

# ANNUAL REPORT



Court of Appeal for British Columbia  
**2019**

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## MESSAGE FROM CHIEF JUSTICE BAUMAN

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The only constant in life is change, but courts are steeped in tradition. What is the value of ceremony, solemnity, advocacy, and independence when the legal problems British Columbians face are increasingly complex and the cost of legal services is already out of reach for many? Does tradition simply serve as an unhelpful anchor, preventing the court from navigating the seas of change?

My answer is no.

Rather than weighing the court down, these guiding principles, judicial independence being first among them, promote institutional resilience and allow the court to adapt to changing circumstances.

At this point in our history, courts are grappling with questions of policy related to changes in social norms, new technology, demands for data transparency, and threats to privacy. Do courts need to respond to these changing conditions? Absolutely. In fact, courts and the advocates who work in them must take a leadership role in mapping the way forward. But courts must also be resilient; they must continue the work of administering justice even as they adapt to changing circumstances.

Every day, people come together in courthouses across British Columbia to perform the work of problem solving, of learning to live together, of advancing the values of fairness and equality. In a free and democratic society, the tradition of judicial independence makes it possible to literally hold space for this work to take place — even in periods of significant change.

I am proud of the work this Court completed in 2019, issuing dispositions in 767 appeals over the course of the year. The new Civil Appeals Program initiated with Access Pro Bono in February of 2019 means that every self-represented person who files a civil appeal has the opportunity to contact a lawyer.

The Court also amended, repealed and replaced several practice directives in 2019, including “Appearing before the Court” which now provides direction to counsel and litigants on (1) conveying their preferred form of address (e.g. Mr., Ms., Mx.); and (2) alternate gowning requirements in circumstances affecting counsel’s ability to fully gown (e.g. counsel who are pregnant or have a disability or other reason affecting the ability to fully gown).

In March of 2019, the Court webcast *Reference re: Proposed Amendments to the Environmental Management Act*. Following that event, the Court evaluated the results of its Webcast Pilot Project and decided that webcasting of select appeals will continue indefinitely. A report to the public was released

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in October 2019 which summarizes results of the pilot project, access benefits, and the criteria considered in selecting appeals to webcast.

In October and November 2019, the Court worked closely with the Ministry of Attorney General to complete an extensive public consultation on proposed reforms to the Court of Appeal Act and Rules. The consultation resulted in valued submissions from members of the public, practicing lawyers, provincial and federal crown offices, the B.C. Legal Services Society, and the BCCBA Appellate Advocacy section.

Also in October 2019, I participated in a twitter town-hall to kick-off British Columbia's second ever "Access to Justice Week." The town-hall was hosted by Provincial Court Chief Judge Melissa Gillespie and also included Jennifer Muller, a self-represented litigant. Together, we fielded questions and comments from the twitter-sphere and discussed progress, opportunities and challenges to improving access to justice.

The Court welcomed the appointments of Justice Patrice Abrioux on March 7, 2019, Justice Joyce DeWitt-Van Oosten on May 6, 2019, and Justice Christopher Grauer on December 20, 2019.

These appointments followed the retirements of Justice Pamela Kirkpatrick on February 15, 2019 and Justice John Savage on September 1, 2019. The Court misses their contributions greatly. We wish them the best in their retirements.

The Court also remembers with fondness the Honourable Ian T. Donald, the Honourable H.A. Hollinrake, the Honourable Patricia Proudfoot, and the Honourable M. Anne Rowles, all of whom passed away in 2019 after having served this Court with the utmost distinction and integrity for a combined total of 80 years. On November 25, 2019, a special joint sitting of all levels of court was held in honour of Patricia Proudfoot, the first woman to sit on all levels of court in British Columbia.

I look forward to continuing the excellent work of this Court in 2020, while rising to meet the challenges we face.



## REGISTRAR'S REPORT

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### THE COURT'S ACTIVITY

The Court saw a small decrease in the number of appeals filed in 2019. There were 852 new appeals filed, down from 863 new appeals filed in 2018. 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 2019, the Court delivered written reserve judgments in 273 appeals (164 civil and 109 criminal) and pronounced judgment with oral reasons in a further 138 appeals (88 civil and 50 criminal). In chambers, the Court gave reserve judgments in approximately 34 civil motions and nine criminal motions.

### SITTINGS OF THE COURT

To hear an appeal, the Court sits a minimum of three justices, known as a “division.” In 2019, the Court sat 81 divisions in Vancouver, seven less than in 2018. In addition to its Vancouver sittings, the Court sat for six weeks in Victoria and one week each in Kamloops and Kelowna. All justices of the Court are also members of the Yukon Court of Appeal, along with judges of Yukon, the Northwest Territories, and Nunavut. The Yukon Court of Appeal sat for two weeks in Yukon, one week each in the spring and fall of 2019.

### CHAMBERS WORK

Motions brought prior to the hearing of an appeal are referred to as “chambers” or “interlocutory” motions. The Court continues to monitor its chambers motions, which have been on an upward trajectory over the last decade. In 2019, the number of motions brought before a single justice in chambers increased to 1426 motions (846 civil and 580 criminal) as compared with 1331 last year and 1180 the year previously. As part of the initiative to reform the Court’s enabling statute and rules, the Court has closely examined this trend and is considering measures to deal with the increase in chambers motions.

### SERVICES FOR SELF-REPRESENTED LITIGANTS

In 2019, the Court developed the following projects to enhance the service it provides to self-represented litigants:

- ✓ **Access Pro Bono:** Beginning in February of 2019, the Court of Appeal significantly overhauled the manner in which litigants access pro bono services. Along with [Access Pro Bono](#), the new Civil Appeals Program allows every self-represented person who files a civil appeal to have an opportunity to contact a lawyer. The Court is thankful for the assistance of the various

“ In 2019, the number of motions brought before a single justice in chambers increased to **1426 motions (846 civil and 580 criminal)** as compared with 1331 last year.

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In 2019, the Court took several steps to **finalize a review of new versions of the *Court of Appeal Act* and *Court of Appeal Rules***, including the completion of the final public consultation process.

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organizations providing valuable and much-needed help to those who may be less able to afford to conduct an appeal of their case.

- ✓ **E-filing Enhancements to Notice of Appeal:** In 2019, the Court launched a simplified process for filing a notice of appeal. Using data from the lower court, the notice of appeal form pre-populates most fields, allowing self-represented litigants (and others) more certainty that they are commencing their appeal correctly. Because the data is automatically drawn from the lower court's systems, the notice of appeal can also be automatically accepted for filing without the need to attend in person at the registry.
- ✓ **Civil Forms Redesign Project:** As part of the project to re-examine the Court's Civil Act and Rules, the Court began consulting on the re-design of its civil court forms. Participants to that redesign include members of the bar and public through the government's consultation process which concluded in December, members of the Justice Access Centre and the Appellate Advocacy Section of the Canadian Bar Association (B.C. Branch).

## **INFORMATION MANAGEMENT ACT SCHEDULES**

In 2019, the Court finalized and implemented new modernized schedules for the retention of court documents and data. These new schedules will ensure that the Court's electronic case management system properly forms part of the archive, allowing researchers to more easily access the Court's files and information for decades to come. This updated schedule includes systems overviews for the Court's Digital Audio Recording System (DARS) and WebCATS (Court of Appeal case tracking database).

## **CIVIL ACT AND RULES REFORM PROJECT**

In 2019, the Court took several steps to finalize a review of new versions of the *Court of Appeal Act* and *Court of Appeal Rules*, including the completion of the final public consultation process. In mid-2020, the Court will complete its review of the *Court of Appeal Act* and continue work on the development of the *Court of Appeal Rules* as well as new court forms.

## **EXTRA-JUDICIAL APPOINTMENTS AND ACTIVITIES**

In addition to their 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 2019, justices of the Court participated in activities with the following bodies:

- ✓ University of British Columbia Trial Advocacy Course
- ✓ Canadian Judicial Council
- ✓ Vancouver Foundation
- ✓ British Columbia Law Institute
- ✓ Canadian Institute for Administration of Justice
- ✓ 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
- ✓ Courts Technology Board
- ✓ Inns of Court
- ✓ Federal Judicial Affairs – Judicial Advisory Committee on International Engagement
- ✓ Canadian Judicial Council Jury Instruction Committee
- ✓ CIAJ Jury Round Table
- ✓ Justice Summit
- ✓ Lawyers Without Borders (Judicial and Legal Education Program in Tanzania)
- ✓ National Judicial Institute Course Trainer
- ✓ Canadian Bar Association Young Lawyers Meeting
- ✓ National Judicial Institute training program for the Supreme Court of Ukraine
- ✓ Canadian Superior Court Judges’ Association
- ✓ Continuing Legal Education Society of British Columbia
- ✓ Various National Judicial Institute Programs
- ✓ Justice Education Society
- ✓ International Commission of Jurists
- ✓ Commissioner for Federal Judicial Affairs
- ✓ International Society for the Reform of Criminal Law
- ✓ Lawyers’ Inn Program
- ✓ Canadian Bar Association of British Columbia Law Week
- ✓ Access to Justice BC
- ✓ Law Society of British Columbia



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

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- ✓ British Columbia Civil Liberties Association
- ✓ Family Law Sourcebook
- ✓ Intellectual Property Institute of Canada
- ✓ The Advocates Club Symposium on Women in Litigation
- ✓ The BC Council of Administrative Tribunals

## RECORDS AND INFORMATION MANAGEMENT

The Court of Appeal supports a records and information management program based on sound policies and best practices for recordkeeping. Court of Appeal case records are permanently preserved by the government archives according to the Court’s Operational Records Classification System (ORCS).

The Court of Appeal records and information management program is developed, delivered, and maintained by the Appellate Court Records Officer. The position is also responsible for the supervision of the Records Technician and the Document Management Clerk team.

The Records Technician manages the daily receipt, processing, organization, delivery, storage and disposition of Court of Appeal “books” (i.e., appeal books, appeal records, factums, and transcripts) throughout the hearing process. Court Services Branch staff in the Court of Appeal Registry manage the case file (i.e., initiating records, motion materials, correspondence, etc.) separately.

Document Management Clerks manage the daily processing, organization, photocopying and distribution of files, mail, and court records for both the Court of Appeal and the Supreme Court in Vancouver.

In consultation with the Registrar and Director of Human Resources and Support Services (Judicial Administration), the Appellate Court Records Officer develops annual priorities for the Court of Appeal records and information management program. Other than the approval of new schedules under the *Information Management Act* discussed above, the following are some of the highlights and accomplishments from 2019:

- ✓ **Off-site transfer of Court of Appeal records:** On an annual basis, eligible records are boxed and transferred to off-site storage. In 2019, a total of 135 boxes were transferred to secure off-site storage.
- ✓ **Court records requests:** The Records Technician processed approximately 120 records requests for appeal books without access restrictions.
- ✓ **Review of storage requirements for sensitive records:** The Court of Appeal has moved sensitive and high security court records to storage areas with increased security.



In 2019, the Court disposed of 549 civil appeals or 87% of the 633 appeals filed.

## STATISTICS

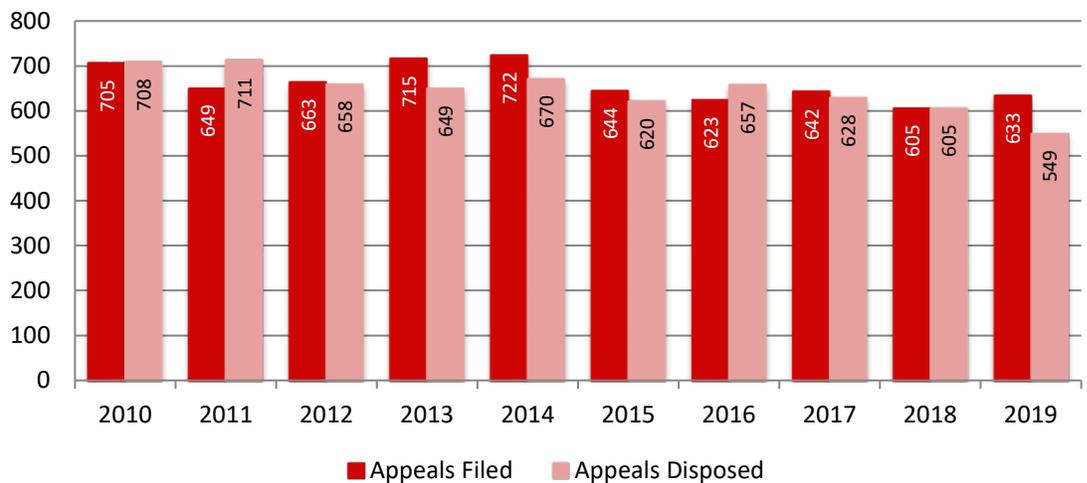
The charts below give a detailed account of the Court’s activity in 2019. The [three appendices](#) at the end of this report provide a detailed historical account of criminal and civil statistics over the last 13 years.

### CIVIL APPEALS FILED AND DISPOSED

The chart below shows the number of civil appeals filed and disposed from 2010 to 2019. The number of civil appeals filed increased from 605 in 2018 to 633 in 2019.

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 2019, the Court disposed of 549 civil appeals, or 87% of the 633 appeals filed. 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” in a given year.

**Civil Appeals Filed and Disposed 2010 - 2019**

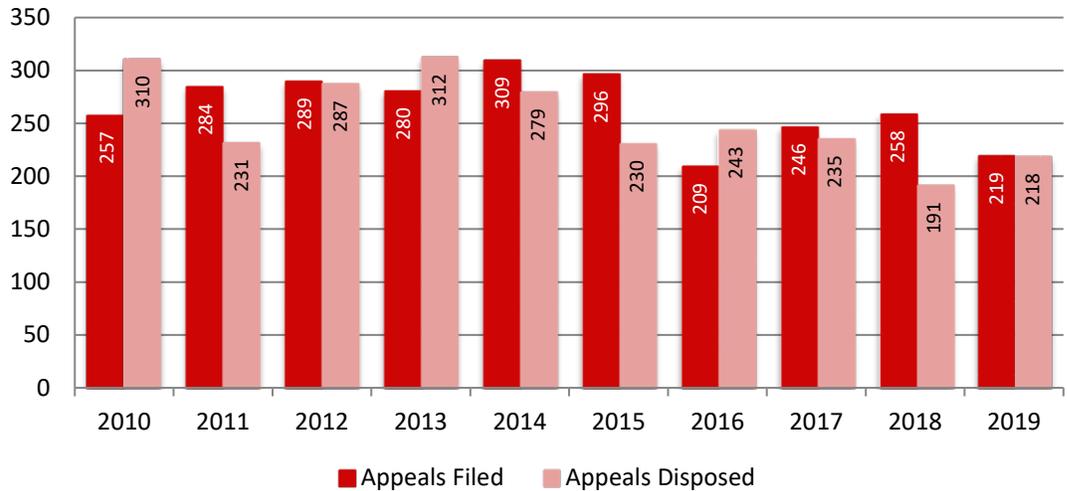


“The Court disposed of 218 criminal appeals, or 100% of the 219 criminal appeals filed.”

## CRIMINAL APPEALS FILED AND DISPOSED

There was decrease in criminal appeals filed in 2019, from 258 in 2018 to 219 in 2019. The number of criminal appeals disposed of increased in 2019. The Court disposed of 218 criminal appeals, or 100% of the 219 criminal appeals filed.

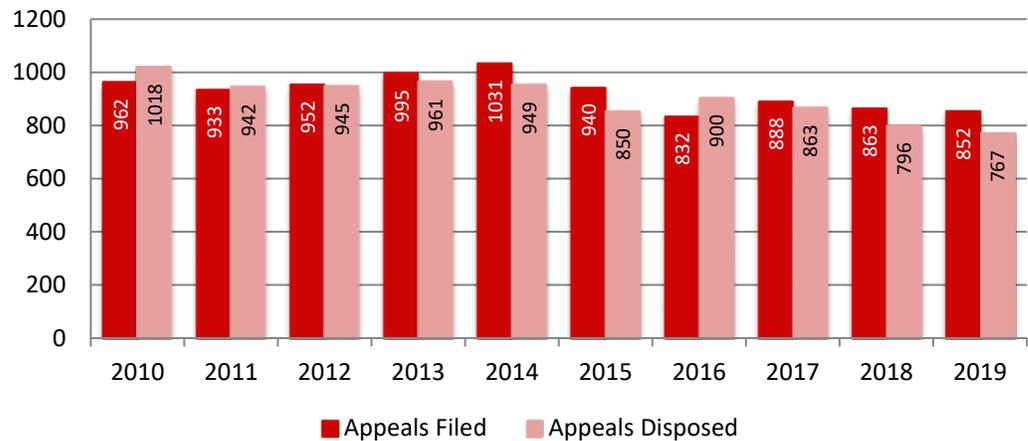
**Criminal Appeals Filed and Disposed 2010 - 2019**



## 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 767 appeals disposed and 852 appeals filed, 90% of appeals were disposed of as a percentage of new filings.

**Total Appeals Filed and Disposed 2010 – 2019**



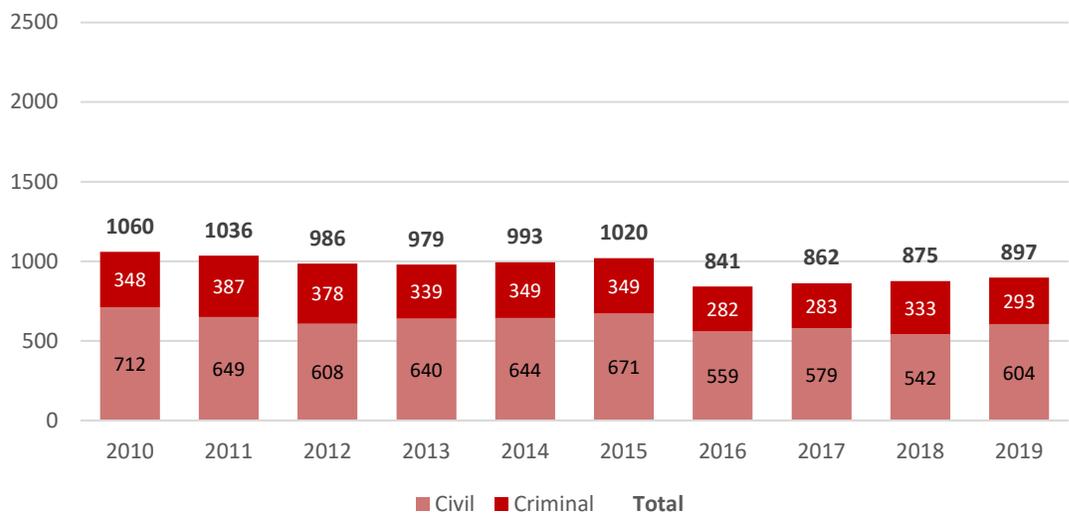


In 2019, a total of 633 civil appeals were filed. **Of those filed in 2019, 18% (115 of 633) were applications for leave to appeal.**

## PENDING CASES BY YEAR

As appeals are filed and disposed of by the Court, the total number of outstanding cases on the Court’s docket changes accordingly. Measured as of January 1 each year, this statistic is known as the number of “pending cases.” As part of a data-quality audit, the Court is working to improve the quality of this historical data. From 2008 to 2016, however, the measurements may be accurate to a deviation of plus or minus 10%. Data from 2017 to 2019 is accurate to a deviation of plus or minus 3%. It should be noted that there is some fluctuation in the pending cases numbers, given that inactive cases are not counted as pending on the Court’s docket, but may be reactivated in a subsequent year.

**Pending Cases - Civil & Criminal 2010 - 2019**



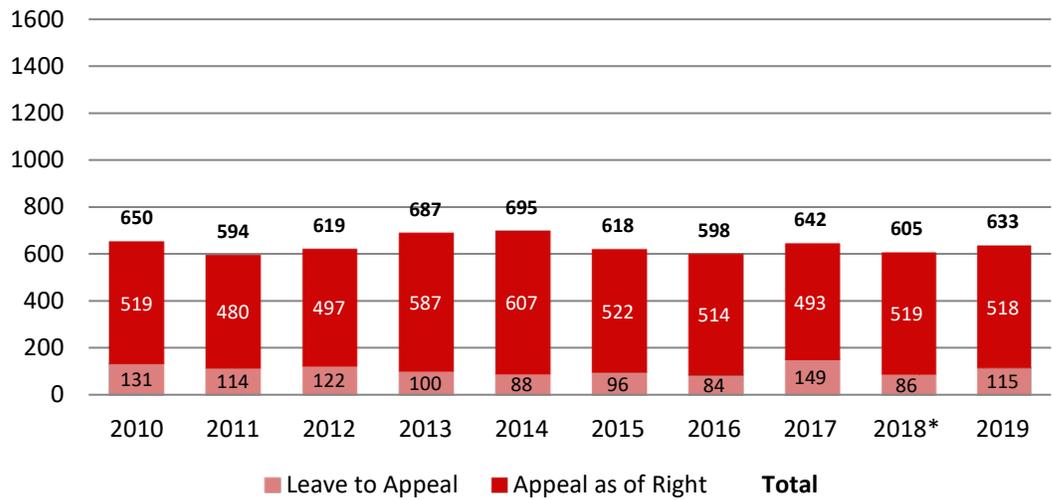
## TYPES OF CIVIL APPEALS FILED

In 2019, a total of 633 civil appeals were filed. Of those filed in 2019, 18% (115 of 633) were applications for leave to appeal. Before appealing certain types of orders, litigants must get permission, or “leave”, to bring an appeal to the Court. The Court heard a total of 65 leave to appeal applications in 2019, granting 35, or 54%.

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.

“ In 2019, there were **90 sentence appeals filed** and **92 conviction appeals filed**.

### Civil Filed as of Right vs. Filed Seeking Leave 2010 - 2019



\*Data corrected

### Civil Leave to Appeal Applications Heard vs. Granted 2010 - 2019

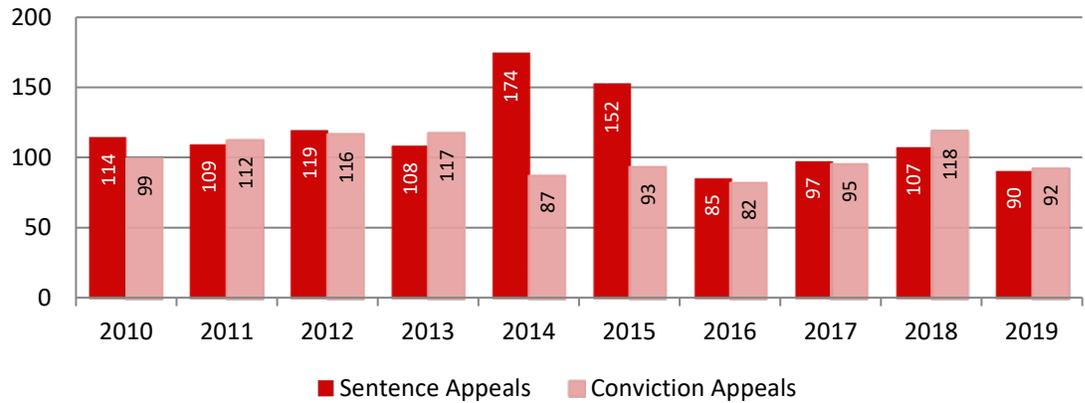


## TYPES OF CRIMINAL APPEALS FILED

In criminal matters, appeals from convictions and acquittals take up most of the Court’s hearing time. Sentence appeals and summary conviction appeals require less time. The chart below gives a comparison of criminal appeals filed between 2009 and 2019. In 2019, there were 90 sentence appeals filed and 92 conviction appeals filed. There were 37 acquittal, summary conviction and other appeals filed.

“ In 2019, approximately **61% of civil appeals** were from chambers matters and summary trials.

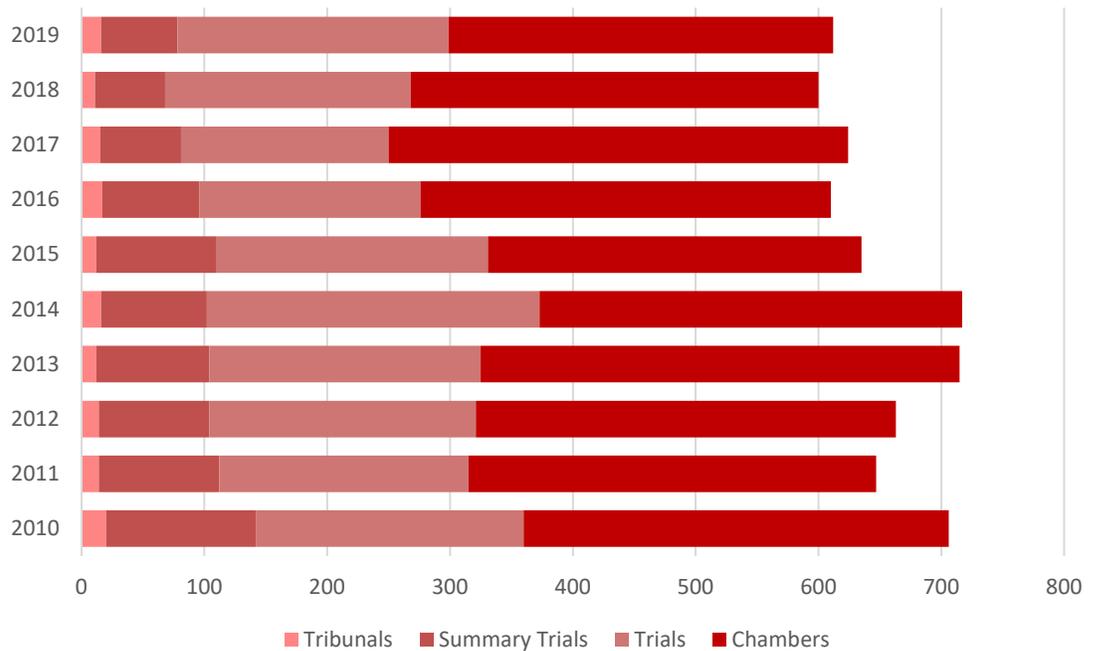
### Criminal Appeal Filings 2010 – 2019



### ORIGIN OF CIVIL APPEALS

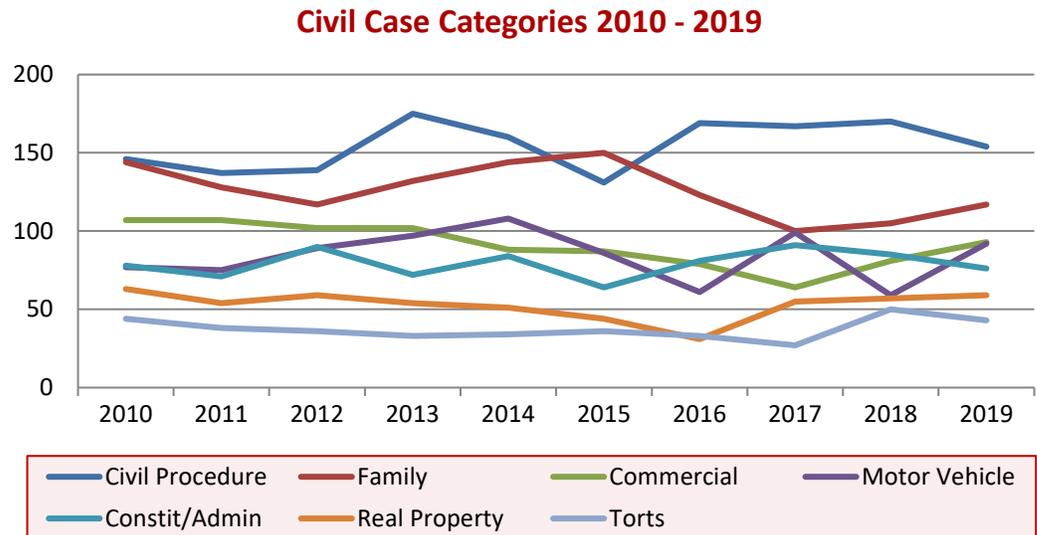
In most cases, the Court is able to determine the type of proceeding giving rise to an appeal. As in years past, figures show there were more appeals from Supreme Court of British Columbia chambers matters and summary trials combined than appeals from trials in that court. The chart below shows the types of appeals according to the underlying proceeding. In 2019, approximately 61% of civil appeals were from chambers matters and summary trials.

### Origin of Civil Appeals 2010 - 2019



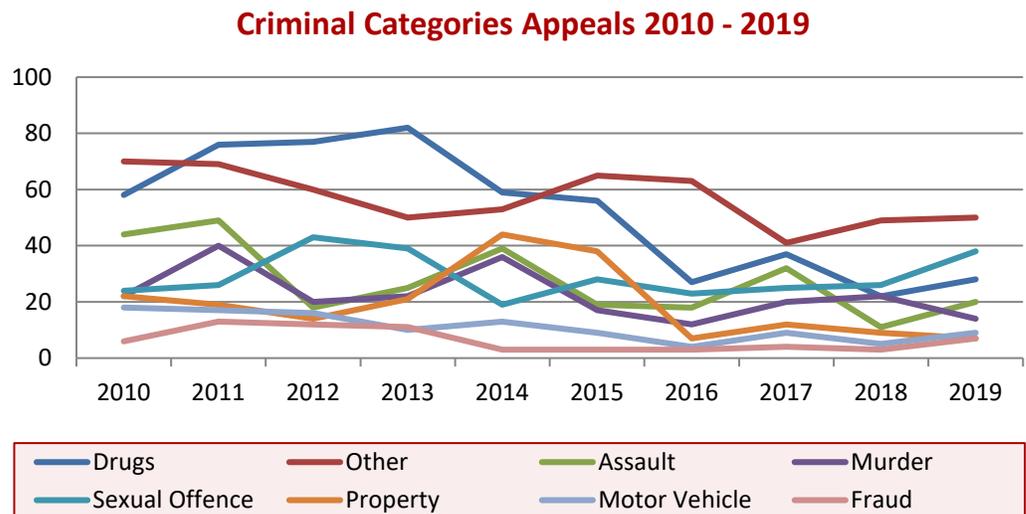
## CIVIL CASE CATEGORIES

When a civil appeal 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 appeals filed between 2010 and 2019 by number of appeals.



## CRIMINAL CASE CATEGORIES

The Court also tracks the subject of the various criminal appeals. The chart below shows the top eight categories of appeals filed between 2010 and 2019 by number of appeals. “Other” covers various offences, such as arson and mischief as well as extradition and *habeas corpus* appeals.



“ In 2019, the proportion of civil appeals allowed was **42% of the total civil appeals heard** (97 allowed, 134 dismissed).

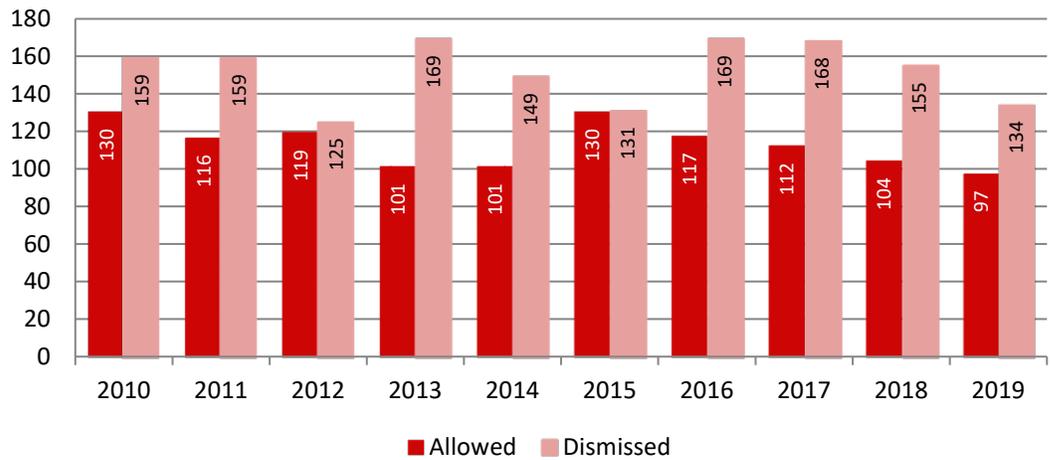
## APPEALS ALLOWED AND DISMISSED

An appeal is “allowed” when the Court overturns or varies the order under appeal from the lower court or tribunal. In 2019, the proportion of civil appeals allowed was 42% of the total civil appeals heard (97 allowed, 134 dismissed). For criminal appeals, 32% were allowed (50 allowed, 104 dismissed).

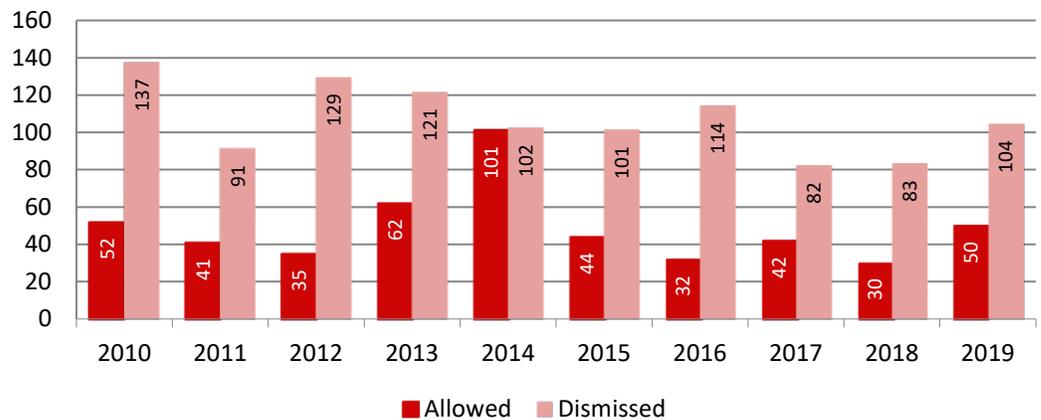
The “allowed” statistics include appeals partially allowed by any variations in the order under appeal. The number of minor variations, or appeals allowed in part, is not insignificant. In 2019, there were 35 civil appeals allowed in part, or 36% of the 97 allowed. There were 11 criminal appeals allowed in part, or 22% of the 50 allowed.

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

### Civil Appeals Allowed/Dismissed 2010 – 2019



### Criminal Appeals Allowed/Dismissed 2010 – 2019



“ In 2019, out of 633 civil appeals and applications for leave to appeal filed, **189 appeals (30%)** were appeals or applications for leave to appeal involving at least one self-represented litigant.

## SELF-REPRESENTED LITIGANTS

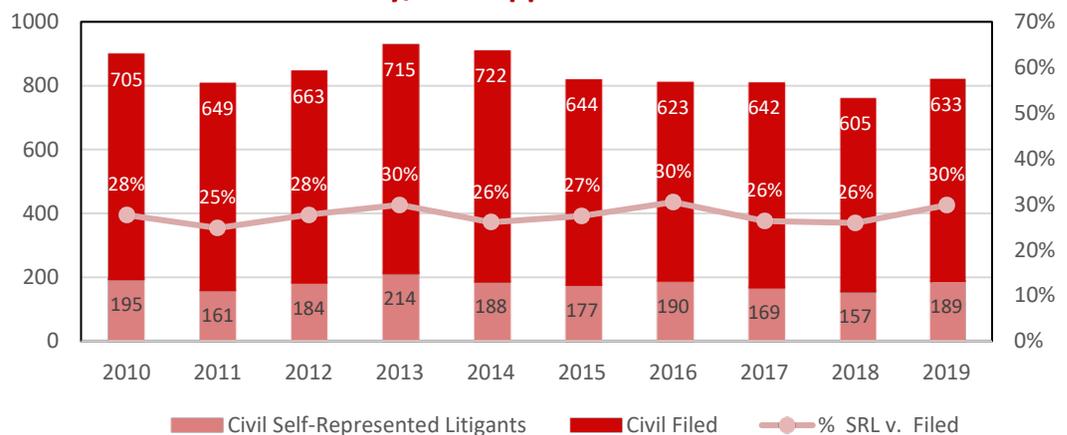
The charts below compare the number of civil appeals where at least one party was self-represented in a new appeal filed between 2010 and 2019 with the total number of civil appeals filed in those years.

In 2019, out of 633 civil appeals and applications for leave to appeal filed, 189 appeals (30%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is an increase from 2018, where the figure was 26%.

Out of the 189 appeals filed, 86% involved self-represented appellants and 14% involved self-represented respondents. Of 231 civil appeals disposed of by the Court in 2019, 52 cases (23%) involved at least one self-represented litigant. This is a slight increase from 2018, where the figure was 54 of 259 (21%).

The graph below illustrates the trend between 2010 and 2019.

**Civil Appeals Filed With a Self-Represented Party/Civil Appeals Filed 2010 - 2019**



In 2019, out of 116 family appeals or applications for leave to appeal filed, 49 appeals (42%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is an increase from 2018, where the figure was 36 out of 105 (34%).

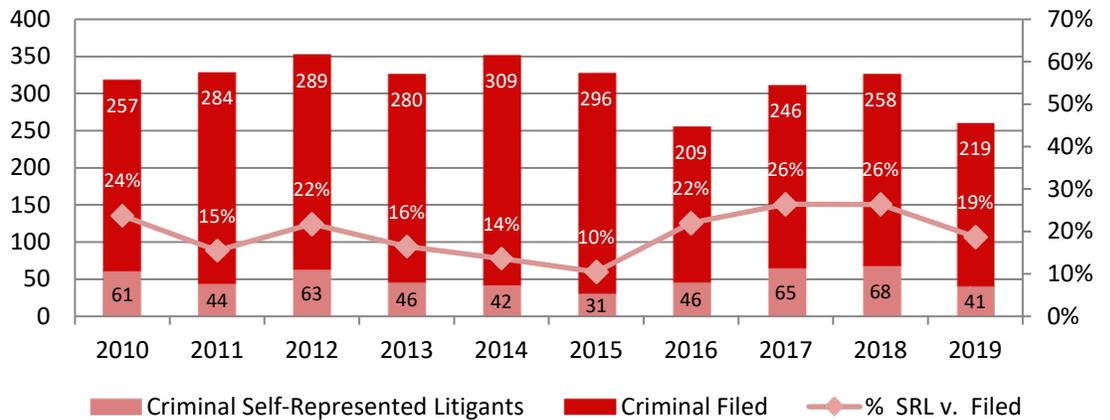
Out of the 49 family appeals filed involving self-represented litigants, 76% involved self-represented appellants and 24% involved self-represented respondents. Of the 31 family appeals disposed of by the Court in 2019, 13 cases (42%) involved at least one self-represented litigant. This is an increase from 2018, where the figure was 8 of 32 (25%).

Out of the 41 criminal appeals filed, **88%** involved self-represented appellants and **12%** involved self-represented respondents.

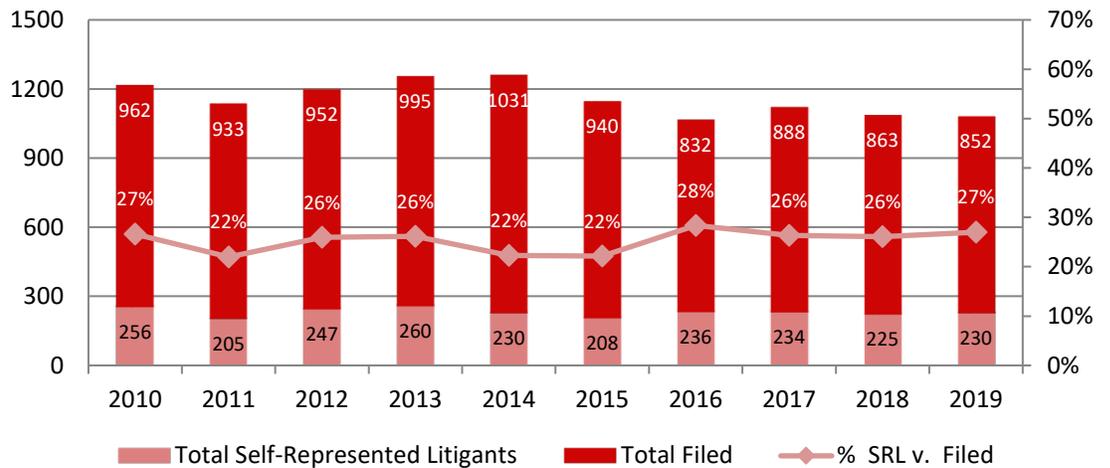
Turning to criminal appeals, out of 219 appeals or applications for leave to appeal filed, 41 appeals (19%) were appeals or applications for leave to appeal involving a self-represented litigant. This is a decrease from 2018, where the figure was 26%.

Out of the 41 criminal appeals filed, 88% involved self-represented appellants and 12% involved self-represented respondents. Of the 154 criminal appeals or applications for leave to appeal disposed by the Court in 2019, 17 (11%) involved a self-represented litigant. This is a slight increase from 2018, where the figure was 10 of 113 (9%).

**Criminal Appeals Filed With a Self-Represented Party/Criminal Appeals Filed 2010 - 2019**



**Total Appeals Filed with Self Represented Litigants/Total Appeals Filed 2010 - 2019**



“ In 2019, there were **7 family law appeals and 13 civil appeals** case managed by a justice of the Court.

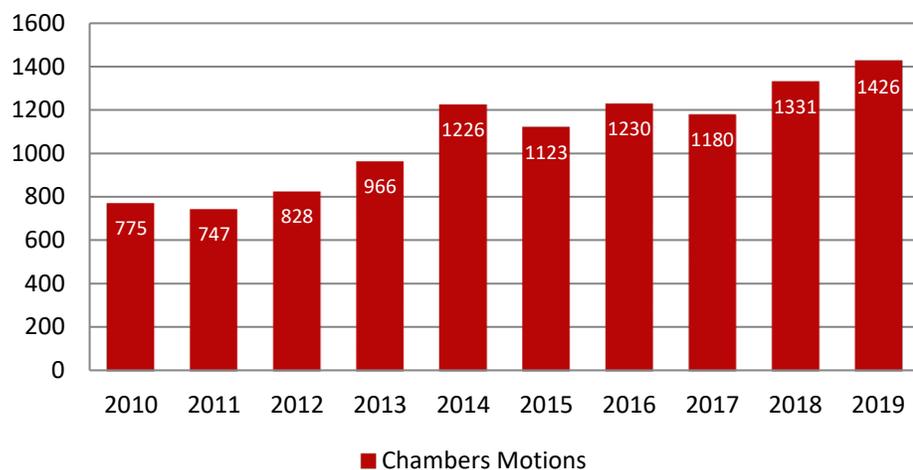
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## CHAMBERS AND CASE MANAGEMENT

The term “chambers motions” describes motions 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.

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.

**Chambers Motions Criminal and Civil, 2010 - 2019**



Part of the work in chambers includes the case management of appeals, which are captured in the statistic above. 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.

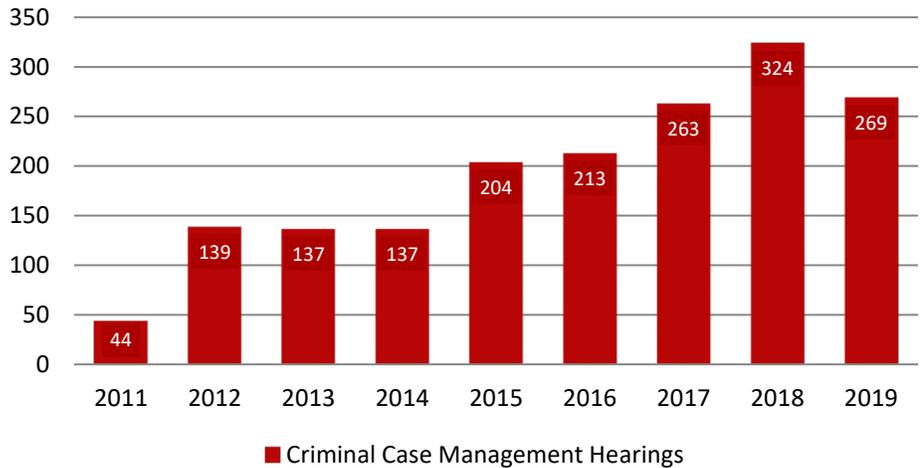
In 2019, there were 7 family law appeals and 13 civil appeals case managed by a justice of the Court. Civil case management is largely confined to family law cases involving adoption, child support, custody and access or child protection issues.

On the criminal side, 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. For the first time since 2016, there has been an overall decrease in the number of criminal case management hearings. These statistics include criminal case management conducted by the Registrar, reported below.



In 2019, the Registrar conducted **96** hearings, **35** more than in 2018

**Criminal Case Management Hearings, 2011-2019**



## REGISTRAR’S HEARINGS

In 2019, the Registrar conducted 96 hearings, 35 more than in 2018. The increase is largely due to additional criminal case management responsibilities.

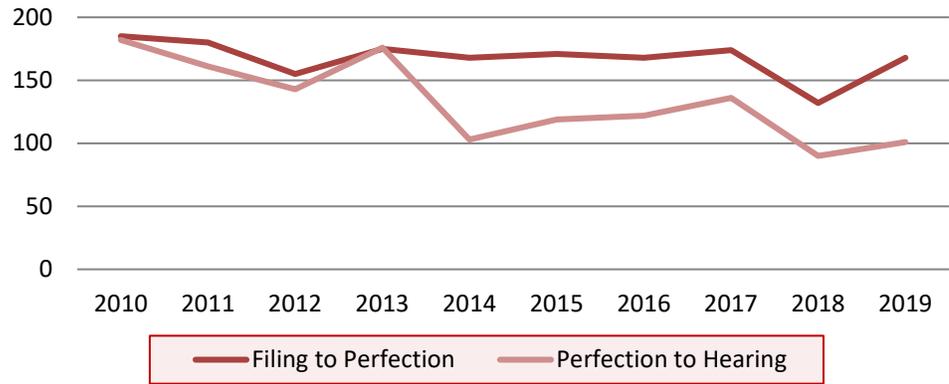
With respect to civil matters, there were 56 hearings out of 86 scheduled. Within those hearings, 38 court orders were settled, 54 bills of cost were assessed (one bill of special costs was assessed), eight sets of books were settled, and seven case management conferences were held in respect of electronic appeals or other civil matters. With respect to criminal matters, the Registrar heard 36 case management hearings.

In 2019, there were no registrar’s decisions reviewed by a justice in chambers.

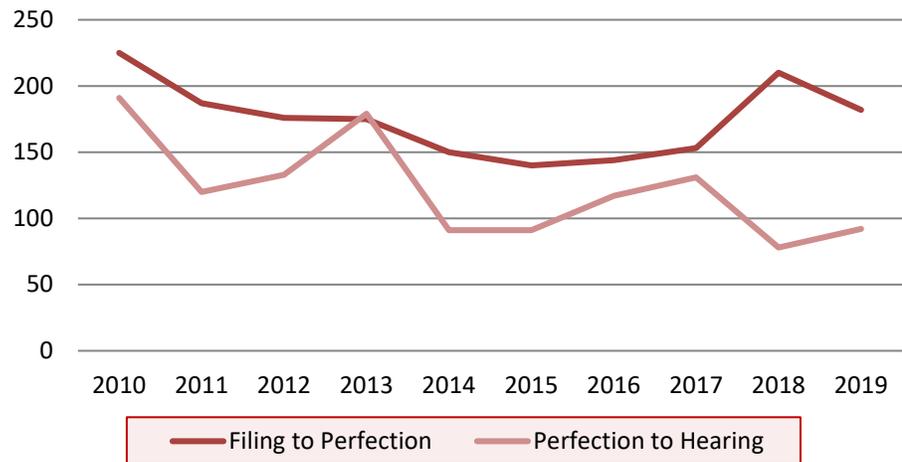
## TIME LAPSE STATISTICS: FILING TO HEARING

The four charts below represent two timeframes showing the mean amount of time for an appeal to progress through the Court from start to finish. 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.

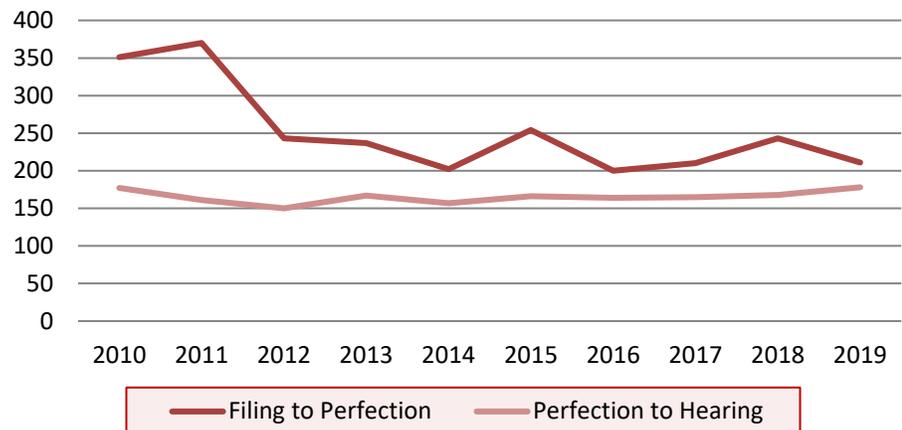
### Civil 2010 - 2019



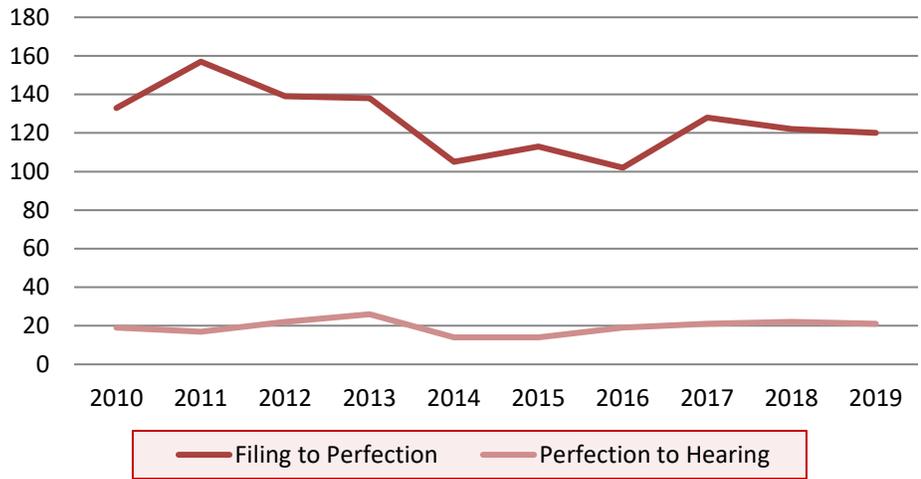
### Family 2010 - 2019



### Conviction 2010 - 2019



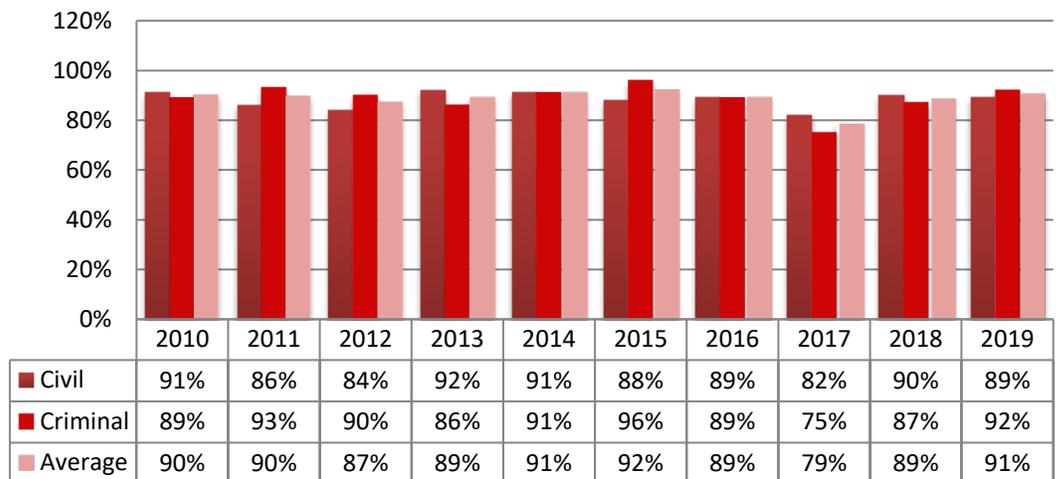
### Sentence 2010 - 2019



### TIME LAPSE STATISTICS: HEARING TO JUDGMENT

The Canadian Judicial Council provides a six-month guideline for the release of reserve judgments. 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. For the purpose of this statistic, the Court counts only its reserved written judgments, as reserved oral judgments are usually delivered very shortly from the date they are reserved.

### Percentage of Reserve Judgments Released within Six Months Guideline 2010 - 2019



“  
In 2019, 13%  
of leave  
applications  
from British  
Columbia to  
the Supreme  
Court of Canada  
were successful  
(7 of 56  
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 2019, 13% of leave applications from British Columbia to the Supreme Court of Canada were successful (7 of 56 considered). Out of the 144 appeals heard by the Supreme Court of Canada from British Columbia between 2008 and 2019 (inclusive), 67 were dismissed and 64 were allowed.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019*
<b>B.C. Leave Applications Submitted</b>	<b>61</b>	<b>70</b>	<b>66</b>	<b>76</b>	<b>71</b>	<b>76</b>	<b>81</b>	<b>64</b>	<b>76</b>	<b>65</b>	<b>71</b>	<b>77</b>
Granted	9	13	10	11	14	8	9	10	12	9	6	7
Dismissed	50	56	52	60	54	62	71	51	60	54	57	56
Reserved	0	0	0	0	0	0	0	0	0	1	7	14
Discontinued	0	0	1	2	0	0	0	1	2	1	0	0
Extension of time - dismissed	1	1	2	2	2	2	1	1	1	0	1	0
Quashed	0	0	1	0	0	0	0	0	0	0	0	0
Remanded	1	0	0	1	1	4	0	1	1	0	0	0
<b>Percentage from B.C.</b>	<b>12%</b>	<b>14%</b>	<b>14%</b>	<b>14%</b>	<b>13%</b>	<b>14%</b>	<b>16%</b>	<b>13%</b>	<b>13%</b>	<b>13%</b>	<b>15%</b>	<b>14%</b>
<b>B.C. Appeals Heard</b>	<b>20</b>	<b>9</b>	<b>13</b>	<b>13</b>	<b>14</b>	<b>12</b>	<b>8</b>	<b>10</b>	<b>17</b>	<b>12</b>	<b>8</b>	<b>8</b>
Allowed	10	6	7	4	6	5	6	3	9	4	2	2
Dismissed	10	3	6	9	8	7	2	7	8	5	1	1
Reserved	0	0	0	0	0	0	0	0	0	3	5	5
<b>Percentage from B.C.</b>	<b>24%</b>	<b>13%</b>	<b>20%</b>	<b>19%</b>	<b>18%</b>	<b>16%</b>	<b>10%</b>	<b>16%</b>	<b>27%</b>	<b>18%</b>	<b>12%</b>	<b>12%</b>

\*As of December 31, 2019

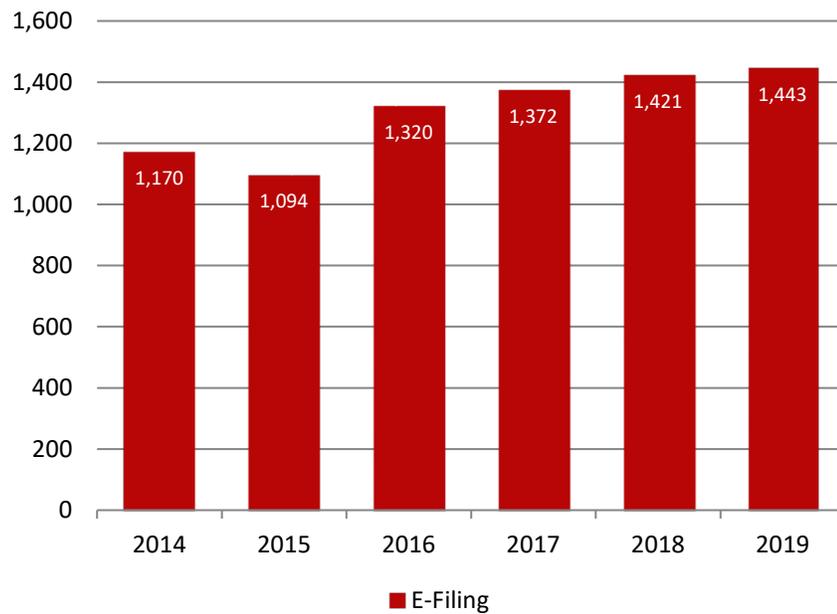
“ In 2019, the most commonly e-filed documents were Notices of Appearance with 313 filings, followed by affidavits with 289 filings, and Notices of Appeal with 150 filings.

## 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 2019, the most commonly e-filed documents were Notices of Appearance with 313 filings, followed by affidavits with 289 filings, and Notices of Appeal with 150 filings.

**Trends: E-Filing 2013 - 2019**



**“**The Chief Justice reported to the Court in 2019 on the work of **Access to Justice BC** and the work of the government-led Justice Summit.  
**”**

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## PLANNING, PRIORITIES, AND ACCESS TO JUSTICE COMMITTEE

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### MEMBERS

The Honourable Chief Justice Bauman (Chair)  
The Honourable Mr. Justice Frankel  
The Honourable Madam Justice Bennett  
The Honourable Madam Justice Garson  
The Honourable Mr. Justice Harris  
The Honourable Mr. Justice Savage  
The Honourable Madam Justice Dickson  
Timothy Outerbridge, Registrar  
Heidi McBride, Executive Director and Senior Counsel  
Sally Rudolf, Legal Counsel  
Shirley Smiley, Legal Counsel

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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 2019:

### ACCESS TO JUSTICE BC & JUSTICE SUMMITS

The Chief Justice reported to the Court in 2019 on the work of Access to Justice BC and the work of the government-led Justice Summit.

Access to Justice BC is a 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 provides support to initiatives and encourages justice system institutions and professionals to adopt the “Triple Aim” methodology, which will focus projects on three objectives: improved user experience, improved population outcomes, and improved costs. Updates on Access to Justice BC initiatives can be found on the Access to Justice BC website and the Chief Justice’s blog at [www.accesstojusticebc.ca](http://www.accesstojusticebc.ca). In 2019, the Triple Aim was signed and endorsed by over 50 organizations in British Columbia.

“The Court continues to request funding for **enhancements to the existing electronic filing system**, which is operated by the Court Services Branch, and further support for its electronic appeals program.”

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The Chief Justice also met with the “Circle of Chairs”, which is a group representing the chairs of various administrative tribunals to discuss access to justice issues, and participated in a “Twitter Town Hall” hosted by the Provincial Court of British Columbia.

The 12th Justice Summit took place on 26 April 2019 on the topic “The Summits, Justice Reform, and Assessing Progress.”

## **BUSINESS PROCESS REVIEW**

The Court of Appeal (along with the Supreme Court) completed a business process review that was delivered to the Chief Justices in March 2017. Because of the review, the Court is able to provide updates on a number of initiatives, including:

- ✓ **Strategic and Operational Plans:** The Superior Courts continue their work on the development of both strategic and operational plans;
- ✓ **Data-quality Audit:** The Court’s data-quality audit concluded in 2018, but the Court will continue to audit its data year-over-year, to the extent the budget permits;
- ✓ **Enhancements to WebCATS Case Management System:** Through the Court’s Technology Board and in other venues, the Court continues to seek further development of its case management systems, most particularly the review and replacement of the WebCATS case management system, as considered in the 2017 report.
- ✓ **Electronic Filing and Electronic Appeals:** The Court continues to request funding for enhancements to the existing electronic filing system, which is operated by the Court Services Branch, and further support for its electronic appeals program.
- ✓ **Schedules under the *Information Management Act*:** The 2017 report also recommended that the Court update and implement new record retention schedules under the *Information Management Act*. As discussed above in the Registrar’s report, these schedules were approved in 2019 and now provide for an updated and more comprehensive set of archived records.
- ✓ **Memorandum with Royal British Columbia Museum:** The 2017 report also recommended that the Court of Appeal enter into a Memorandum of Understanding with the Royal British Columbia Museum for the purposes of managing the long-term storage and archiving of Court records. In 2019, the Registrar commenced discussions with the Museum in relation to this memorandum.



During 2019, a review was undertaken in relation to the Court’s processes for managing high-security appeals.

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## THE MANAGEMENT OF HIGH-SECURITY APPEALS

During 2019, a review was undertaken in relation to the Court’s processes for managing high-security appeals. These appeals involve highly sensitive information, such as the identities of confidential informants. When a high-security appeal is filed, additional precautions are taken, with respect to both paper and electronic records. At the conclusion of 2019, the Registrar requested security enhancements to better protect these records while they are in the custody of the Court. It is expected that many of those enhancements will be in place in 2020.

## FINAL REPORT ON WEBCASTING

A [final report](#) on this subject was released to the public on 11 October 2019. When the Court began its webcasting pilot project in 2013, it was contemplated that the Court would conduct three webcasts and then evaluate the results. Three appeals were selected to include in the pilot project: (1) *Carter v. Attorney General of Canada*, March 18–22, 2013; (2) *Taseko Mines Limited v. Western Canada Wilderness Committee*, June 7–8, 2017; and (3) *Reference re: Proposed Amendments to the Environmental Management Act*, March 18–22, 2019.

The report concluded that: “After evaluating the costs, viewership statistics, and feedback from the public, litigants, lawyers, court staff and judges with respect to each webcast, the court has decided to continue providing live webcasts and video archive for select appeal proceedings.” In selecting an appeal to be webcast, some or all of the following criteria will be relevant: whether the appeal involves interests centered in remote locations or otherwise involves the interests of people for whom attending court in person is practically impossible; whether the appeal involves questions of national interest; accessibility of the subject matter of the appeal; and the volume of media attention focused on the appeal prior to the hearing.

## VIRTUAL COUNSEL AND MEDIA LOCKUP

The Court of Appeal will release decisions under embargo approximately one hour prior to their official release in Court to both counsel and the media, on conditions, in certain high-profile appeals. The purpose of this initiative is to allow counsel and the media time to digest complex decisions prior to reporting on them. 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, insofar as staffing and resource requirements permit. On 19 December 2019, the Court released reasons in [Reference re: Proposed Amendments to the Environmental Management Act, 2019 BCCA 181](#) using the virtual counsel lockup and in-person media lockup process.

**The Chief Justice and senior Court staff continue to be involved with Ukrainian partners in the National Judicial Institute’s *Support to Judicial Reform Project*.**

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## **ERRORS IN ORAL AND RESERVE JUDGMENTS**

In 2016, 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. In 2017, a judgment study was conducted by the Registrar, which showed that the majority of the errors made were typographical mistakes missed in the proofreading process, many of which occurred on the cover page of the judgment (e.g., misspelling the name of counsel). In 2019, the Court published 40 corrected judgments out of 480 judgments, or 8.30%.

## **UKRAINE JUSTICE REFORM PROJECT**

The Chief Justice and senior Court staff continue to be involved with Ukrainian partners in the National Judicial Institute’s *Support to Judicial Reform Project*. The project, initiated in 2016, aims to assist the Ukrainian judiciary in building the trust and confidence of the public by implementing a package of reforms that support independence, and an effective, fair and accountable system of justice. To that end, the Chief Justice of British Columbia has travelled frequently within Ukraine to facilitate education and share information about judicial administration in Canada.

Most recently, in May 2019, the Chief Justice provided education on the Canadian experience in preventing judicial corruption and the unique role of a chief justice in maintaining and building a culture of judicial integrity. These presentations were delivered to Chief Justices of the Odessa Oblast as part of a workshop focused on preventing corruption among judges. In years past, the Chief Justice has provided education on topics ranging from the communications responsibilities of a Chief Justice, to the judicial appointments process, and judicial governance.

## **PRIVACY IN JUDGMENTS**

In 2018, the Court received a report from a sub-committee examining the effect of the rapid dissemination of information through the internet on personal information in judgments. Due to staffing limitations, the work of this committee was suspended in that year. In 2019, the Court reviewed some of the privacy guidelines established in the United Kingdom and those of other courts when providing anonymity in family law cases. The Court will also be examining historical sexual assault cases with a view to considering whether identifying details should appropriately remain within its reasons for judgment.

## **DEVELOPMENT OF NEW COURTHOUSE IN VICTORIA**

The Chief Justice and Executive Director and Senior Counsel discussed their involvement in the planning process leading up to the construction of a new courthouse in Victoria, most particularly ensuring there will be sufficient space to accommodate the Court of Appeal.

## SELF-HELP WEBSITE

The Court’s [self-help website](#) is a partnership between the Court of Appeal and the Justice Education Society. In 2019, the self-help website had 8,011 visitors, 37,241 page views, with an average on-site time of 2.57 minutes. The Court is grateful for the relationship it has formed with the Justice Education Society and for all of its work to maintain this important resource.

## ACCESS PRO BONO SELF-REPRESENTED LITIGANTS PROGRAM

This year the Court marked the beginning of a new program addressing the needs of self-represented litigants in civil appeals in partnership with [Access Pro Bono](#). 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.

This year, Access Pro Bono referral counsel received 105 inquiries from self-represented litigants in response to 197 offers of pro bono assistance handed out at the Registry when an appeal was commenced (158 to appellants and 39 to respondents). Sixty-four (64) of those litigants received services from pro bono lawyers and 10 received referrals to lawyers with significantly reduced fees, so called “low bono” services. This is in contrast to 2018, where under the previous iteration of the program, only nine appeals were the subject of pro-bono assistance.

The lawyers who volunteered their time to take appeals involving self-represented litigants in 2019 were:

Greg Allen	Andrea Fammartino	Carla Lewis	Jordan Schultz
Reut Amit	Scott Foster	Shelby Liesch	Jeremy Shragge
Angela Atwood-Brewka	Malcolm Funt	Donald McLeod	Mark Skorah, Q.C.
Abudi Awaysheh	Nicole Gilewicz	Peter Mennie	Maria Sokolova
Trevor Bant	Andrea Grey	Ryley Mennie	Nicole Toy
Dani Bryant	Stephanie Hamilton	Lia Moody	Eileen Vanderburgh
Jake Cabott	Brandon Hastings	Matthew Nied	Gib Van Ert
Aubin Calvert	Layne Hellrung	Alyssa Paez	Erin White
Aidan Cameron	Jeffrey Hernaez	Joel Payne	Stefan Wittman
Carina Chiu	Claire Hunter, Q.C.	Tom Posyniak	David Wotherspoon
Simon Coval, Q.C.	Emma Irving	Julia Roos	David Wu
Ryan Dalziel	Nicholas Isaac		

**“The services of these lawyers who act in an advisory capacity, pro bono capacity or with greatly reduced fees is a valuable service to the Court and the public, for which the Court expresses its sincere appreciation.”**

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As part of the new program, a list of mentorship counsel was created to give less experienced lawyers advice and assistance on the conduct of appeals taken through the new program. The Court would like to thank the following lawyers for their help mentoring their colleagues in the Court:

The Honourable Edward Chaisson, Q.C.	Randy Kaardal, Q.C.
Vincent Critchley	Bill Kaplan
The Honourable Thomas Cromwell, C.C.	The Honourable Kenneth Mackenzie, Q.C.
Tim Delaney	Richard Margetts, Q.C.
John Dives, Q.C.	The Honourable Kathryn Neilson
The Honourable Lance Finch, Q.C.	William Storey
Patrick Foy, Q.C.	The Honourable Kenneth Smith, Q.C.

Finally, the Court would like to thank the members of the bar who provided training sessions to counsel on the conduct of an appeal, particularly Todd Bell, Claire Hunter, Q.C., Dinyar Marzban, Q.C. and Tracy Cohen, Q.C.

The services of these lawyers who act in an advisory capacity, *pro bono* capacity or with greatly reduced fees is a valuable service to the Court and the public, for which the Court expresses its sincere appreciation.



The work of the Committee in 2019 involved the **finalization of the *Court of Appeal Act* and *Court of Appeal Rules***, which followed changes arising from a set of final consultations with the public.

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## RULES AND PRACTICE COMMITTEE

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### MEMBERS

The Honourable Chief Justice Bauman  
The Honourable Madam Justice MacKenzie  
The Honourable Mr. Justice Harris (Chair to October 2019)  
The Honourable Mr. Justice Goepel  
The Honourable Mr. Justice Fitch  
The Honourable Madam Justice Fisher  
Timothy Outerbridge, Registrar  
Sally Rudolf, Legal Counsel  
Shirley Smiley, Legal Counsel

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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 would significantly change the Court’s practice and procedure.

The following matters were considered in 2019:

### CIVIL APPEAL ACT AND RULE REFORM PROJECT

The Civil Act and Rule Reform project has been ongoing since 2015.

The work of the Committee in 2019 involved the finalization of the *Court of Appeal Act* and *Court of Appeal Rules*, which followed changes arising from a set of final consultations with the public.

Following those consultations and a series of amendments, the Court of Appeal is expected to endorse the revised version of the *Court of Appeal Act* in early 2020, which will proceed through the British Columbia legislature for consideration.

The Court’s senior staff have also been working on a project to reform Court forms in advance of the new *Court of Appeal Rules*. A working group was struck to consider and develop those forms, with the assistance of a group of external stakeholders, including representatives of the bar and organizations

working with self-represented litigants. To assist this group, the Court Service Branch have arranged for a consultant to provide support.

## **CRIMINAL ADVISORY COMMITTEE**

A meeting was held in November of 2019 with representatives of the criminal bar to discuss improvements to criminal practice and procedure. A meeting was also held with the Legal Services Society (LSS) to discuss processes around applications made under s. 684 of the *Criminal Code* for the appointment of counsel.

At the meeting with representatives of the criminal bar, the following topics were discussed: 1) Issues relating to the extension of appeal bail and the development of a practice directive on extensions of bail; 2) Questions relating to the need for a compliance hearing for respondents' factums; 3) Issues around delays in transcripts ordered for lower court proceedings; and 4) Issues surrounding difficulties obtaining records from trial court registries where counsel on an appeal was not counsel at trial. There was also a discussion relating to grounds of ineffective assistance of trial counsel and a meeting was considered to revisit the practice directive and consider areas for improvement.

Finally, as reported previously, the Court has suggested it pursue wholesale amendments to the existing *Court of Appeal Criminal Appeal Rules, 1986* to account for the Court's approach to the progress of criminal appeals. It was agreed that this project would have to await the completion of changes to the civil Act and Rules.

## **PRACTICE DIRECTIVES ISSUED OR UPDATED**

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

### ***Transcripts of Proceedings (Civil Practice Directive, 24 May 2019)***

This Practice Directive replaced an old directive entitled *Transcript Extracts* and explains in what circumstances it is appropriate to obtain transcript beyond oral testimony in an appeal.

### ***Submission of Electronic Factums and Statements (Civil & Criminal Practice Directive, 02 July 2019)***

This updated practice directive allows parties to submit factums and statements by email instead of via USB or other physical media.

### ***Joint Appeal Books and Transcript Extracts (Civil Practice Directive, 19 September 2011)***

This Practice Directive was repealed in 2019, as it was duplicative of processes already outlined in the

*Court of Appeal Act and Court of Appeal Rules.*

**Appearing before the Court (Civil & Criminal Practice Directive, 11 October 2019)**

This practice directive replaces and repeals the practice note, *Addressing the Court*. The practice directive contains amendments providing direction to counsel and litigants on (1) conveying their preferred form of address (e.g. Mr., Ms., Mx.); and (2) alternate gowning requirements in circumstances affecting counsel's ability to fully gown.

**Condensed Appeals Pilot Project (Civil Practice Directive, 11 October 2019)**

This practice directive is designed to test the efficiency of an alternative filing schedule in conjunction with the Court's project to amend the Court of Appeal Rules.

**Declarations in Court Orders (Civil Practice Directive, 11 October 2019)**

This practice directive describes the language required for orders relating to a declaration made by the Court.



The Court has now “soft launched” its new Notice of Appeal e-filing project, which pre-populates the Notice of Appeal form by drawing on data from the Supreme Court of British Columbia in civil cases.

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## TECHNOLOGY COMMITTEE

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### MEMBERS

The Honourable Chief Justice Bauman (*ex officio*)  
The Honourable Mr. Justice Groberman  
The Honourable Madam Justice Bennett (Chair)  
The Honourable Mr. Justice Hunter  
Timothy Outerbridge, Registrar  
Heidi McBride, Executive Director and Senior Counsel  
Sally Rudolf, Legal Counsel  
Shirley Smiley, Legal Counsel  
Christine Gergich, Appellate Court Records Officer  
Ryan Wirth, Manager of Information Technology

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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 2019:

### 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. The Court has now “soft launched” its new Notice of Appeal e-filing project, which pre-populates the Notice of Appeal form by drawing on data from the Supreme Court of British Columbia in civil cases.

### ELECTRONIC APPEALS

As detailed in previous annual reports, 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 factums and other select records in paper. In 2019, the Court heard electronic appeals in the following matters, bringing the total electronic appeals heard by the Court to 12:

- ✓ *The Ahousaht Indian Band v. The Attorney General of Canada* (11–15 February 2019);
- ✓ *R v. Baker; R. v. Zaporoski and R v. Lindgren* (4–6 March 2019)
- ✓ *R v. Lawson* (26 March 2019)
- ✓ *R v. Bacon* (2–6 December 2019)



In 2019, the Court began work on a program that will allow litigants to schedule appeals electronically in both criminal and civil cases.

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In these appeals, the parties relied upon paper condensed books and, as in previous electronic appeals, only a fraction of the electronic record was printed for the Court, saving thousands of pages of copying.

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 resources. The Court lacks the proper infrastructure to accommodate these appeals other than on an exceptional basis.

As reported in 2019, the Court began to explore options for the storage of its electronic appeal records, particularly now that it has completed its new records retention schedules under the *Information Management Act*. Unfortunately, the digital archives established under s. 12 of this *Act* are not presently able to accommodate records of the Court of Appeal. The Court has thus entered into a temporary arrangement with the Court Services Branch for the storage and retention of electronic appeal records pending the development of a more formal digital archive.

## **VIDEOCONFERENCING OF APPEALS AND CHAMBERS**

In April 2018, the Court approved a resolution that would allow it to conduct both appeals and chambers work by videoconference. Through the Courts Technology Board (discussed below), the Court is exploring this possibility. However, the Court's ability to realize it is highly dependent on available resources, such as videoconferencing units and staff to maintain and operate them in remote locations. A further issue is the cost of videoconferencing and whether the costs will be recoverable from litigants or whether the government will pay for its use.

## **NEW DOMAIN NAME & INSTALLATION OF WIFI**

In 2019, the Court of Appeal moved to a new domain name, [bccourts.ca](http://bccourts.ca). In addition, the government has agreed to begin the installation of WiFi in all British Columbia courthouses, beginning in 2019. This WiFi will be accessible to both the judges and members of the public.

## **ELECTRONIC SCHEDULING OF APPEALS**

In 2019, the Court began work on a program that will allow litigants to schedule appeals electronically in both criminal and civil cases. The current process, which allows for a lot of telephone scheduling, is generally unsatisfactory for those who wish to schedule an appeal quickly and easily. It is expected that the online scheduling of appeals will launch in 2020.

## **ELECTRONIC APPEAL MATERIALS IN YUKON**

The Court of Appeal also sits as the Court of Appeal of Yukon. Given the cost of shipping paper materials between jurisdictions, the Yukon and BC Registrars are beginning to discuss whether there are ways to digitize Yukon materials and provide more effective tracking of Yukon appeals. Options include the adoption of the British Columbia Court of Appeal’s case management system by the Yukon Court.

## **COURTS TECHNOLOGY BOARD**

The Courts Technology Board is a collaborative exercise between the judiciary and the Court Services Branch. As reported previously, the Courts Technology Board is designed to foster and strengthen the sharing of technology initiatives, innovation and information between the judiciary, the Court Services Branch, and the Ministry of Justice, as well as to identify and plan how to address various technological needs.

The Board met four times in 2019 — in April, June, September and November — to discuss such ongoing projects as:

- ✓ obtaining and allocating funding from the Treasury Board to pursue priorities;
- ✓ strategic planning and the digital strategy for the justice sector;
- ✓ the development of a Court Digital Transformation Strategy;
- ✓ e-filing service expansion in the Provincial Court; and
- ✓ improved videoconferencing.

## **ENHANCEMENTS TO WEBCATS**

As discussed earlier, WebCATS is the Court of Appeal’s electronic case management system. Every year, a number of improvements are made in response to user feedback to ensure the system meets the demands of the Court, the Registry, and the public. In 2019, there were several major releases and discrete enhancements made to WebCATS by the information technology team. The following enhancements were the most significant:

- ✓ The development of online booking for court hearings continued;
- ✓ An ‘Enforcement Agency’ field was added for criminal cases to ensure court orders are provided to the correct police agency, where required;
- ✓ Major updates adding functionality for the new program for self-represented litigants in civil appeals. Functionality was added to assign lawyers for each day and assign lawyers to new cases created involving self-represented litigants;

- ✓ Major updates were made linking the case management system to the Law Society's database, allowing the Court to have updated contact information for lawyers on a nightly synchronization; and
- ✓ Various minor enhancements were made dealing with the tracking of books and court filings as well as the estimates of time required for the hearing of an appeal.



The court has planned educational sessions on recent developments in contract law and on reconciliation with first nations as part of our continuing educational program in the Spring.

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## EDUCATION COMMITTEE

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### MEMBERS

The Honourable Mr. Justice Harris  
The Honourable Madam Justice Stromberg-Stein  
The Honourable Mr. Justice Willcock (Chair)  
The Honourable Madam Justice Fenlon  
Sally Rudolf, Legal Counsel

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The Education Committee is responsible for presenting education programs for the judges of the Court in furtherance of the objectives identified in the Canadian Judicial Council’s Professional Development Policies and Guidelines. The Judicial Council has recognized that judicial education demands a three-dimensional approach encompassing: (a) substantive content; (b) skills development; and (c) social context awareness. The policy recognizes that individual judges are accountable for their own ongoing professional development. Members of the Court have attended a wide range of 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. The Education Committee seeks to assist the Court by identifying and organizing educational opportunities.

Justice Bruce Butler presented a paper to the Court’s September educational meeting on the Hague Convention. Debra Parkes, Professor and Chair in Feminist Legal Studies, Peter A. Allard School of Law, spoke to the court on recent developments in the law of *habeas corpus* in October. Professor Janis Sarra, Presidential Distinguished Professor at the Allard School of Law, discussed fiduciary obligations, with particular emphasis on climate change, in November. We were honoured to have Chief Judge Melissa Gillespie of the Provincial Court of British Columbia speak to a December lunch meeting of the Court on issues of current concern in the Provincial Court.

In January we were joined by Professor Graham Reynolds of the Allard School, who spoke on human rights and intellectual property law. Newly appointed Justice Peter Edelman of the Supreme Court of British Columbia gave a presentation on immigration-related “collateral consequences” associated with sentencing in February.

The court has planned educational sessions on recent developments in contract law and on reconciliation with first nations as part of our continuing educational program in the Spring.

The Court participated in the NJI Appellate Court Seminar in Winnipeg in September. Members of the Court have spoken at a number of NJI and CIAJ courses and have played leading roles in those organizations.

**“**  
In 2019, the Joint Courts Technology Committee continued to review technology developments and **their impact on the work of the Court of Appeal and the Supreme Court.**  
**”**

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## JOINT COURTS TECHNOLOGY COMMITTEE

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### MEMBERS

The Honourable Madam Justice Bennett  
The Honourable Mr. Justice Willcock  
The Honourable Mr. Justice Masuhara (Chair)  
The Honourable Mr. Justice Myers  
The Honourable Madam Justice Adair  
The Honourable Mr. Justice Punnett  
Timothy Outerbridge, Registrar, Court of Appeal  
Heidi McBride, Executive Director and Senior Counsel  
Brenda Belak, Legal Counsel  
Ryan Wirth, Manager, Information Technology  
Cindy Friesen, Director, Supreme Court Scheduling

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In 2019, the Joint Courts Technology 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 on the Courts Technology Board, which is comprised of representatives of the courts and Court Services under the Ministry of Attorney General; made presentations on the courts and technology to the bar and other organizations; observed and reviewed electronic evidence presentation platforms in several trials of the court; and consulted with members of the bar regarding the use of digital technologies and platforms.

**“**  
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.

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## JUDICIAL ACCESS COMMITTEE

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### MEMBERS

Karen Leung, Legal Officer, Provincial Court

Caroline Berkey, Legal Officer, Provincial Court

Sally Rudolf, Legal Counsel, Court of Appeal (resigned from Committee September 2019)

Shirley Smiley, Legal Counsel, Court of Appeal (from February 2019)

Brenda Belak, Legal Counsel, Supreme Court (Chair)

Heidi McBride, Executive Director & Senior Counsel, Judicial Administration, Superior Courts Judiciary

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

Dan Chiddell, Director Strategic Information & Business Applications, Ministry of Justice - Court Services Branch (as of January 2019)

Rob Richardson, Senior Policy Analyst, Policy, Legislation and Planning, Ministry of Attorney General - Court Services Branch (leave beginning July 2019)

Jess Gunnarson, Director, Policy, Legislation and Planning, Ministry of Attorney General - Court Services Branch (concluding September 2019)

Erin Turner, Acting Policy, Legislation and Planning, Ministry of Attorney General - Court Services Branch (commencing September 2019)

Kathryn Thomson, Legal Policy Advisor

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### 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.

In 2019, the work of the Committee included the following:

## **ACCESS APPLICATIONS**

As in previous years, in 2019 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 2019, the Data Governance Working Group met several times to continue this work.



In January 2019, the judicial law clerk program received **136 applications for 33 law clerk positions** at the two courts for the 2020 – 2021 term (12 at the Court of Appeal and 21 at the Supreme Court).

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## LAW CLERK COMMITTEE

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### MEMBERS

The Honourable Madam Justice MacKenzie (Chair)  
The Honourable Mr. Justice Fitch  
The Honourable Madam Justice Fisher  
The Honourable Mr. Justice Butler  
Sally Rudolf, Legal Counsel  
Shirley Smiley, Legal Counsel

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The Law Clerk Committee provides general supervision of the Court of Appeal’s judicial law clerk program. 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 by legal counsel for the Court of Appeal and the Supreme Court.

In January 2019, the judicial law clerk program received 136 applications for 33 law clerk positions at the two courts for the 2020–2021 term (12 at the Court of Appeal and 21 at the Supreme Court). Students from the University of British Columbia made up the largest group of applicants, followed by the University of Victoria, Thompson Rivers University, and other Canadian law schools. In February 2019, legal counsel for the Court of Appeal interviewed 30 applicants. In early March, the justices of the Court of Appeal Law Clerk Committee interviewed 24 of these applicants and selected 12 successful candidates.

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. Out of the 12 clerks selected in 2019, there are five from the University of British Columbia, three from the University of Toronto, two from Queens University, one from Osgoode, and one from NYU.

Beginning in October 2019, judicial law clerk program applicants could view up to date recruitment information online. The Law Clerks Committee also conducted interviews with applicants residing outside of Vancouver and Victoria by Skype to reduce any financial hardship to students.

The Committee thanks legal counsel Sally Rudolf, Shirley Smiley and Brenda Belak, as well as Alix Going, Kristine Dhamrait, and Andrea Baedak, for their assistance and administrative support.



Use of electronic resources continues to grow and members of the Court are encouraged to consult with library staff about what is available and to receive the necessary training.

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## LIBRARY COMMITTEE

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### MEMBERS

The Honourable Mr. Justice Goepel

The Honourable Madam Justice Ker

The Honourable Mr. Justice Skolrood (Chair)

Heidi McBride, Executive Director and Senior Counsel

Diane Lemieux, Librarian

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Library staff, led by chief Librarian Diane Lemieux, continue to monitor the usage of library resources with a view to directing funds towards the resources that are most widely used. This will continue in 2020.

Use of electronic resources continues to grow and members of the Court are encouraged to consult with library staff about what is available and to receive the necessary training.

There were challenges this year as Thompson Reuters Canada, our largest supplier, transitioned its system to a new global system, which resulted in significant service issues. Those issues started to resolve by the end of the year.

The Committee would like to acknowledge and thank the library staff for the exemplary service they provide. All members of the judiciary are encouraged to consult the staff with respect to research needs, including training on the electronic resources.

# MEMBERS OF THE COURT OF APPEAL

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## 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

### Madam Justice Mary V. Newbury

- July 9, 1991 (Supreme Court)
- September 26, 1995 (Court of Appeal)
- January 1, 2019 (Supernumerary)

### Madam Justice Mary E. Saunders

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

### 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)
- February 15, 2019 (Retired)

### Mr. Justice S. David Frankel

- March 2, 2007 (Supreme Court)
- May 10, 2007 (Court of Appeal)
- April 1, 2019 (Supernumerary)

### 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)
- December 31, 2019 (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)
- February 1, 2017 (Supernumerary)

**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)
- September 1, 2019 (Retired)

**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)

**Mr. Justice John J.L. Hunter**

- April 12, 2017 (Court of Appeal)

**Madam Justice Barbara L. Fisher**

- November 26, 2004 (Supreme Court)
- September 15, 2017 (Court of Appeal)

**Madam Justice Susan A. Griffin**

- February 20, 2008 (Supreme Court)
- February 7, 2018 (Court of Appeal)

**Mr. Justice G. Bruce Butler**

- March 30, 2007 (Supreme Court)
- August 29, 2018 (Court of Appeal)

**Mr. Justice Patrice Abrioux**

- September 30, 2011 (Supreme Court)
- March 7, 2019 (Court of Appeal)

**Madam Justice M. Joyce DeWitt-Van Oosten**

- October 20, 2016 (Supreme Court)
- May 6, 2019 (Court of Appeal)

**Mr. Justice J. Christopher Grauer**

- April 11, 2008 (Supreme Court)
- December 20, 2019 (Court of Appeal)



The Court began 2019 with a **full complement of judges.**

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## CHANGES TO THE COURT'S COMPLEMENT

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The Court began 2019 with a full complement of judges. Three additional vacancies were created in 2019 with Mr. Justice Savage's retirement and the election to supernumerary status of Madam Justice Newbury and Mr. Justice Frankel. All vacancies were filled during the year. Mr. Justice Abrioux filled the vacancy created by Madam Justice Newbury and Madam Justice DeWitt-Van Oosten filled the vacancy created by Mr. Justice Frankel. Finally, Mr. Justice Grauer filled the vacancy created by Mr. Justice Savage's retirement.

### APPOINTMENTS

#### **The Honourable Mr. Justice Patrice Abrioux**

The Honourable Mr. Justice Patrice Abrioux was appointed a judge of the Court of Appeal for British Columbia and the Court of Appeal of Yukon on March 7, 2019. He was previously appointed a judge of the Supreme Court of British Columbia in September 2011, and a deputy judge of the Supreme Court of Yukon in December 2018.

Justice Abrioux obtained his B.A. (Hons.) degree from the University of Victoria in 1976 and his LL.B. degree from McGill University in 1980. He was called to the Bar of British Columbia in 1981 and practiced predominately in the field of civil litigation in Vancouver, British Columbia. He articulated at Fraser Hyndman and was made a partner of that firm in 1987. In 1993, he formed the litigation firm of Fraser, Quinlan & Abrioux (later Quinlan Abrioux), where he practiced primarily insurance defence.

Justice Abrioux is of Parisian French heritage and is fluently bilingual. As a Supreme Court judge, he presided over proceedings in French. He was recognized by La Fédération des Francophones de la Colombie-Britannique in 2012, and in 2014, he received France's Ordre National du Mérite for his contributions to francophone communities in British Columbia.

Justice Abrioux has chaired the Supreme Court of British Columbia's Education Committee and acted as a facilitator at the Federal New Judges Program run by the National Judicial Institute (NJI) and Canadian Institute for the Administration of Justice (CIAJ).

#### **The Honourable Madam Justice M. Joyce DeWitt-Van Oosten**

The Honourable Madam Justice DeWitt-Van Oosten was appointed to the Court of Appeal for British Columbia and the Court of Appeal of Yukon on May 6, 2019. She was previously appointed to the Supreme Court of British Columbia on October 20, 2016.

Justice DeWitt-Van Oosten grew up in Riske Creek in the interior of British Columbia. She received her LL.B. from the University of Alberta in 1991. After serving as a law clerk at the Supreme Court of Canada, she joined the British Columbia Prosecution Service as a trial prosecutor in 1994.

Justice DeWitt-Van Oosten quickly rose through the ranks of the provincial Crown, becoming appellate counsel in 2001, Deputy Director of Prosecution Support in 2006, and Assistant Deputy Attorney General of the Criminal Justice Branch in 2012.

Throughout her career, Justice DeWitt-Van Oosten has given back to the legal community through legal education, including as an editor of the *Working Manual of Criminal Law*, co-chair of the National Criminal Law Program (Federation of Law Societies of Canada), co-chair of a National Judicial Institute course in Charter litigation, and sessional lecturer in criminal procedure at the University of Victoria. She has received numerous accolades in recognition of her contributions to the profession, including the Canadian Bar Association (B.C. Branch) Georges A. Goyer, Q.C. Award for Distinguished Service in 2012 and appointment as Queen's Counsel in 2010.

### **The Honourable Mr. Justice J. Christopher Grauer**

The Honourable Mr. Justice Christopher Grauer was appointed a justice of the Court of Appeal for British Columbia and the Court of Appeal of Yukon on December 20, 2019. He was previously appointed a judge of the Supreme Court of British Columbia on April 11, 2008.

Born in Vancouver, Justice Grauer attended the Vancouver School of Art and the University of British Columbia. He received his J.D. degree from the University of Toronto, from which he graduated in 1979. After serving as law clerk in the Court of Appeal for British Columbia, working for the Chief Justice, he was admitted to the Bar of British Columbia on March 10, 1981. Justice Grauer then practised at Bull, Housser & Tupper before co-founding Dives, Grauer & Harper in 1999. Justice Grauer is considered an expert in civil litigation and health law, and acted as one of the lead counsel for the Risk Management Branch of the Ministry of Finance, Province of British Columbia. While in practice, he contributed a significant amount of time to pro bono work with the Western Canada Society to Access Justice.

While on the Supreme Court, Justice Grauer was a co-author of CivJI, the CLEBC publication of civil jury instructions, for nine years, and regularly assisted with the Peter A. Allard Faculty of Law advocacy program, including helping to coordinate the annual British Columbia Law Schools Moot Competition. He is a member of the faculty for the Canadian Institute of the Administration of Justice and National Judicial Institute advanced course on judgment writing.

## RETIREMENTS

### **The Honourable Madam Justice Pamela A. Kirkpatrick**

On February 15, 2019, the Honourable Madam Justice Pamela Kirkpatrick retired from the Court of Appeal. She served as a justice on the Court of Appeal for 14 years, having been appointed in 2005.

Justice Kirkpatrick received her law degree from the University of British Columbia in 1977 and was called to the bar in 1978. She practised wills and estates with the Vancouver law firm of Shrum Liddle & Heberton, now McCarthy Tétrault, and developed a keen expertise in chambers matters. In 1989, she was selected to be one of British Columbia's first masters, and three years later, she became the first master to be appointed as a justice of the Supreme Court. After almost 13 years on the Supreme Court, she was appointed to the Court of Appeal. Her appointment marked another first for former masters in the judicial history of British Columbia.

Throughout her career, Justice Kirkpatrick was highly regarded for her meticulously crafted judgments, tireless work ethic, and extensive contributions to the community and profession. She had a resoundingly cheerful disposition in court, and was aptly described in *The Advocate* as “exhibiting the qualities of care, concern and fairness that are so important for a member of the judiciary.” The Court wishes Justice Kirkpatrick many years of happy, restful retirement with her husband David, their three children, and their five grandchildren.

### **The Honourable Mr. Justice E.D. Savage**

The Honourable Mr. Justice John E.D. Savage retired from the Court of Appeal for British Columbia and the Court of Appeal of Yukon on September 1, 2019. He served as a justice of the Court of Appeal for five years, having been appointed in 2014.

Born in West Vancouver, Justice Savage attended Simon Fraser University, where he received his B.A. Upon earning his law degree from the University of British Columbia in 1977, he articulated with the Victoria law firm of Crease, Harman & Company, where he spent the entirety of his practice. Since being called to the Bar of British Columbia in 1978, he worked his way to becoming one of British Columbia's foremost practitioners in the areas of real property and assessment matters and administrative law. In 2008 he was appointed to the British Columbia Supreme Court and afterwards to this Court, where he joined the ranks of several of his law school classmates.

Throughout his career, Justice Savage showed commitment to public service. He was awarded the Queen's Golden Jubilee Medal for service to Scouting in British Columbia, and was Executive Director of the Greater Victoria Chamber of Commerce. He served on the Editorial Board of the Real Property Assessment Manual for the Continuing Legal Education Society of British Columbia, and has written

more than 25 articles on diverse legal issues. Justice Savage was well served on the bench by his former experience as an adjudicator. For example, he served as a member of the Employment Standards Tribunal, the Financial Services Tribunal, the Environmental Appeal Board, and the Forest Appeals Commission.

Justice Savage was known for his sense of pragmatism, fairness, probity, and civility. He was marked by a distinct ability to distill complicated concepts into an understandable judgment. He was a brave jurist, and was unafraid to take viewpoints that may not have been popular. Such is suiting to a person whose motto was said to be, “Nothing trumps the truth, no matter if it seems to hinder your case.”

### **The Honourable Madam Justice Daphne M. Smith**

The Honourable Madam Justice Daphne M. Smith retired from the Court of Appeal for British Columbia on December 31, 2019. Justice Smith served as a justice of the Court of Appeal for 11 years, having been appointed in 2008.

Justice Smith received her law degree from the University of British Columbia in 1975, following which she moved to Kamloops and articulated at Mair Horne Janowsky. She remained at the firm after completing her articles until 1984 when she moved her practice to Victoria. She returned to Kamloops in 1986. In practice she became known as one of British Columbia’s leading family law lawyers.

Throughout her years in practice, Justice Smith was active in her community and volunteered her legal skills to many non-profit organizations. She was on the committee that established the Kamloops Women’s shelter, a member of the Hughes Commission on the delivery of legal aid, a Continuing Legal Education contributor, and a member of the Family Law Sourcebook editorial board (until shortly before her retirement).

In recognition of her contributions to the legal profession, Justice Smith was appointed Queen’s Counsel in 1994. She was appointed to the Supreme Court of British Columbia in 1996. In recognition of her leadership and role as an educator in the legal profession, Thompson Rivers University conferred on her an honorary doctor of laws degree in 2010.

## **IN MEMORIAM**

### **The Honourable Ian T. Donald**

On February 15, 2019, the Honourable Ian Donald passed away in his 74<sup>th</sup> year.

Justice Donald will be remembered as a dignified, intelligent, humorous, humble, kind and compassionate person who believed all people deserved to be treated with respect and dignity.

Justice Donald was born on November 20, 1944 in New Westminster to a family with long-established connections to the legal community in British Columbia. Despite a challenging right-hand disability, he was a terrific athlete in his youth, experiencing considerable success as a high school basketball player for Vancouver College before playing football for the University of British Columbia Thunderbirds.

Justice Donald received his law degree from UBC (class of 1968) and was called to the bar in 1969 after articling with Russell & DuMoulin. He then transitioned to Rankin & Company where he developed an expertise in labour law, acting mainly for independent trade unions. He was appointed a Queen's Counsel in 1985. A journalist who covered the provincial labour law scene during Justice Donald's time as a practitioner wrote that he was "among the most dignified, respected and principled individuals I encountered during my many years on the beat."

Justice Donald was appointed to the Supreme Court of British Columbia in 1989. He quickly developed a strong reputation as a jurist, leading to his elevation to the Court of Appeal in 1994, where he remained until his retirement in 2017. The Honourable Ross Colver, Q.C. had this to say about Justice Donald's time on the bench:

"Courageously independent, Ian crafted reasons for his decisions that were always respectful – not only of those who argued before him, but also of those with whom he presided. Whether or not he consciously set out to contribute to judicial collegiality, Ian more than played his part in its achievement."

Justice Donald cared deeply about social justice issues. For years, he volunteered with the "Showers for the Shelterless Program", where he provided valuable assistance to those struggling with homelessness.

He is survived by his beloved wife of 53 years, Colleen; his children: John, Bridget, and Rebecca; and six grandchildren.

## **The Honourable H.A. Hollinrake**

On May 18, 2019, the Honourable Mr. Justice Hollinrake passed away in his 89<sup>th</sup> year.

Justice Hollinrake was born in New York City on June 15, 1929 and grew up in Toronto. He attended law school at the University of British Columbia and was called to the bar in 1957.

Justice Hollinrake began his career at Guild Yule, where he practiced for 21 years and became a specialist in insurance law. He later spent eight years practicing commercial law at Bull, Housser & Tupper.

Justice Hollinrake was deeply devoted to the education of young lawyers. He left practice in 1978 to work as a law professor at Victoria University in Wellington, New Zealand. He also taught courses for many years on a part-time basis at UBC.

Justice Hollinrake was appointed to the Supreme Court of British Columbia in 1988, spending less than two years there before being elevated to the Court of Appeal in early 1990. His pragmatic approach to legal problems was given the following articulation in *The Advocate*:

“He has a quick and active intelligence which spurns philosophical musings and rejects metaphysical speculations in favour of every day logic and experience...He has, however, a punishing intellectual honesty which pushes him to understand each fact, each consequence, and each abstract proposition of law wholly and completely and which does not let him...be satisfied with a general or global understanding that ignores some part of the evidence.”

Justice Hollinrake retired from the bench in 2004.

He is survived by his wife, Bryony, three children and one grandson.

## **The Honourable Patricia Mathilda Proudfoot**

On October 9, 2019, the Honourable Patricia Mathilda Proudfoot passed away at the age of 91.

Justice Proudfoot was a trailblazer: the first woman to be appointed to British Columbia’s Provincial Court (1971), County Court (1974), and Supreme Court (1977); and, upon her appointment to the Court of Appeal for British Columbia in 1989, the first jurist, male or female, to sit on all four levels of British Columbia’s courts. She retired in 2001 having, as she put it, hit for the cycle (Justice Proudfoot was an avid baseball fan).

Justice Proudfoot was born in 1928 in Kronau, Saskatchewan, the youngest of ten children. Her family moved to Rutland, British Columbia in 1936. Justice Proudfoot moved to Vancouver in 1946 to attend the University of British Columbia. She worked three jobs to put herself through school. Selling shoes at the Hudson’s Bay Company earned her \$0.55 per hour.

Justice Proudfoot earned her Bachelor of Arts in History and Psychology in 1949 and went straight to law school at UBC, graduating with her Bachelor of Laws in 1952. After articling with a sole practitioner, Justice Proudfoot was called to the bar in 1953. She had a diverse legal practice as a sole practitioner and joined a firm just one year before she was appointed to the Provincial Criminal Court.

In addition to a remarkable legal career, Justice Proudfoot led a life of service. She was a member of the board of the Canadian Council of Christians and Jews; a committee member for Sexual Offences against Children and Youth; an honorary director of Big Sisters of British Columbia; a commissioner for

the Royal Commission on Incarceration of Female Offenders; a committee member for the Vancouver Foundation Family and Youth Advisory Committee; a supporter of the Franciscan Sisters of Atonement in the Vancouver Downtown Eastside; and a supporter of her church, St. Augustine's. She was awarded three honorary Doctorates of Law: from Simon Fraser University in 1975; from UBC in 1994; and from Okanagan University College in 2002. In 2002, she was also awarded the Vancouver YWCA "Woman of Distinction" award. Finally, Justice Proudfoot became a member of the Order of British Columbia in 2007.

Justice Proudfoot was predeceased by her husband, Arthur Proudfoot, and eight of her siblings. She is survived by her sister, Helen Schaeffer, and her many nieces and nephews, and their children and grandchildren.

### **The Honourable Anne M. Rowles**

On November 13, 2019, the Honourable Anne M. Rowles passed away at the age of 78.

Justice Rowles will be remembered for her passion, warm and compassionate outlook, excellent mentorship, people-focused approach to judging, and principled contributions to the development of family law and criminal law. Justice Rowles was born in the small village of Empress, Alberta in 1941, and spent the first six years of her life living on a wheat farm in Saskatchewan. Her family then moved to Kelowna, where she was educated in a small school. During high school she engaged deeply in student life as an active member of both the debating club and drama club. Following her graduation, she moved to Vancouver to attend the University of British Columbia, from which she graduated in 1965 with a degree in English and Sociology. She returned to UBC for law school and was a member of the class of 1968.

Justice Rowles articulated to John E. Milne and was called to the bar in 1969. She started her career with a general practice consisting of personal injury law, family law, conveyancing, corporate law, and wills and estates. By the late 1970s, she was a partner at her own firm, Davis, Rowles and Hodges. Upon the introduction of the *Family Relations Act*, she focused her practice on family litigation, and was a frequent lecturer for Continuing Legal Education in this and other areas. In 1983 she was appointed to the County Court of Vancouver, the Supreme Court of British Columbia in 1987, and to the Court of Appeal in 1991. Her work is lauded for its comprehensiveness and rigor, exemplified by her significant dissent in *R. v. Gladue* (1997), 98 B.C.A.C. 120, in which her elucidation of the principles to be applied to the sentencing of Indigenous offenders was largely confirmed and adopted by the Supreme Court of Canada in *R. v. Gladue*, [1999] 1 S.C.R. 688.

Service to the community was important to Justice Rowles. At law school, she was an editor of the UBC Law Review. Early in her career she was a member of the Vancouver Community Legal Assistance

Society and the Riverview Legal Assistance Society. In 1981 she became a Bencher of the Law Society of British Columbia and held this position until she was appointed to the Court. She also served on the boards of the Vancouver Bar Association, the Courthouse Library Society, and the Legal Services Society, was a member of two national judicial committees, directed the Law Courts Education Society (now called the Justice Education Society) and The International Centre for the Reform of the Criminal Law, chaired the Vancouver Institute, and sat on a scholarship committee, a role she prized for the opportunity to meet some of the province's bright, young leaders.

Outside of her work, Justice Rowles was an enthusiastic reader, a thorough gardener, an exceptional host, and an admirer of the arts. She saved time for her large, diverse group of friends and was always eager to passionately discuss nearly any subject. She is survived by her husband of 49 years; her brother and sister; many nieces, nephews, grandnephews, and grandnieces; and her husband's children.

# STAFF OF THE COURT OF APPEAL

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## CHANGES TO STAFFING COMPLEMENT

The Court of Appeal Registry welcomed Rachelle Guzman who joined the registry after several years of working for the Supreme Court. Manjit Gunglay joined us from the Supreme Court as the manager of the registry. Shelley Gin left the registry after obtaining a position as a policy analyst with the Court Services Branch.

## STAFF & POSITIONS

Timothy Outerbridge	Registrar
Sally Rudolf	Legal Counsel
Shirley Smiley	Legal Counsel
Linda Rainaldi	Legal Counsel
Maria Littlejohn	Associate Registrar
Manjit Gunglay	Manager & Deputy Registrar
Torri Enderton	Scheduling Administrator
Kristine Dhamrait	Senior Executive Assistant
Teresa Smith	Judicial Coordinator to Chief Justice Bauman
Maxwell Otte/Christine Gergich	Supervisor and Appellate Court Records Officer

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## Judicial Law Clerks

Charlotte Baigent	Graeme Cook	Ben Muller
Stephanie Benedict	Nicholas Martin	Dylan Murray
Curtis Chance	Jane Mayfield	Julia Riddle
Alison Colpitts	Allison McMahon	Oliver Verenca

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## Judicial Staff

Valerie Belina	Karen Gurney	Lana Pardue
Miryam Burns	Lee-Ann Jacobson	Jane Raggatt
Isis Chan	Felicity Lee	Harmesh Shahi
Tina Cheung	Cherry Luscombe	Wayne Ziants
Lori Gerbig	Nicole Munro	

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## Registry Staff

Brandi Anderson	Rachelle Guzman	Jennifer Rahiman
Rebecca Chappell	Taira Johnson	Merrill Sandell
Michael Chu	Sue Lang	Moira Syring
Jason Conybeer	Robert Loy	Jocelyn Ward
Cheri Cooper	Jodi Maycock	Scott Wheeler
Beryl Eli	Lindsay Oldham	Jacqueline Windsor
Steve Evans	Teresa Pol	

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## Superior Courts Document Management Clerks

Andrew Coghlan	Charles Manuel
David Delafenetre	Darren Scherck
Gina Leon	

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## Judicial Administration

Heidi McBride	Senior Counsel and Executive Director
Michelle McConnachie	Director of Human Resources and Support Services
Sanjeev Lal	Manager, Finance and Business Information Analysis
Ryan Wirth	Manager of Information Technology
Tammy McCullough	Assistant to Senior Counsel and Executive Director
Cheryl Steele	Finance and Administration Clerk
Michelle Sam	Judicial Assistant
Andrea Mueller	Human Resources Assistant
Diane Lemieux	Judges' Librarian
Connie Kang	Library Technician
Cynthia Dale	Website Support & Business Information Analyst
Samantha Servis	Judicial Administrative Practice Advisor and HR Manager

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## Information Technology Services

Mark Hujanen	Service Delivery Manager
David Chow	Infrastructure Project Analyst
Joerg Boettcher	Infrastructure Project Analyst
William Huang	Helpdesk Operations Analyst
Alex Rodas	Helpdesk Technician
Billy Huang	Helpdesk Technician
Victor Ly	Helpdesk Technician
Lorne Lovett	Business Analyst/Project Manager
Joanne Chong	Business Analyst
Jojo Ho	Software Developer

## APPENDIX 1 - CIVIL STATISTICS 2007 – 2019

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>APPEALS FILED:</b>													
Notice of Appeal	498	530	538	519	480	497	587	607	522	514	484	513	515
Leave to Appeal	144	172	175	131	114	122	100	88	96	84	149	86	115
Notice of Appeal & Leave	55	59	65	55	55	44	28	25	26	25	9	6	3
<b>TOTAL FILED</b>	<b>697</b>	<b>761</b>	<b>778</b>	<b>705</b>	<b>649</b>	<b>663</b>	<b>715</b>	<b>720</b>	<b>644</b>	<b>623</b>	<b>642</b>	<b>605</b>	<b>633</b>
<b>COURT DISPOSITIONS:</b>													
Appeals Allowed	117	100	135	130	116	119	101	101	130	117	112	104	97
Appeals Allowed %	42%	42%	43%	45%	42%	49%	37%	40%	50%	41%	40%	40%	42%
Appeals Dismissed	164	138	180	159	159	125	169	149	131	169	168	155	134
Appeals Dismissed %	58%	58%	57%	55%	58%	51%	63%	60%	50%	59%	60%	60%	58%
<b>TOTAL COURT DISPOSITIONS</b>	<b>281</b>	<b>238</b>	<b>315</b>	<b>289</b>	<b>275</b>	<b>244</b>	<b>270</b>	<b>250</b>	<b>261</b>	<b>286</b>	<b>280</b>	<b>259</b>	<b>231</b>
Appeals Concluded in Chambers or Abandoned	455	449	441	419	436	414	379	420	359	371	348	346	318
<b>TOTAL DISPOSITIONS</b>	<b>736</b>	<b>687</b>	<b>756</b>	<b>708</b>	<b>711</b>	<b>658</b>	<b>649</b>	<b>670</b>	<b>620</b>	<b>657</b>	<b>628</b>	<b>605</b>	<b>549</b>
Dispositions as % of Filings	106%	90%	97%	100%	110%	100%	91%	93%	96%	106%	98%	100%	87%
Judgments Reserved (Court)	197	192	245	233	241	176	201	199	209	226	169	186	171
Judgments Reserved (Chambers)	88	87	63	62	83	80	70	52	70	104	37	32	61
Appeals with 5 Justices	3	2	7	1	3	2	2	3	3	4	4	1	1
Court Motions: Reviews	13	14	20	25	28	19	18	16	26	17	19	22	12
Granted	2	2	4	3	8	3	1	2	1	1	2	2	2
Refused	11	12	16	22	20	16	17	14	25	16	17	20	10
Chambers Motions	423	423	539	503	537	533	536	788	639	719	597	676	846
<b>LEAVE TO APPEAL:</b>													
Granted	58	66	65	47	51	37	37	36	50	36	50	43	35
Refused	42	47	51	30	55	34	24	19	23	26	27	25	30
<b>Total</b>	<b>100</b>	<b>113</b>	<b>116</b>	<b>77</b>	<b>106</b>	<b>71</b>	<b>61</b>	<b>55</b>	<b>73</b>	<b>62</b>	<b>77</b>	<b>68</b>	<b>65</b>

## APPENDIX 2 - CRIMINAL STATISTICS 2007 – 2019

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>APPEALS FILED:</b>													
Sentence	149	163	140	114	109	119	108	174	152	85	97	107	90
Conviction	116	123	115	99	112	116	117	87	93	82	95	118	92
Summary Conviction	17	23	12	16	24	14	9	18	10	11	11	10	11
Acquittal & Other	61	50	44	28	39	40	46	30	41	31	43	23	26
<b>TOTAL FILED</b>	<b>343</b>	<b>359</b>	<b>311</b>	<b>257</b>	<b>284</b>	<b>289</b>	<b>280</b>	<b>309</b>	<b>296</b>	<b>209</b>	<b>246</b>	<b>258</b>	<b>219</b>
<b>COURT DISPOSITIONS:</b>													
Appeals Allowed	77	82	69	52	41	35	62	101	44	32	42	30	50
Appeals Allowed %	35%	41%	41%	28%	31%	21%	34%	49%	44%	22%	34%	26%	32%
Appeals Dismissed	140	120	100	137	91	129	121	102	101	114	82	83	104
Appeals Dismissed %	65%	59%	59%	72%	69%	79%	66%	51%	56%	78%	66%	74%	68%
<b>TOTAL</b>	<b>217</b>	<b>202</b>	<b>169</b>	<b>189</b>	<b>132</b>	<b>164</b>	<b>183</b>	<b>203</b>	<b>145</b>	<b>146</b>	<b>124</b>	<b>113</b>	<b>154</b>
Summary Dismissals Abandonments in Court/Chambers	160	139	149	121	99	123	129	76	85	97	111	78	64
<b>TOTAL DISPOSITIONS</b>	<b>377</b>	<b>341</b>	<b>318</b>	<b>310</b>	<b>231</b>	<b>287</b>	<b>312</b>	<b>279</b>	<b>230</b>	<b>243</b>	<b>235</b>	<b>191</b>	<b>218</b>
Dispositions as % of Filings	110%	95%	102%	121%	82%	99%	111%	90%	78%	116%	96%	74%	100%
Judgments Reserved (Court)	81	76	88	88	82	102	97	84	106	78	53	76	87
Judgments Reserved (Chambers)	28	11	11	13	22	28	25	4	8	8	4	7	13
Appeals with 5 Justices	0	2	0	1	1	2	0	0	0	0	2	1	0
Chambers Motions	248	242	265	272	210	295	430	438	484	514	583	655	580

## APPENDIX 3 - COMBINED STATISTICS 2007 – 2019

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>APPEALS FILED:</b>	1040	1120	1089	962	933	952	995	1029	940	832	888	863	852
<b>COURT DISPOSITIONS:</b>	498	440	484	478	407	408	453	453	406	432	404	372	385
Appeals Allowed	194	182	204	182	157	154	163	202	174	149	154	134	147
Appeals Allowed %	39%	41%	42%	38%	39%	38%	36%	45%	43%	35%	38%	36%	38%
Appeals Dismissed	304	258	280	296	250	254	290	251	232	283	250	238	238
Appeals Dismissed %	61%	59%	58%	62%	61%	62%	64%	55%	57%	65%	62%	64%	62%
<b>TOTAL</b>	498	440	484	478	407	408	453	453	406	432	404	372	385
Appeals Concluded in Chambers or Abandoned	615	588	590	540	535	537	508	496	444	468	459	424	382
<b>TOTAL DISPOSITIONS</b>	1113	1028	1074	1018	942	945	961	949	850	900	863	796	767
Dispositions as % of Filings	107%	92%	99%	106%	101%	99%	97%	92%	90%	108%	97%	92%	90%
Judgments Reserved	394	366	407	396	426	386	393	339	393*	416*	263*	301*	332
Appeals with 5 Justices	3	4	7	2	4	4	2	3	3	4	6	2	1
Chambers Motions	671	665	804	775	747	828	966	1226	1123	1233	1180	1331	1426

\*Data corrected to include Judgments Reserved (Chambers)