016:

ELECTRONIC FILING PROJECT

Since 2014, the Court Services Branch has been facilitating a project that will follow a user-experience design model for the development of future electronic filing. In 2016, a beta version of a program that is designed to make filing a Notice of Appeal was developed and limited trials commenced with specific users in late 2016.

ELECTRONIC APPEALS

As discussed in 2015, there are currently two categories of electronic appeals:

Fully Electronic Appeals: These are appeals with voluminous records where the parties have realized cost savings by filing the record electronically. Typically, these cases will involve a fully electronic record with paper factums only. In 2016, the Court conducted its third and fourth appeals in this series, in *JP v. Attorney General of British Columbia* and *JP v. BG*, both of which now have reserve judgments under consideration. In both appeals, the Court experimented with a different presentation model that involved the printing of some condensed books, though less than 7% of the record was printed. In the two previous appeals, *Federation of Law Societies of Canada v. Canada (Attorney General)*, 2013 BCCA 147 and *R v. Kembo*, 2014 BCCA 307, the Court made use of presentation screens in the courtroom. As reported in 2015, the Court intends to begin to experiment with tablets in the coming two years,

which will hopefully decrease issues associated with reading thousands of documents on a computer screen. The Superior Courts have agreed that its next computer refresh, scheduled for 2017, will involve an option for a tablet computer. A checklist for conducting a fully electronic appeal will be available from the Registrar's office in 2017.

Each fully electronic appeal is independently evaluated and measured through a set of qualitative interviews with all participants in an effort to improve, through an iterative process, the experience for each successive electronic appeal.

Partially Electronic Appeals: The second category of electronic appeals involves a pilot for some criminal appeals where there will now be a fully electronic record (except for authorities) and a matching paper record. In 2016, this pilot program commenced and over the year 18 criminal appeals were filed with a fully electronic record and a matching paper record. There was also a civil appeal in which portions of the record were compiled and used electronically: *Prophet River First Nation v. British Columbia (Environment)*, 2017 BCCA 58. In 2017, the Committee hopes to encourage justices to practice working with criminal electronic documents.

As in previous years, the Court continues to pursue all types of electronic appeals as an access to justice initiative in an attempt to reduce the costs of conducting an appeal. However, the costs of accommodating these practices are significant in terms of staff time, and the Court lacks the proper infrastructure to accommodate these appeals other than intermittently.

POLICY ON THE USE OF WIRELESS DEVICES

The Committee finalized and presented to the Court a policy on the use of wireless devices, which provides instruction to the justices on the appropriate use of cellular telephones and tablets. This includes restrictions on the use of such devices on unrestricted Wi-Fi networks and password and encryption requirements.

“ This year, in addition to sessions focusing on **court procedures and technology**, we had two Law at Lunch presentations dealing with **access to justice issues**.

EDUCATION COMMITTEE

MEMBERS

The Honourable Mr. Justice Harris
The Honourable Mr. Justice Willcock (Chair)
The Honourable Madam Justice Fenlon
The Honourable Madam Justice Stromberg-Stein

The Education Committee is responsible for organizing education programs for the justices of the court.

Law at Lunch is an informal lunch meeting of the justices, held about once a month, at which a speaker presents a topic that relates generally to the work of the justices and its impact on others. Programs of greater length are presented twice a year, usually at the Court’s semi-annual meetings.

This year, in addition to sessions focusing on court procedures and technology, we had two Law at Lunch presentations dealing with access to justice issues. The first was presented by Michael Rittinger, Manager of the Vancouver Justice Access Centre, and Jamie MacLaren, Executive Director of Access Pro Bono. The session focused on the work of those two organizations. The second, presented by Carol W. Hickman, Q.C. of Quay Law Centre and Kari Boyle of the BC Family Justice Innovation Lab, discussed unbundling of legal services.

The Honourable Marshall Rothstein, Q.C., of Hunter Litigation Chambers, also presented a Law at Lunch session, talking about his career as a lawyer and as a judge, focusing on his time at the Supreme Court of Canada.

Chief Officer Doug LePard of the Metropolitan Vancouver Transit Police, formerly Deputy Chief Constable of the City of Vancouver Police Department, spoke to the Court about the investigation into the 2011 Stanley Cup riot.

Professor Colin Macleod, Professor of Law and Philosophy and Chair of the Department of Philosophy at the University of Victoria, addressed the Court at its spring meeting, discussing legal positivism, natural law theories and legal realism.

The featured speaker at the Court’s fall meeting was Chief Justice Barbara Madsen of the Washington State Supreme Court. She talked about common challenges faced by her court and our own, and also spoke about the election of judges in her jurisdiction. At the time of the presentation, she was, herself, in the midst of a re-election campaign.

In addition to the formal education sessions provided at the Court, justices also have 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 of Canada, the Continuing Legal Education Society of British Columbia, the Canadian Bar Association and university law schools. All of these educational activities are designed to assist justices in remaining current in their understanding of substantive and procedural legal developments, as well as in some of the broader issues that form the background to judicial work.

This year marked the end of the terms of Justices Groberman and Bennett on the Committee. Justice Willcock assumed the role of Committee Chair in November, and the Committee welcomed Justices Stromberg-Stein and Fenlon as new members.



A key focus for the Committee has been the **review and selection of new computers devices** which will be rolled out in 2017.

JOINT COURTS TECHNOLOGY COMMITTEE

MEMBERS

The Honourable Mr. Justice Masuhara (Chair)
The Honourable Madam Justice Bennett
The Honourable Mr. Justice Willcock
The Honourable Mr. Justice Myers
The Honourable Madam Justice Adair
The Honourable Mr. Justice Punnnett
Timothy Outerbridge, Registrar, Court of Appeal
Master Baker
Frank Kraemer, Q.C., Executive Director and Senior Counsel
Kevin Arens, Director, Information Technology and Finance
Cindy Friesen, Director, Supreme Court Scheduling
Sally Rudolf, Legal Counsel, Court of Appeal
Heidi McBride, Legal Counsel, Supreme Court

In 2016, the Committee continued to review technology developments and their impact on the work of the Court of Appeal and the Supreme Court. Committee members also participated in various other technology initiatives. A key focus for the Committee has been the review and selection of new computers devices which will be rolled out in 2017. The Committee also approved a Mobile Device Policy for the courts. The Committee thanks Master Baker who stepped down from the Committee after many years of service. As well, the Committee thanks Mr. Kevin Arens who has retired after providing many years of service to the Court of Appeal and the Supreme Court in respect of technology and financial matters.

“The Committee develops draft policies and interacts with the various court committees, **seeking guidance and approval for draft policies** relating to access to court records, particularly those in electronic format.**”**

JUDICIAL ACCESS POLICY WORKING GROUP

MEMBERS

Gene Jamieson, Q.C., Senior Legal Officer, Provincial Court (Chair to February 2016)

Karen Leung, Legal Officer, Provincial Court (Chair from February to August 2016)

Sally Rudolf, Legal Counsel, Court of Appeal (Chair from September 2016)

Frank Kraemer, Q.C., Executive Director & Senior Counsel, Judicial Administration, Superior Courts Judiciary

Heidi McBride, Legal Counsel, Supreme Court

Grant Marchand, Manager, Judicial Resource Analysis & Management Information Systems, Provincial Court

Dan Chiddell, Director Strategic Information & Business Applications, Court Services Branch

Carly Hyman, Director of Policy, Legislation and Issue Management, Court Services Branch (to February 2016)

Jess Gunnarson, A/Director of Policy, Legislation and Issue Management, Court Services Branch (from February 2016)

Kathryn Thomson, Legal Policy Advisor

MANDATE OF THE COMMITTEE

The Chief Justices and Chief Judge of British Columbia’s courts have responsibility for the supervision and control of court records and judicial administration records. The Committee is a joint committee consisting of representatives from all three courts and Court Services Branch employees. The Committee develops draft policies and interacts with the various court committees, seeking guidance and approval for draft policies relating to access to court records, particularly those in electronic format. The Chief Justices and Chief Judge give approval before a policy is adopted. In addition to policy work, the Committee also reviews access applications for those seeking bulk access to court record information.

WORK OF THE COMMITTEE

In 2016, the work of the Committee included the following:

Access Applications

As in every year, the Committee received, considered and made recommendations in respect of a number of applications for access to court record information from a variety of government, non-profit and private agencies and departments in order to fulfill their statutory mandates or to improve the efficiency of their operations. The Committee also considered and made recommendations in respect of access applications from universities and other academic organizations for research purposes.

Data Governance

In July 2016, the Committee appointed from among its members a Data Governance Working Group to identify and address data governance issues, review existing protocols and consider whether additional or updated court data management documentation is required.



In January 2016, the judicial law clerk program received **156 applications for the 30 law clerk positions** available in the two courts for the 2017 – 2018 term.

LAW CLERK COMMITTEE

MEMBERS

The Honourable Madam Justice Newbury
The Honourable Mr. Justice Tysoe (Chair)
The Honourable Madam Justice Bennett
The Honourable Madam Justice MacKenzie
Sally Rudolf, Legal Counsel

The Law Clerk Committee provides general supervision of the Court of Appeal’s judicial law clerk program. The legal counsel provides day-to-day supervision of the law clerks. One of the major tasks of the Committee is to interview the shortlist of candidates for entry into the program, following the first round of interviews conducted jointly by the legal counsel of the Court of Appeal and Supreme Court.

In January 2016, the judicial law clerk program received 156 applications for the 30 law clerk positions available in the two courts for the 2017 – 2018 term (12 at the Court of Appeal and 18 at the Supreme Court). Most applicants were students from the University of British Columbia and the remainder were from other Canadian law schools. In February 2016, the legal counsel interviewed 95 of the applicants. Subsequently, the justices of the Court of Appeal Law Clerk Committee interviewed 25 applicants and selected 12 for the positions at the Court of Appeal.

Twelve law clerks in the Court of Appeal commence their terms in the first week of September each year and finish variously after 10, 11 or 12 months (i.e., at the end of June, July or August). Out of the 12 clerks selected in 2016, there are five from the University of British Columbia, two from the University of Victoria, two from the University of Toronto, one from Dalhousie University and two from the University of Ottawa.

In October and November 2016, justices from the two courts’ Law Clerk Committees, the legal counsel and some former law clerks attended recruitment information sessions at the University of British Columbia, the University of Victoria and Thompson Rivers University law schools. The legal counsel and the members of the Law Clerk Committees continue to refine the recruitment and application process. In 2016, the Committee conducted interviews with applicants residing east of Manitoba through the use of Skype to reduce any financial hardship to students.

The Committee expresses its thanks to Sally Rudolf; to Jill Leacock and Heidi McBride, the legal counsel of the Supreme Court; and to Alix Going and Andrea Baedak for their assistance.

“The increased emphasis on **electronic materials** has **improved** the ability of the Library to provide services to justices, masters, registrars and judicial administration staff regardless of the user’s location.”

LIBRARY COMMITTEE

MEMBERS

The Honourable Madam Justice Griffin (Chair)
The Honourable Mr. Justice Goepel
The Honourable Madam Justice Humphries
The Honourable Mr. Justice Skolrood
Frank Kraemer, Q.C., Executive Director & Senior Counsel, Judicial Administration
Ms. Diane Lemieux, Librarian

This was the first year after the Committee conducted a comprehensive review of its collection in 2015 and discontinued purchasing some print reporters including those containing content now available in our online subscriptions. The changes to the collection do not appear to have disrupted users. With resulting costs savings the Library was able to begin to improve collections of other resource materials. More and more publishers are presenting online subscription packages, and the Library continues to grow this aspect of its collection. Legal collections based on topic or legal publications that add considered editorial comment continue to be the most useful. The increased emphasis on electronic materials has improved the ability of the Library to provide services to justices, masters, registrars and judicial administration staff regardless of the user’s location.

The Library continued to publish reasons for judgment on the Court’s website and distribute them to a number of legal publishers including CanLII, LexisNexis and Carswell/Thomson Reuters. In 2016, the Library published 290 civil reasons for judgment, 192 criminal reasons for judgment and 45 family reasons for judgments arising from proceedings in the Court of Appeal for a total of 527 reasons for judgment. In respect of proceedings in the Supreme Court, the Library published 1,315 civil reasons for judgment, 343 criminal reasons for judgment and 361 family reasons for judgment for a total of 2,019 reasons for judgment. In addition to the reasons for judgment that were published on the Court’s website, the Library published 467 criminal reasons for judgment arising from Supreme Court proceedings in an internal database.

Considerable work is done by library staff in publishing reasons for judgment, answering requests from the courts as well as maintaining the library collection. The judicial members of the Committee express their special thanks to the library staff for continuing to provide excellent service to assist the Court in navigating the changing world of legal resources.

MEMBERS OF THE COURT OF APPEAL

CHIEF JUSTICE OF BRITISH COLUMBIA

Chief Justice Robert James Bauman

- June 20, 1996 (Supreme Court)
- February 20, 2008 (Court of Appeal)
- September 9, 2009 (Chief Justice Supreme Court)
- June 16, 2013 (Chief Justice of British Columbia)

JUSTICES OF THE COURT OF APPEAL

Mr. Justice Ian T. Donald

- June 30, 1989 (Supreme Court)
- January 27, 1994 (Court of Appeal)*
- January 1, 2008 (Supernumerary)

Madam Justice Mary V. Newbury

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

Madam Justice Mary E. Saunders

- December 23, 1991 (Supreme Court)
- July 1, 1999 (Court of Appeal)*

Mr. Justice Peter D. Lowry

- October 11, 1991 (Supreme Court)
- June 30, 2003 (Court of Appeal)
- January 1, 2011 (Supernumerary)

Madam Justice Pamela A. Kirkpatrick

- November 20, 1989 (Supreme Court Master)
- November 27, 1992 (Supreme Court)
- June 2, 2005 (Court of Appeal)
- January 1, 2012 (Supernumerary)

Mr. Justice S. David Frankel

- March 2, 2007 (Supreme Court)
- May 10, 2007 (Court of Appeal)

Mr. Justice David F. Tysoe

- June 24, 1992 (Supreme Court)
- June 22, 2007 (Court of Appeal)

- January 1, 2012 (Supernumerary)

Madam Justice Daphne M. Smith

- December 19, 1996 (Supreme Court)
- May 8, 2008 (Court of Appeal)
- September 1, 2015 (Supernumerary)

Madam Justice Kathryn E. Neilson

- July 1, 1999 (Supreme Court)
- May 8, 2008 (Court of Appeal)
- July 1, 2014 (Supernumerary)
- June 30, 2016 (Retired)

Mr. Justice Harvey M. Groberman

- December 14, 2001 (Supreme Court)
- May 8, 2008 (Court of Appeal)

Madam Justice Elizabeth A. Bennett

- August 27, 1997 (Supreme Court)
- May 14, 2009 (Court of Appeal)

Madam Justice Nicole J. Garson

- March 21, 2001 (Supreme Court)
- May 14, 2009 (Court of Appeal)
- August 11, 2016 (Supernumerary)

Madam Justice Anne W. MacKenzie

- July 5, 1990 (Provincial Court)
- June 20, 1996 (Supreme Court)
- April 23, 2010 (Associate Chief Justice Supreme Court)
- December 31, 2011 (Court of Appeal)
- November 30, 2014 (Supernumerary)

Mr. Justice David C. Harris

- March 19, 2010 (Supreme Court)
- April 5, 2012 (Court of Appeal)*

Madam Justice Sunni Stromberg-Stein

- December 4, 1989 (Provincial Court)
- February 16, 1996 (Supreme Court)
- June 6, 2013 (Court of Appeal)*
- September 1, 2014 (Supernumerary)

Mr. Justice Peter M. Willcock

- June 19, 2009 (Supreme Court)

- June 6, 2013 (Court of Appeal)*

Mr. Justice Richard B.T. Goepel

- September 27, 2001 (Supreme Court)
- November 7, 2013 (Court of Appeal)
- September 30, 2016 (Supernumerary)

Mr. Justice John E.D. Savage

- May 8, 2008 (Supreme Court)
- December 11, 2014 (Court of Appeal)

Madam Justice Lauri Ann Fenlon

- January 31, 2008 (Supreme Court)
- June 19, 2015 (Court of Appeal)*

Madam Justice Gail M. Dickson

- December 15, 2006 (Supreme Court)
- July 28, 2015 (Court of Appeal)*

Mr. Justice Gregory J. Fitch

- October 20, 2011 (Supreme Court)
- September 1, 2015 (Court of Appeal)

* Appointment date has been corrected.

CHANGES TO THE COURT'S COMPLEMENT

VACANCIES

The Court began 2016 with one vacancy. During 2016, two additional vacancies were created arising from the election to supernumerary status of the Honourable Madam Justice Garson and the Honourable Mr. Justice Goepel, bringing the total number of vacancies on the Court to three. During the year, those vacancies remained unfilled.

APPOINTMENTS

There were no appointments to the Court in 2016.

RETIREMENTS

The Honourable Madam Justice Kathryn Neilson

The Honourable Madam Justice Kathryn Neilson retired from the Court of Appeal for British Columbia on June 30, 2016. Justice Neilson served as a justice on the Court of Appeal for eight years, having been appointed in 2008.

Justice Neilson received her law degree from Dalhousie University in 1974 and articulated with Lawson Lundell in 1974–75. She was called to the BC bar and clerked for Mr. Justice Taggart at the Court of Appeal. Justice Neilson also holds a master's degree in psychology from the University of British Columbia and a Bachelor of Civil Law from Oxford University.

During Justice Neilson's years in practice, she gained a wide range of experience as Crown counsel, as civil litigation counsel and as a sole practitioner. She was appointed Queen's Counsel in 1988 and became a justice of the Supreme Court in 1999.

Before being appointed to the bench, Justice Neilson worked abroad in South Africa and Cambodia to advance international human rights. In Durban, South Africa, Justice Neilson worked as a volunteer lawyer with the Legal Resources Centre, a public interest advocacy centre engaged in monitoring South Africa's first fully democratic election. In Cambodia, Justice Neilson volunteered as a United Nations Human Rights Officer, providing human rights law training and helping rebuild the country's legal system.

Justice Neilson taught as a sessional lecturer at the University of Victoria and the University of British Columbia's law faculties, and at Simon Fraser University's Department of Criminology. She also served as a part-time member of the BC Human Rights Tribunal.

As a litigator and later as a justice, Justice Neilson was very much admired and praised for her commitment to mentoring clerks and young lawyers. Her substantial contributions to many areas of jurisprudence leave a remarkable and lasting legacy.

IN MEMORIAM

The Honourable William A. Esson

On July 14, 2016, the Honourable Mr. Justice William Esson passed away in his 86th year.

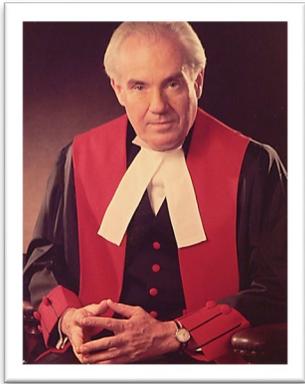
Justice Esson will be remembered as a renowned jurist, an esteemed colleague and a dear friend. His courteous personality and powerful intellect garnered great respect.

On November 1, 1930, Justice Esson was born in Vancouver, where his parents ran Esson's Bakery in the city's East End. He received both a B.A. (1953) and LL.B. (1957) from the University of British Columbia. In a ceremony held in the Great Hall of the Law Courts, he was granted an honorary doctorate from his *alma mater* in October 1995. Justice Esson was a scholar and student of British Columbia history, his love of which can be seen in his decisions *Canada (Attorney General) v. Canadian Pacific Ltd.*, 2002 BCCA 478 and *C.P.R. v. Vancouver (City)*, 2004 BCCA 192.

For 21 years, Justice Esson practiced at Bull Houser and Tupper, as it then was, where he became known as one of the British Columbia's leading commercial litigators prior to joining the bench in 1979.

He is one of very few justices to have been appointed to each court twice, serving 26 years in total on the bench. He served on the Supreme Court of British Columbia from 1979 to 1983, and on the British Columbia Court of Appeal from 1983 to 1989. In 1989, he was appointed as Chief Justice of the Supreme Court and oversaw the merger of BC's trial courts. In 1996 he was appointed back to the Court of Appeal and retired on his 75th birthday, November 1, 2005.

Mr. Justice Esson believed in the rule of law and limited freedom of expression that judges should exercise. This belief was guided by a deep respect for history and the role of the judiciary. From this basis his courageous decision to speak out as Chief Justice in defence of independence of the court during the 1993 Clayoquot Sound proceedings carried significant weight.



Nowhere is Justice Esson’s writing talent as a jurist showcased better than in *Vogel v. Canadian Broadcasting Corporation (1982), 35 B.C.L.R. 7 (C.A.)*, a case it is rumoured that British Vice-Chancellor of the Chancery Division Sir Robert Megarry kept beside his bed as a “cracking good read”.

The Honourable Mr. Justice William Esson was honoured with a special sitting of both courts for his retirement in October 2005 and a special sitting of the Court of Appeal to mark his passing on Friday, September 16, 2016.

He is survived by his beloved wife of 58 years, Margaret; his children, John and Catharine; and his namesake grandson, Will.

“In times of budget restraint and staff shortages, it is a credit to the staff that the level of service remains high.”

STAFF OF THE COURT OF APPEAL

CHANGES TO STAFFING COMPLEMENT

The Court of Appeal is fortunate to have such committed staff serving the public and the justices with enthusiasm and dedication. In times of budget restraint and staff shortages, it is a credit to the staff that the level of service remains high.

In 2016, the Court welcomed Jon Randall and Joanne Ng as court clerks. Mr. Randall joins us from the Supreme Court as a court clerk and Ms. Ng, who is in an auxiliary position, joins us from a career in the private sector. The Court also welcomed Farranaz Asin as a Deputy Registrar, replacing Vicki Jang who moved to an administrative position with the Provincial Court of British Columbia. The Court is thankful to Ms. Jang for her many years of valuable service.

STAFF & POSITIONS

Timothy Outerbridge	Registrar
Sally Rudolf	Legal Counsel
Linda Rainaldi	Legal Counsel
Maria Littlejohn	Associate Registrar
Farrahnaz Asin	Manager & Deputy Registrar
Torri Enderton	Scheduling Administrator
Alix Going	Administrative Associate
Teresa Smith	Judicial Coordinator to Chief Justice Bauman
Christine Gergich/ Rita Mogyrosi	Supervisor and Appellate Court Records Officer

Judicial Law Clerks

Connor Bildfell	Leanna Katz	James Parker
Gavin Gardiner	Naomi Krueger	Polly Storey
Emily Hansen	Sandy Lockhart	Kayla Strong
Wesley Hartman	Naomi Moses	Matthew Tse

Judicial Staff

Adrien Amadeo-Vittone	Susan Devenish	Harmesh Shahi
Valerie Belina	Bonnie Marcaccini	Wayne Ziants
Tina Cheung	Cherry Mills	
Cathy Clough	Victoria Osborne-Hughes	

Registry Staff

Jason Conybeer	Joanne Ng	
Torri Enderton	Teresa Pol	Moira Syring
Felicity Lee	Jennifer Rahiman	Jennifer Unwin
Rob Loy	Jon Randall	Jacqueline Windsor

Ushers

Heather Kelly	Maz Maymay	Alex Smolen
Katherine Kwon	Darren Scherck	

Judicial Administration

Frank Kraemer, Q.C.	Senior Counsel and Executive Director
Michelle McConnachie	Director of Human Resources and Support Services
Kevin Arens	Director of Information Technology and Finance
Tammy McCullough	Assistant to Senior Counsel and Executive Director
Cheryl Steele	Finance and Administration Clerk
Michelle Sam	Judicial Assistant
Diane Lemieux	Judges' Librarian
Connie Kang	Library Technician
Cynthia Dale	Website Support & Business Information Analyst
Samantha Servis	Judicial Administrative Practice Advisor

Information Technology Services

Mark Hujanen	Service Delivery Manager
David Chow	Infrastructure Project Analyst
Andre Drewitt	Infrastructure Project Analyst
Eddie Chan	Helpdesk Operations Analyst
William Huang	Helpdesk Operations Analyst
Alex Rodas	Helpdesk Technician
Shamin Moradidasht	Helpdesk Technician

APPENDIX 1 - CIVIL STATISTICS 2004 – 2016

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
APPEALS FILED:													
Notice of Appeal	468	550	494	498	530	538	519	480	497	587	607	522	514
Leave to Appeal	171	154	170	144	172	175	131	114	122	100	88	96	84
Notice of Appeal and Leave	54	69	76	55	59	65	55	55	44	28	25	26	25
TOTAL FILED	693	773	740	697	761	778	705	649	663	715	720	644	623
COURT DISPOSITIONS:													
Appeals Allowed	112	137	108	117	100	135	130	116	119	101	101	130	117
Appeals Allowed %	40%	46%	38%	42%	42%	43%	45%	42%	49%	37%	40%	50%	41%
Appeals Dismissed	168	160	174	164	138	180	159	159	125	169	149	131	169
Appeals Dismissed %	60%	54%	62%	58%	58%	57%	55%	58%	51%	63%	60%	50%	59%
TOTAL COURT DISPOSITIONS	280	297	282	281	238	315	289	275	244	270	250	261	286
Appeals Concluded in Chambers or Abandoned	498	492	419	455	449	441	419	436	414	379	420	359	371
TOTAL DISPOSITIONS	778	789	701	736	687	756	708	711	658	649	670	620	657
Dispositions as % of Filings	112%	102%	95%	106%	90%	97%	100%	110%	100%	91%	93%	96%	106%
Judgments Reserved (Court)	210	197	221	197	192	245	233	241	176	201	199	209	226
Judgments Reserved (Chambers)	99	66	79	88	87	63	62	83	80	70	52	70	104
Appeals with 5 Justices	4	1	1	3	2	7	1	3	2	2	3	3	4
Court Motions: Reviews	15	13	19	13	14	20	25	28	19	18	16	26	17
Granted	3	5	5	2	2	4	3	8	3	1	2	1	1
Refused	12	8	14	11	12	16	22	20	16	17	14	25	16
Chambers Motions	494	435	426	423	423	539	503	537	533	536	788	639	719
LEAVE TO APPEAL:													
Granted	60	62	66	58	66	65	47	51	37	37	36	50	36
Refused	56	42	38	42	47	51	30	55	34	24	19	23	26
Total	116	104	104	100	113	116	77	106	71	61	55	73	62

APPENDIX 2 - CRIMINAL STATISTICS 2004 – 2016

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
APPEALS FILED:													
Sentence	162	176	157	149	163	140	114	109	119	108	174	152	85
Conviction	137	142	147	116	123	115	99	112	116	117	87	93	82
Summary Conviction	41	18	15	17	23	12	16	24	14	9	18	10	11
Acquittal & Other	69	60	50	61	50	44	28	39	40	46	30	41	31
TOTAL FILED	409	396	369	343	359	311	257	284	289	280	309	296	209
COURT DISPOSITIONS:													
Appeals Allowed	82	66	76	77	82	69	52	41	35	62	101	44	32
Appeals Allowed %	40%	33%	37%	35%	41%	41%	28%	31%	21%	34%	49%	44%	22%
Appeals Dismissed	124	132	132	140	120	100	137	91	129	121	102	101	114
Appeals Dismissed %	60%	67%	63%	65%	59%	59%	72%	69%	79%	66%	51%	56%	78%
TOTAL	206	198	208	217	202	169	189	132	164	183	203	145	146
Summary Dismissals Abandonments in Court/Chambers	140	161	149	160	139	149	121	99	123	129	76	85	97
TOTAL DISPOSITIONS	346	359	357	377	341	318	310	231	287	312	279	230	243
Appeals Disposed % of Filings	85%	91%	97%	110%	95%	102%	121%	82%	99%	111%	90%	78%	116%
Judgments Reserved (Court)	84	85	85	81	76	88	88	82	102	97	84	106	78
Judgments Reserved (Chambers)	21	10	10	28	11	11	13	22	28	25	4	8	8
Appeals with 5 Justices	0	1	0	0	2	0	1	1	2	0	0	0	0
Chambers Motions	244	275	298	248	242	265	272	210	295	430	438	484	514

APPENDIX 3 - COMBINED STATISTICS 2004 – 2016

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
APPEALS FILED:	1102	1169	1109	1040	1120	1089	962	933	952	995	1029	940	832
COURT DISPOSITIONS:	486	495	490	498	440	484	478	407	408	453	453	406	432
Appeals Allowed	194	203	184	194	182	204	182	157	154	163	202	174	149
Appeals Allowed %	40%	41%	38%	39%	41%	42%	38%	39%	38%	36%	45%	43%	35%
Appeals Dismissed	292	292	306	304	258	280	296	250	254	290	251	232	283
Appeals Dismissed %	60%	59%	62%	61%	59%	58%	62%	61%	62%	64%	55%	57%	65%
TOTAL	486	495	490	498	440	484	478	407	408	453	453	406	432
Appeals Concluded in Chambers or Abandoned	638	653	568	615	588	590	540	535	537	508	496	444	468
TOTAL DISPOSITIONS	1124	1148	1058	1113	1028	1074	1018	942	945	961	949	850	900
Dispositions as % of Filings	102%	98%	95%	107%	92%	99%	106%	101%	99%	97%	92%	90%	108%
Judgments Reserved	414	358	395	394	366	407	396	426	386	393	339	315	304
Appeals with 5 Justices	4	2	2	3	4	7	2	4	4	2	3	3	4
Chambers Motions	738	710	724	671	665	804	775	747	828	966	1226	1123	1233