



# 2020 Annual Report

**Court of Appeal for British Columbia**

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# Message from Chief Justice Bauman



The past year has been extraordinary.

Efforts to respond to the COVID-19 pandemic have dominated our individual, family, community, and global lives. People and institutions the world over adapted rapidly and embraced change. This has been hard work only made possible through our combined actions.

As Chief Justice, I would like to personally acknowledge how challenging the pandemic conditions have been for all members of the public and the legal profession to cope with. I understand that necessary changes to court operations, especially the disruptions experienced in the spring, may have added to the stress of an already difficult time. I would also like to say how proud I am of the way we have worked together to provide access to justice, experiment, and respond flexibly to changing circumstances.

On March 18, the Court adjourned all non-urgent appeals and worked diligently together with government and legal professionals to prepare to hear appeals using the “Zoom” video conference platform. Unlike many trial proceedings, appeals usually rely on an established written record. That difference made it possible for the Court to quickly pivot its operations.

I presided in this Court’s first Zoom appeal on April 28, 2020, and I directed that all appeals be heard this way beginning on May 4. In July and August, the Court added additional hearing times to its usual sitting schedule and effectively cleared the backlog created by adjournments earlier in the spring. As pandemic conditions improved, the Court also modified its physical courtroom spaces and offered litigants the option of appearing by video conference or safely in person. On November 9, I once again directed that all appeals be heard by Zoom in response to new public health orders aimed at minimizing travel and social contacts. This change has reduced the number of people who need to travel to courthouses while ensuring access to justice.

“...I am undeniably proud of the willingness to experiment with new and sometimes uncomfortable processes that judges, lawyers and litigants have all displayed.

I won't pretend the rapid shift to video conference appeals has been seamless or without growing pains. We learned a number of lessons along the way (how to mute and unmute first among them!), but I am undeniably proud of the willingness to experiment with new and sometimes uncomfortable processes that justices, lawyers, and litigants have all displayed.

The importance of the open courts principle, even (indeed, especially) in times of emergency, has also animated the work of the Court in 2020. To ensure access to remote proceedings, the Court provides a public link to Zoom appeals on its weekly hearing list. In October, the Court webcast the conviction appeal proceedings in *R. v. Haevischer* and *R. v. Johnston*. These appeals were heard in the courtroom but, due to the number of legal counsel involved and limits on room capacity related to the pandemic, only hearing participants could be accommodated. By webcasting those portions of the appeals that were open to the public, the Court was able to ensure access. Three other appeals were held in person this fall because they involved live witness testimony (*R. v. Tallio*, *R. v. Moazami*, *R. v. Mehl*). In each case, the Court arranged an overflow space with closed-circuit television links to provide access to the media and public while maintaining physical distancing in the courtroom and overflow spaces.

There are countless other examples of the work undertaken to return to more normal court operations during the pandemic. In 2020, the Court issued (and frequently updated) seven new notices regarding changes to court operations. The notices provide information about video conference proceedings, e-filing, public access to proceedings, suspension and re-instatement of limitation periods and other required timelines under the *Court of Appeal Act and Rules*. In May and July, the Court participated in webinars hosted by the BC branch of the Canadian Bar Association and the BC Trial Lawyers Association explaining these notices. The webinars are available on the [bccourts.ca](http://bccourts.ca) webpage for anyone to view.

The Court also experienced changes to its complement, beginning with the retirement of Justice Nicole Garson on April 3, 2020. Justice Garson was appointed to the Court of Appeal in 2009 after eight years of distinguished service as a justice of the Supreme Court of British Columbia. Her clarity of thought, empathy, and dedication to all aspects of the Court's work are greatly missed. We wish her the best in her retirement.

The Court welcomed the appointment of Justice Peter G. Voith on September 9, 2020. Justice Voith was previously appointed as a justice of the Supreme Court of British Columbia in 2009 after three decades as a leading practitioner in commercial litigation and public law.

The Court also remembers with fondness the Honourable Thomas R. Braidwood, who passed away at his home in West Vancouver on April 11, 2020. Thomas Braidwood served this Court from 1996 to 2005 after being appointed to the Supreme Court in 1990. After his time on the bench, he continued his distinguished service to the public as commissioner of the public inquiry into the death of Robert Dziekański. His contributions to the lives of British Columbians were many.

Finally, the justices in all Courts of British Columbia, members of the profession, and members of the public joined in remembering the Honourable Lance S.G. Finch, who passed away on August 30, 2020. As Chief Justice of British Columbia and the Court of Appeal of Yukon from 2001 to 2013, Lance Finch was an incomparable leader. He was first appointed to the bench as a justice of the Supreme Court of British Columbia in 1983, followed ten years later by his appointment to the Court of Appeal. After retiring from the bench in 2013, he returned to Guild Yule LLP, where he continued to practice until his passing. His career spanned generations. His legal acumen, dedication to the public, kind spirit, and ever-present sense of humour made him an unparalleled jurist and cherished leader and friend. He is deeply missed.

This extraordinary year leaves us with much to reflect on, learn from, and look forward to. I undertake these tasks with optimism, pride, and renewed faith in the knowledge that great change is possible when we pull together with a common goal.

# Registrar's Report

## IMPACT OF COVID-19

The COVID-19 pandemic had a significant effect on the Court of Appeal's work in 2020. Beginning on March 13, 2020, the Court began to modify its operations in response to the emerging threat of the pandemic, requesting parties adjourn non-urgent appeals. A direction followed on March 17, 2020, suspending extant appeal timelines and mandatorily adjourning non-urgent appeals. The suspension of time to bring an appeal instituted by government followed on March 26, 2020.

Throughout the months of March and early April, the Court adjourned and re-booked scheduled appeals, limiting itself to hearing high-priority matters. The Court heard five high priority appeals by teleconference on March 16, 24, 26, 31, and April 2. After adjourning 41 appeals during this time, 37 of those appeals were re-booked and heard by the end of July using the Zoom platform. The four remaining appeals were heard in August and September. By the fall, the Court had heard all of the appeals affected by the limitation on its operations.

To continue the Court's operations during the pandemic, the latter part of March and early April saw the Court re-tool its processes to support virtual hearings and expand its civil e-filing system. This six-week period involved major overhauls to these systems as well as quick decisions concerning the transition to videoconferencing and virtual appeals. These changes could not have been made without the strong relationships between Judicial and Court Services personnel and support from the Chief Justice and justices of the Court.

While placing considerable pressures on the Court's legacy infrastructure and resources, these changes allowed the Court to resume its operations within six weeks of its initial response to the COVID-19 pandemic in mid-March. From May 4 to July 7, 2020, the Court heard all of its appeals by videoconference only. After July 7, 2020, COVID-19 numbers



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At no point during the pandemic did the Court of Appeal Registry close to the extent it was not accepting filings, either virtually or in-person.

had dropped to a point where the Court moved to providing parties the choice between virtual and in-person appeal hearings. Between July and October, the Court heard 91 appeals, 45 by Zoom and 46 in person with strict social distancing protocols in place.

As COVID-19 numbers increased in the late fall, with extremely limited exceptions, the Court returned to hearing appeals by videoconference only on November 9, 2020, and continued to do so until the end of the year.

After lasting a full year, the provincial government’s suspension of timelines to bring an appeal will end on March 25, 2021. The 28% decrease in appeals filed in 2020 may be partly attributable to parties not filing new appeals because of the suspension. This less visible backlog may present itself in the Court’s 2021 numbers as appeals that would have been filed in 2020 are now filed in 2021.

Throughout the pandemic, the Court has done its best to facilitate access to the registry and its proceedings, given the technology at its disposal. At no point during the pandemic did the Court of Appeal Registry close to the extent that it was not accepting filings, either virtually or in person. In civil appeals, to reduce traffic to the courthouse, the Court required lawyers to use the civil e-filing system.

In addition, persons that were unable or unwilling to attend the Courthouse have retained access to telephone and Zoom proceedings. With limited exceptions, the public has been able to see the Court’s proceedings in real-time, with live Zoom links posted on the daily Court list. As discussed by the Chief Justice above, for those exceptional appeals that have required in-person appearances, the Court provided safe, socially distant overflow spaces for the public and media to observe proceedings. Finally, the Court also provided enhanced access to its audio record for accredited media who wished to listen to a proceeding after the fact.

None of this critical work would have occurred without the dedication of court and government staff, who continued to provide essential services throughout the pandemic, often commuting at significant personal risk when necessary from areas outside of Vancouver, Victoria and Kamloops.

## THE COURT’S ACTIVITY

Due to COVID-19, the Court saw a 28% decrease in the number of appeals filed in 2020. There were 613 new appeals filed in 2020, down from 852 new appeals filed in 2019. 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.

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In 2020, the number of motions brought before a single justice in chambers dropped significantly from 1426 motions (846 civil and 580 criminal) in 2019 to 983 motions in 2020 (466 criminal and 517 civil).

In 2020, the Court delivered written reserve judgments in 176 appeals (122 civil and 54 criminal) and pronounced judgment with oral reasons in a further 116 appeals (72 civil and 44 criminal). In chambers, the Court gave reserve judgments in 46 civil motions and 17 criminal motions.

## SITTINGS OF THE COURT

To hear an appeal, the Court sits a minimum of three justices, known as a “division.” In 2020, the Court sat 90 divisions in Vancouver, 10 more than in 2019. In addition to its Vancouver sittings, the Court sat for four weeks in Victoria. Due to the pandemic, the Court did not sit in Kamloops or Kelowna in 2020. All justices of the Court are also members of the Yukon Court of Appeal, along with justices of Yukon, the Northwest Territories, and Nunavut. The Yukon Court of Appeal sat for one week in Yukon.

## PROCEEDINGS IN CHAMBERS

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 2020, the number of motions brought before a single justice in chambers dropped significantly from 1,426 motions (846 civil and 580 criminal) in 2019 to 983 motions in 2020 (517 civil and 466 criminal).

## SERVICES FOR SELF-REPRESENTED LITIGANTS

In 2020, the Court continued its efforts to improve the services provided to self represented litigants:

- **Access Pro Bono:** The Court continued its program with the Access Pro Bono Society that it commenced in 2019, allowing every self-represented person in a civil appeal to have access to a consultation with a lawyer. The Court remains thankful for the assistance of the various people and organizations providing valuable and much-needed help to those who may be less able to afford to conduct an appeal of their case; and
- **Civil Forms Redesign Project:** As part of the project to re-examine the Court’s Civil Act and Rules, the Court continued to finalize its court forms, following the end of the public consultation in December 2019.

## PANDEMIC-RELATED ENHANCEMENTS

The COVID-19 pandemic exposed areas within the Court’s administration that require improvement, particularly to preserve

technological gains made during the pandemic. These needs include:

- **Staffing Issues:** The Court has staffing needs, including in areas related to project management, data management, and media and public relations;
- **Infrastructure:** The Court of Appeal's courtrooms and back-end infrastructure are still designed primarily for working in paper. Work needs to be done to convert this infrastructure, including enhancements to its case management software, physical courtrooms and office spaces, videoconferencing and Wi-Fi infrastructure, and other scalable upgrades to courtrooms to facilitate more permanent function of electronic and virtual appeals;
- **Enhancements to e-Filing:** The existing e-filing system provided through Court Services Online (CSO) has served the Court well during the pandemic but requires significant upgrades to ensure it remains technologically functional and reflects the needs of its users. As outlined below, the Court has seen a more than three-fold increase in the number of electronic filings in 2020 compared to 2019; and
- **Document Management:** With the advent of mandatory electronic filings in civil appeals and optional e-filing in criminal appeals now on the horizon, the Court must adapt many of its paper-based processes to their electronic equivalents (or change those processes to better suit the efficiencies gained by the use of electronic records). For this purpose, the Court requires the development of systems that will accurately authenticate, track, and secure its electronic records throughout their lifecycle.

## CIVIL ACT AND RULES REFORM PROJECT

The new *Court of Appeal Act* was set to be before the legislature in the Spring 2020 session; however, COVID-19-related legislation was prioritized. Accordingly, the Court expects the new *Act* to be before the legislature once COVID-19 related legislation is passed. Once the new *Act* is finalized, the new *Court of Appeal Rules* will be submitted to Cabinet for approval.

## RELEASE OF REASONS IN HIGH SECURITY APPEALS

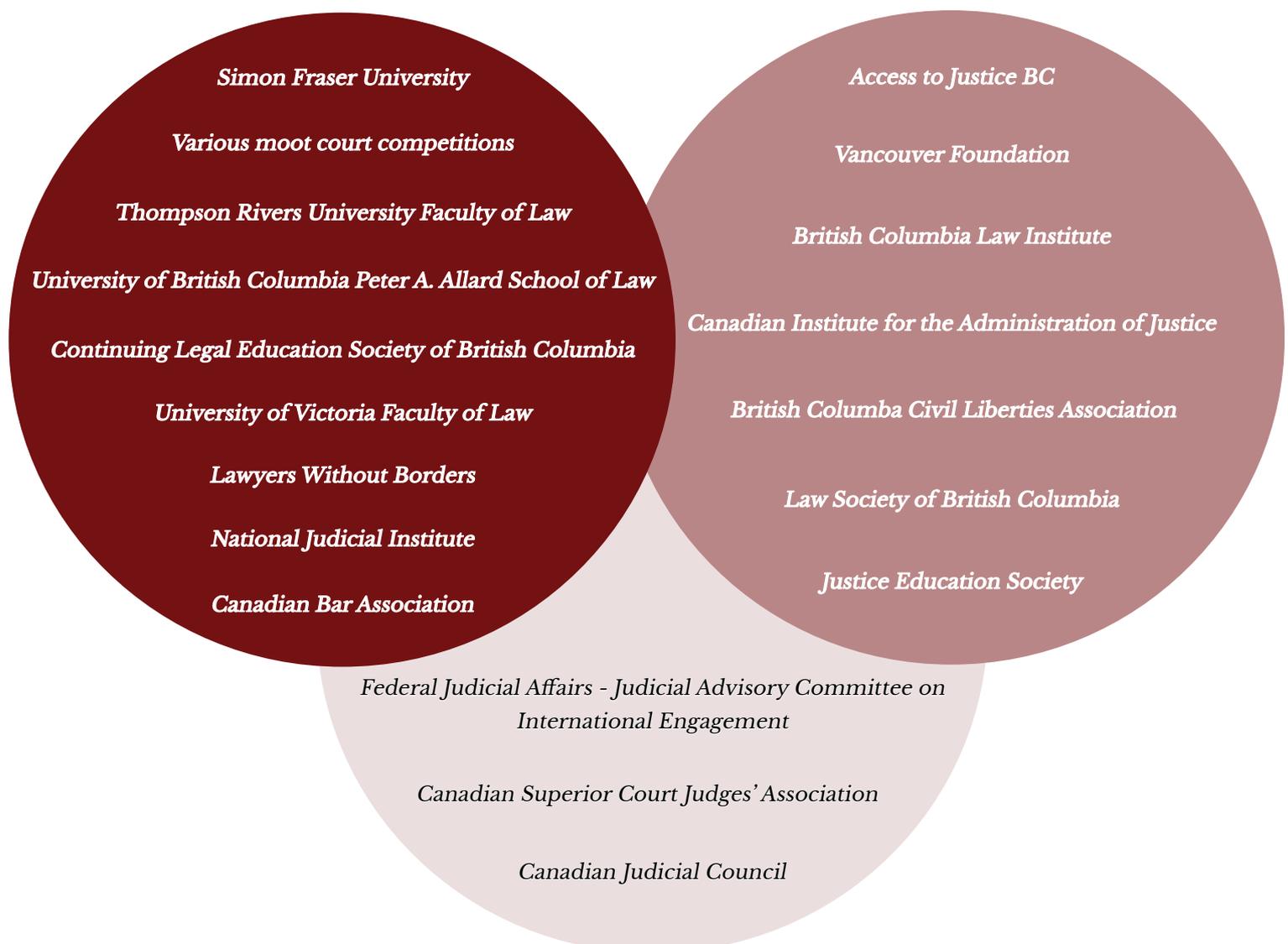
Occasionally, the Court of Appeal will hear an appeal in a matter that involves highly sensitive materials, such as appeals involving police informants or where the release of certain information could significantly endanger the safety of a witness or participant in the

proceeding. Other appeals involve privileged information not subject to public release. Beginning in *R v. Podolski*, 2018 BCCA 96, the Court began to use a process that involved publishing a statement on its website containing the result of the appeal, but delaying the release of reasons to a later date to allow the Court and counsel time to consider appropriate redactions. In 2020, this process was used in *R v. Bacon*, 2020 BCCA 140.

## 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 justices, in Canada and abroad, as participants and speakers. In 2020, justices of the Court participated in activities with dozens of organizations, including the following bodies:



“Court of Appeal court records are permanently preserved by the government archives according to the *Information Management Act’s Court Information Schedules*, which are part of the *Operational Records Classification System (ORCS)*.”

## RECORDS AND INFORMATION MANAGEMENT

The Court of Appeal supports a records and information management program based on sound policies and best practices from the records and information management field. Court of Appeal court records are permanently preserved by the government archives according to the *Information Management Act’s Court Information Schedules*, which are part of the *Operational Records Classification System (ORCS)*. The [Court Information Schedule](#) for the Court of Appeal was updated and approved by the Chief Justice and Attorney General in March 2019.

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

The Records Technician manages the daily receipt, processing, organization, delivery, storage, and disposition of Court of Appeal “books” (e.g., 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 (e.g., initiating records, motion materials, correspondence, etc.) separately. Document Management Clerks manage the daily 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 (supervisor until July 2020) and Manager, Finance and Business Information Analysis (current supervisor), the Appellate Court Records Officer develops annual priorities for the Court of Appeal’s records and information management program. The pandemic and subsequent lockdown in March 2020 shifted priorities, but here are some of the highlights of 2020:

- Finalized completion instructions and templates for new *Act* and *Rules* (on hold);
- Developed new interim procedures to manage increased civil e-filing, along with filing and processing of paper court records to keep the court open and keep all parties and staff safe;
- Supported Records Technician and Registry staff through continuous changes in procedures surrounding the filing and processing of electronic and paper court records;

- Developed procedures to ensure Justices receive court records in a timely manner in an increasing hybrid paper/electronic environment;
- Maintained access to court records throughout the pandemic with the use of an online request form. In 2020, the Records Technician processed over 150 requests for factums, appeal books, appeal records, etc. for the public and legal profession;
- Reviewed storage requirements for sealed court records: the Court of Appeal continues to move sealed and high security court records to storage areas with increased security; and
- Shifted the program to focus on planning and ensuring electronic court records are reliable, authentic records with integrity that will be accessible over time.



# Statistics

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In 2020, the Court disposed of 397 civil appeals, or 82% of the 484 appeals filed.

## STATISTICS

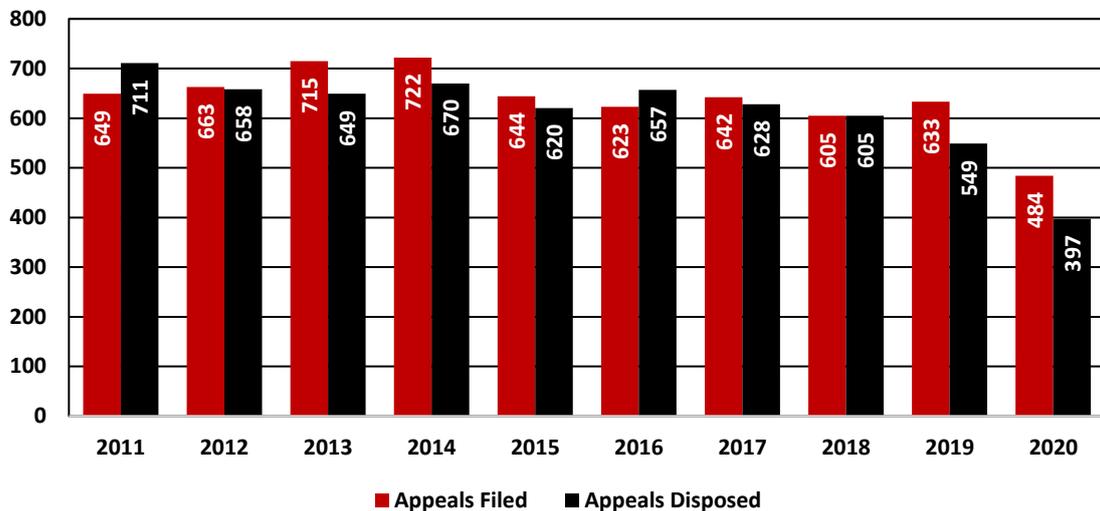
The charts below give a detailed account of the Court’s activity in 2020. The [three appendices](#) at the end of this report provide a detailed historical account of criminal and civil statistics over the last 13 years.

### CIVIL APPEALS FILED AND DISPOSED

The chart below shows the number of civil appeals filed and disposed from 2011 to 2020. The number of civil appeals filed decreased from 633 in 2019 to 484 in 2020.

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 2020, the Court disposed of 397 civil appeals, or 82% of the 484 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.

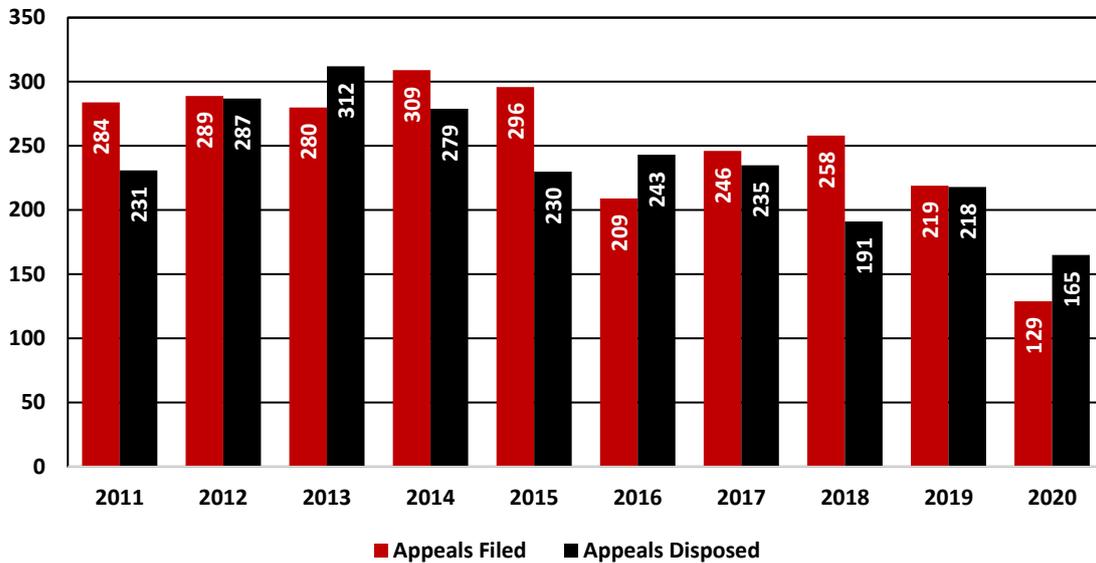
### CIVIL APPEALS FILED AND DISPOSED 2011–2020



### CRIMINAL APPEALS FILED AND DISPOSED

In 2020, there were 129 criminal appeals filed, down from 219 criminal appeals filed in 2019. The Court disposed of 165 criminal appeals, or 128% of the 129 criminal appeals filed.

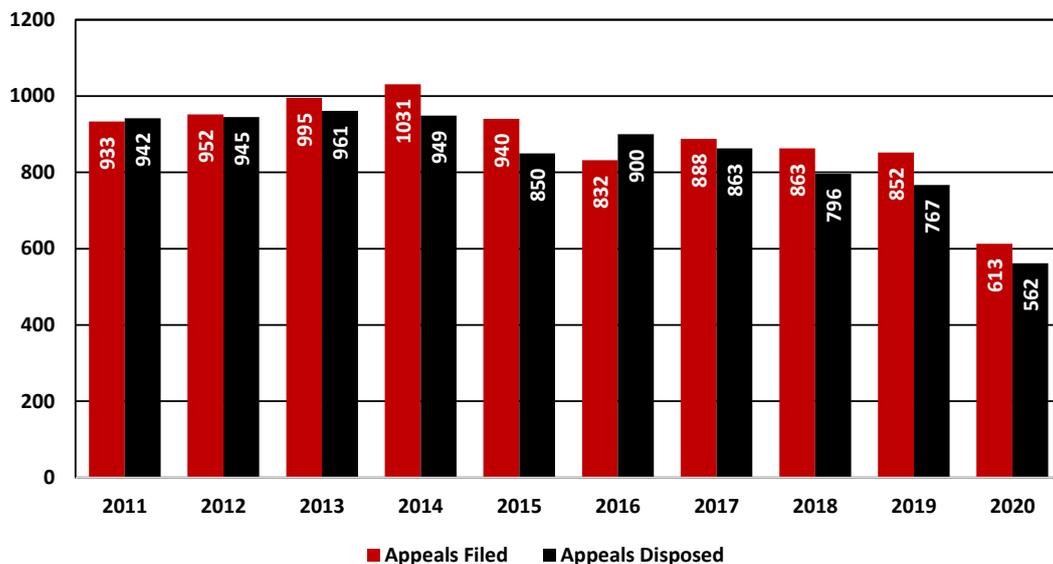
## CRIMINAL APPEALS FILED AND DISPOSED 2011-2020



### 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 562 appeals disposed of and 613 appeals filed, 92% of appeals were disposed of as a percentage of new filings.

## TOTAL APPEALS FILED AND DISPOSED 2011-2020

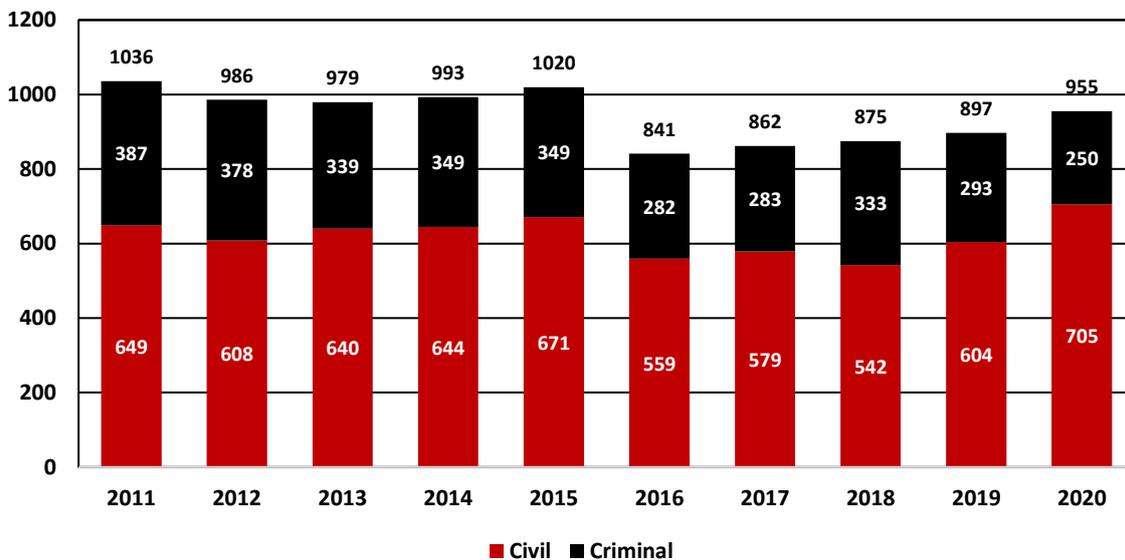


“In 2020, a total of 484 civil appeals were filed. Of those filed in 2020, 16% (79 of 484) were applications for leave to appeal.”

## 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 plus or minus 10%. Data from 2017 to 2020 is accurate plus or minus 3%. It should be noted that there is some fluctuation in the pending case 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 2011–2020

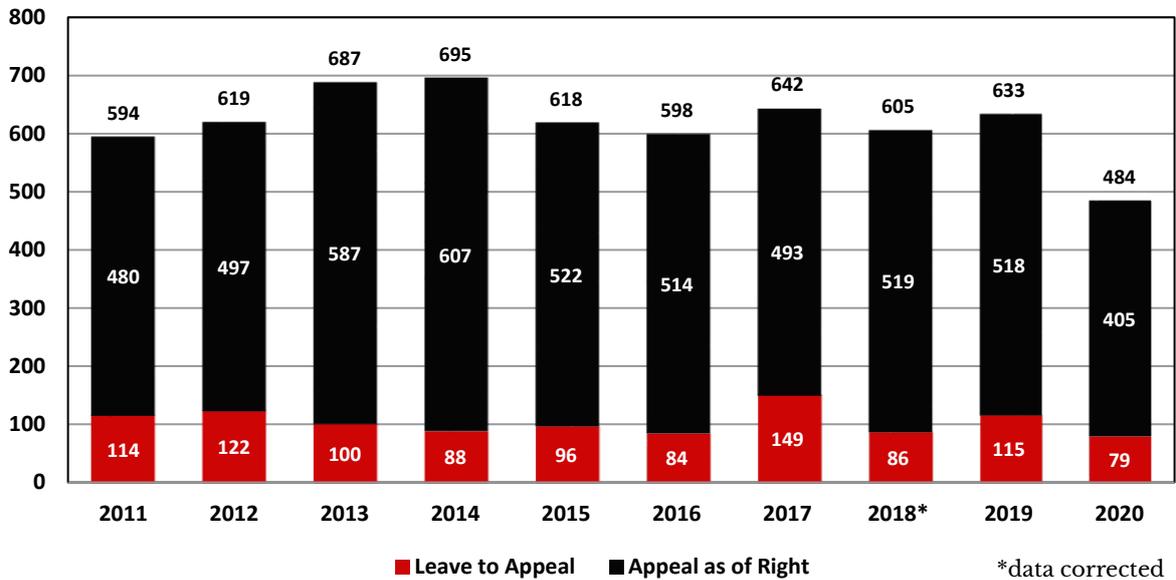


## CIVIL APPEALS BY LEAVE VS. BY RIGHT

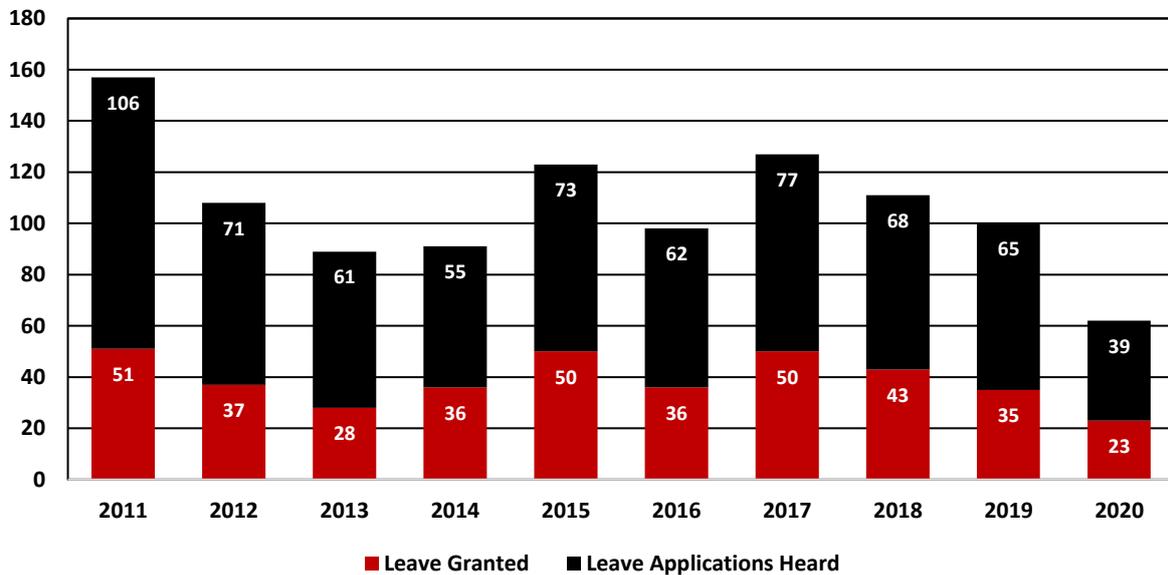
In 2020, a total of 484 civil appeals were filed. Of those filed in 2020, 16% (79 of 484) were applications for leave to appeal. Before appealing certain types of orders, litigants must get permission, or “leave,” to bring an appeal to the Court. The Court heard a total of 39 leave to appeal applications in 2020, granting 23, or 59%.

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.

## CIVIL FILED AS OF RIGHT VS. FILED SEEKING LEAVE 2011–2020



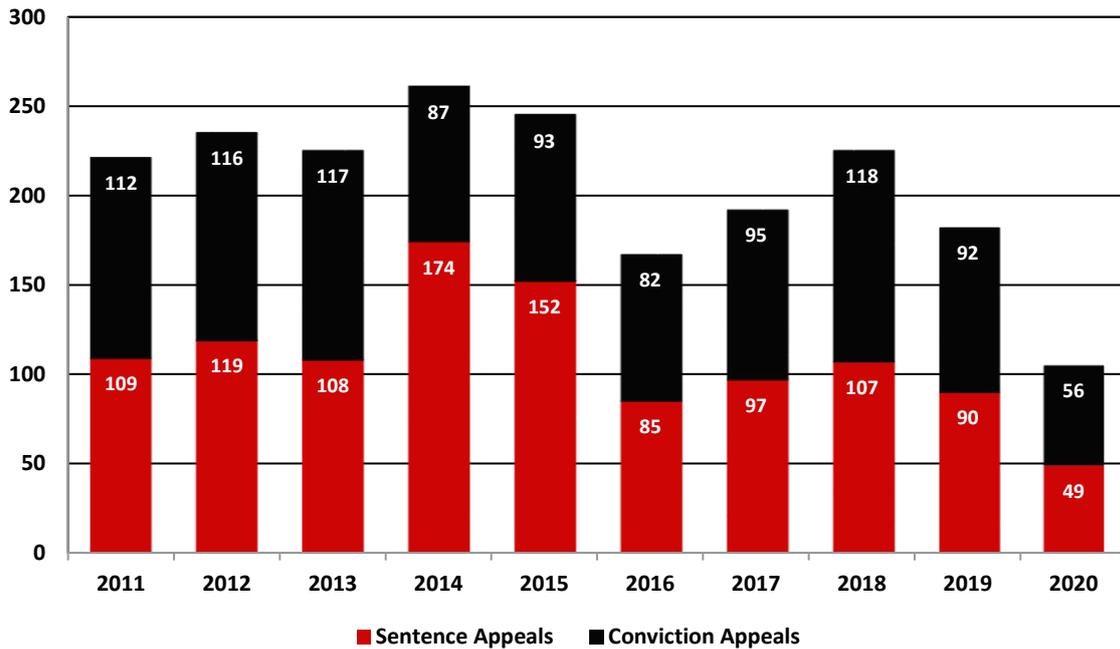
## CIVIL LEAVE TO APPEAL APPLICATIONS HEARD VS. GRANTED 2011–2020



### 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 2011 and 2020. In 2020, there were 49 sentence appeals filed and 56 conviction appeals filed. There were 24 acquittal, summary conviction, and other appeals filed.

## CRIMINAL APPEAL FILINGS 2011–2020

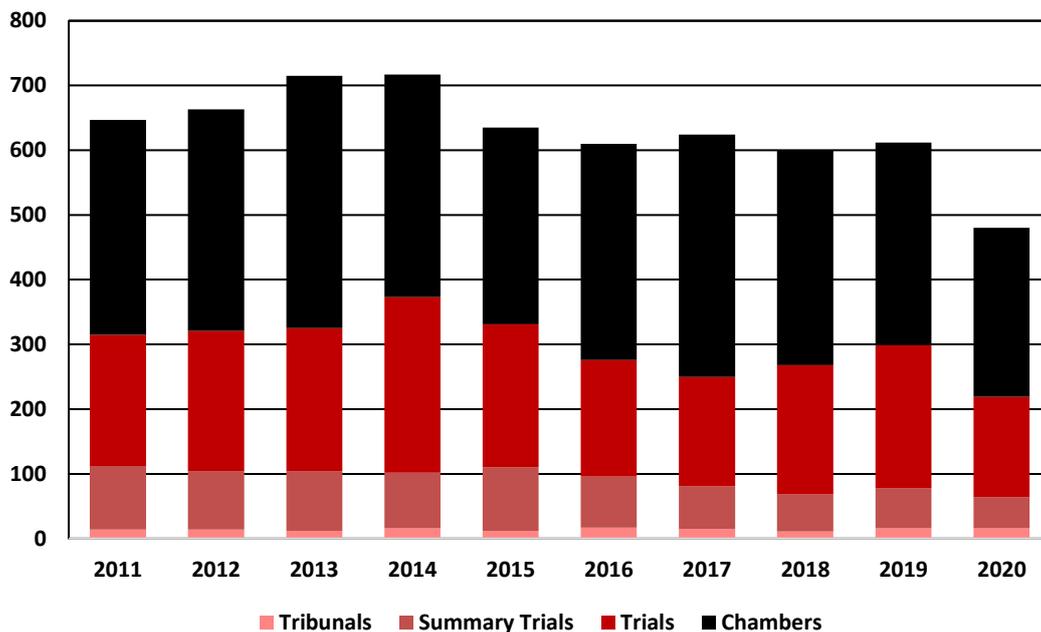


“In 2020, approximately 64% of civil appeals were from chambers matters and summary trials.”

### 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 2020, approximately 64% of civil appeals were from chambers matters and summary trials.

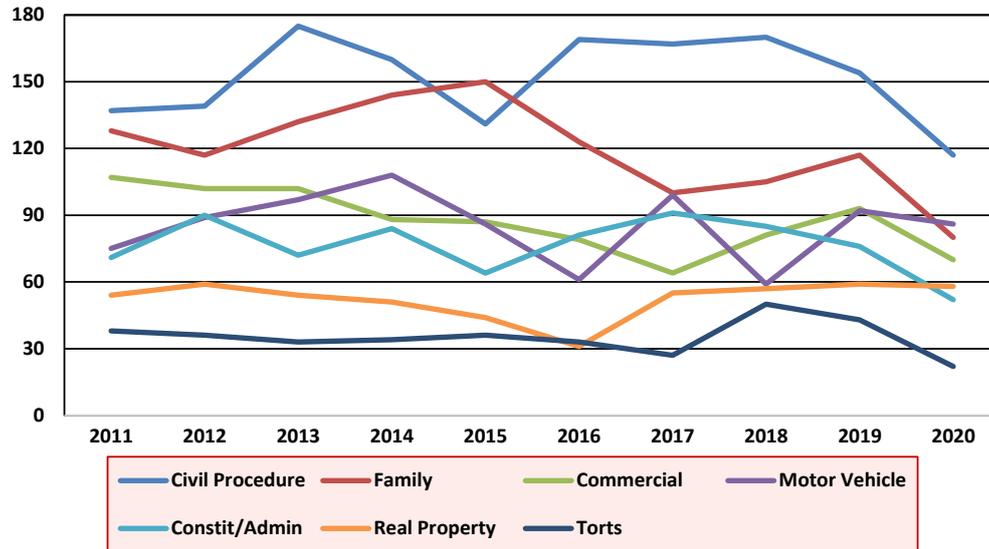
### ORIGIN OF CIVIL APPEALS 2011–2020



## 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 2011 and 2020 by number of appeals.

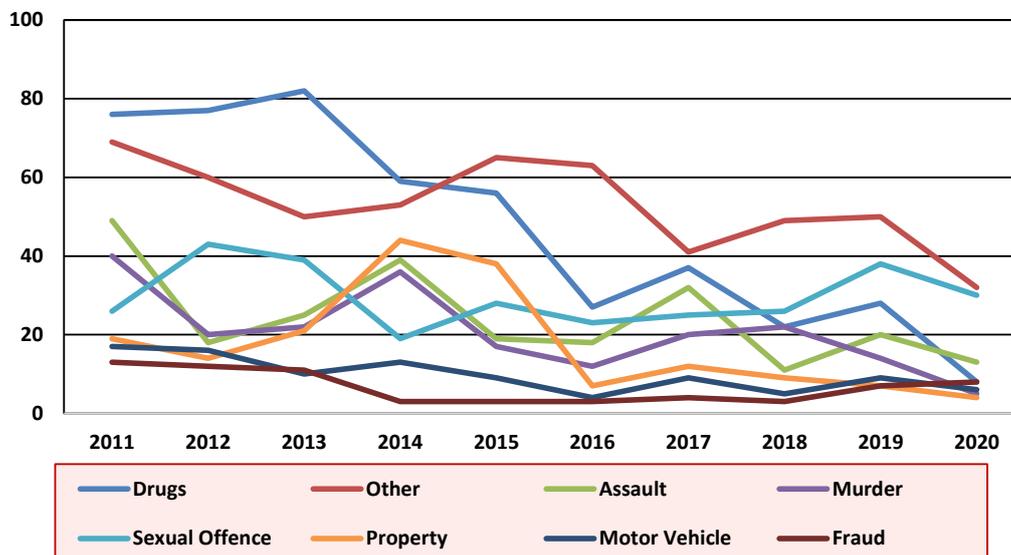
### CIVIL CASE CATEGORIES 2011–2020



## 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 2011 and 2020 by number of appeals. “Other” covers various offences, such as arson and mischief as well as extradition and *habeas corpus* appeals.

### CRIMINAL CASE CATEGORIES 2011–2020



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In 2020, the proportion of civil appeals allowed was 46% of the total civil appeals heard (87 allowed, 102 dismissed). For criminal appeals, 45% were allowed (49 allowed, 61 dismissed).”

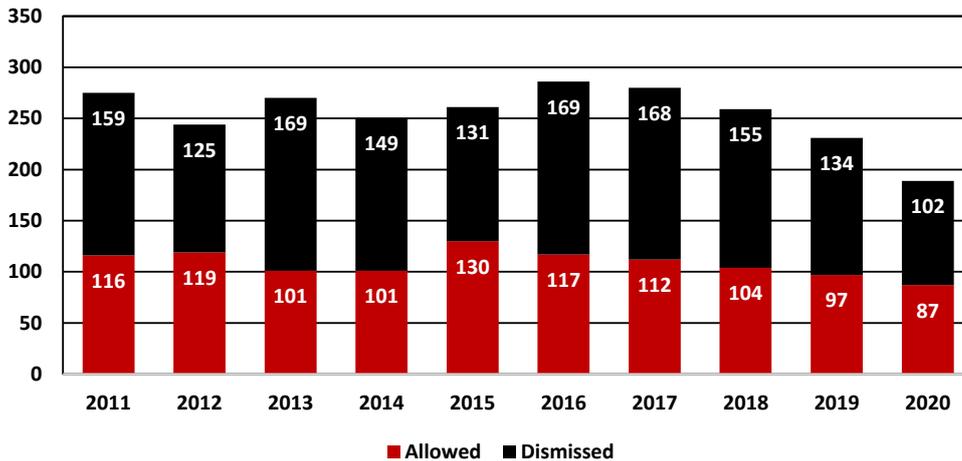
## APPEALS ALLOWED AND DISMISSED

An appeal is “allowed” when the Court overturns or varies the order under appeal from the lower court or tribunal. In 2020, the proportion of civil appeals allowed was 46% of the total civil appeals heard (87 allowed, 102 dismissed). For criminal appeals, 45% were allowed (49 allowed, 61 dismissed).

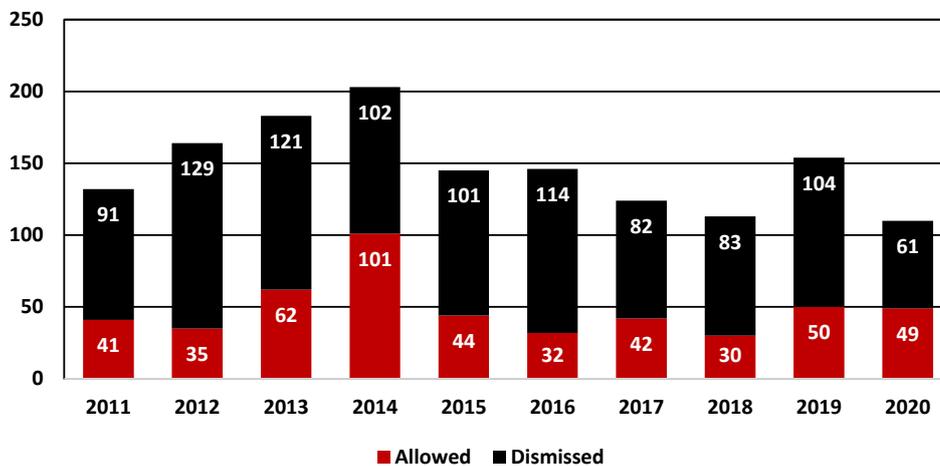
The “allowed” statistics include appeals partially allowed by any variations in the order under appeal. In 2020, there were 32 civil appeals allowed in part, or 37% of the 87 allowed. There were two criminal appeals allowed in part, or 4% of the 49 allowed.

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

### CIVIL APPEALS ALLOWED/DISMISSED 2011–2020



### CRIMINAL APPEALS ALLOWED/DISMISSED 2011–2020



“In 2020, out of 484 civil appeals and applications for leave to appeal filed, 109 appeals (23%) were appeals or applications for leave to appeal involving at least one self-represented litigant.

## SELF-REPRESENTED LITIGANTS

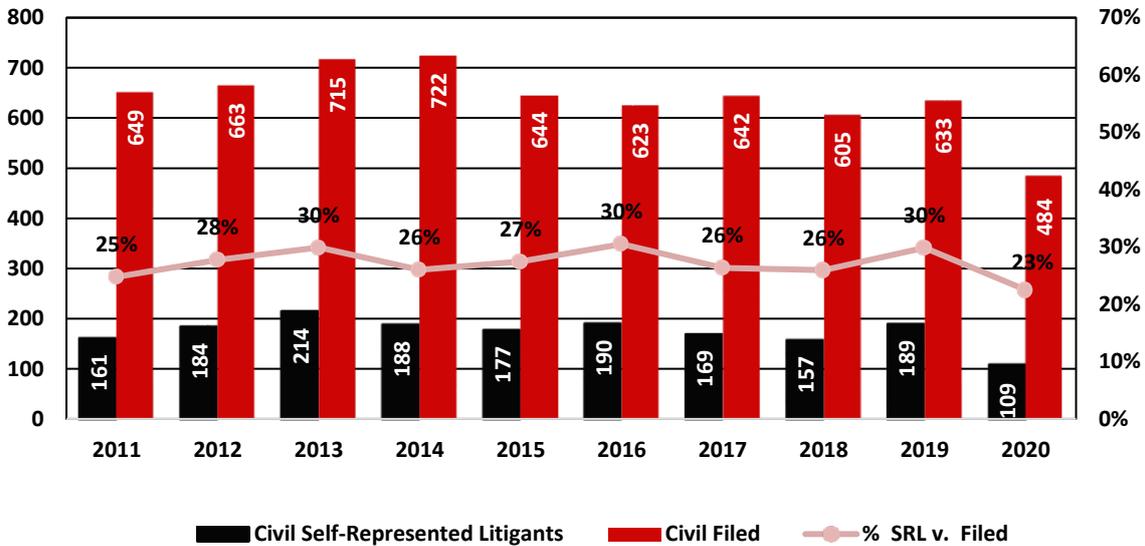
The charts below compare the number of civil appeals where at least one party was self-represented in a new appeal filed between 2011 and 2020 with the total number of civil appeals filed in those years.

In 2020, out of 484 civil appeals and applications for leave to appeal filed, 109 appeals (23%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is a decrease from 2019, where the figure was 30%.

Of the appeals filed in 2020 involving at least one self-represented litigant, 92% involved self-represented appellants and 8% involved self-represented respondents. Of 189 civil appeals disposed of by the Court in 2020, 53 cases (28%) involved at least one self-represented litigant. This is an increase from 2019, where the figure was 52 of 231 (23%).

The graph below illustrates the trend with respect to appeals filed between 2011 and 2020:

### CIVIL APPEALS FILED WITH A SELF-REPRESENTED PARTY/CIVIL APPEALS FILED 2011–2020



In 2020, out of 80 family appeals or applications for leave to appeal filed, 35 appeals (44%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is a slight increase from 2019, where the figure was 49 out of 116 (42%).

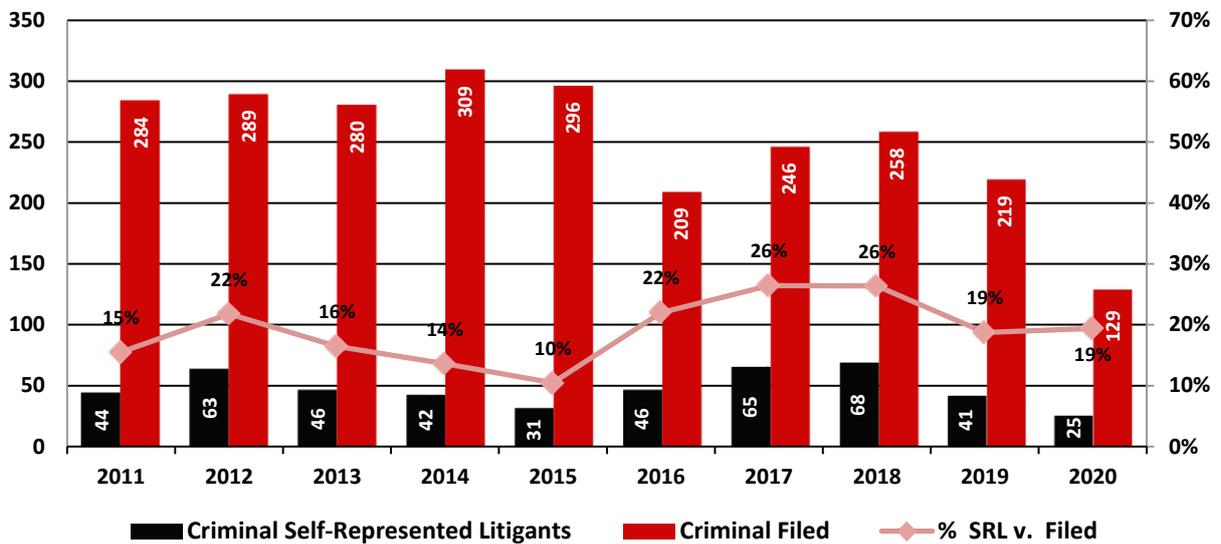
Out of the 35 family appeals filed involving self-represented litigants, 80% involved self-represented appellants and 20% involved self-represented respondents. Of the 29 family appeals disposed of by the Court in 2020, 11 cases (38%) involved at least one self-represented litigant. This is a decrease from 2019, where the figure was 13 of 31 (42%).

“Out of the 25 criminal appeals filed, all involved self-represented appellants.

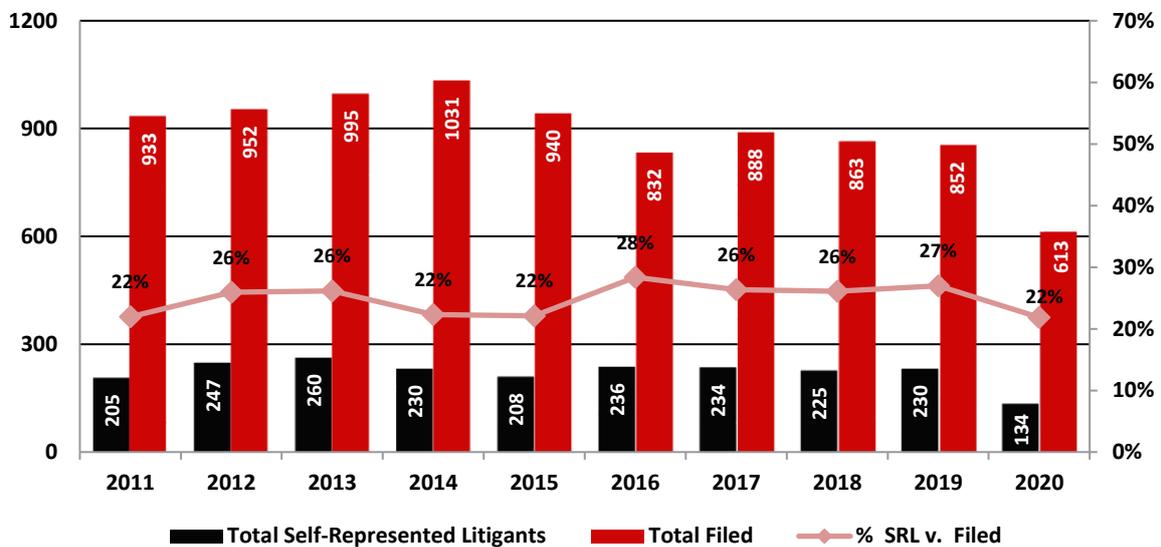
Turning to criminal appeals, out of 129 appeals or applications for leave to appeal filed, 25 appeals (19%) were appeals or applications for leave to appeal involving a self-represented litigant. This percentage remains the same from 2019, where the figure was also 19%.

Out of the 25 criminal appeals filed, all involved self-represented appellants. Of the 110 criminal appeals or applications for leave to appeal disposed of by the Court in 2020, 11 (10%) involved a self-represented litigant. This is a slight decrease from 2019, where the figure was 17 of 154 (11%).

### CRIMINAL APPEALS FILED WITH A SELF-REPRESENTED PARTY/CRIMINAL APPEALS FILED 2011–2020



### TOTAL APPEALS FILED WITH SELF-REPRESENTED LITIGANTS/TOTAL APPEALS FILED 2011–2020



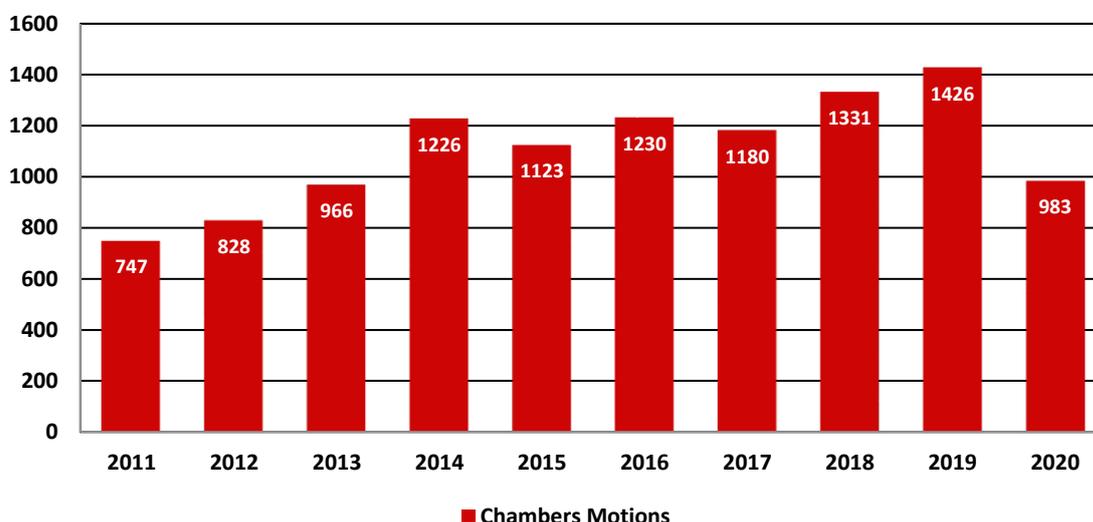
“In 2020, there were 7 family law appeals and 37 civil appeals case managed by a justice or the Registrar.

## 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, 2011–2020

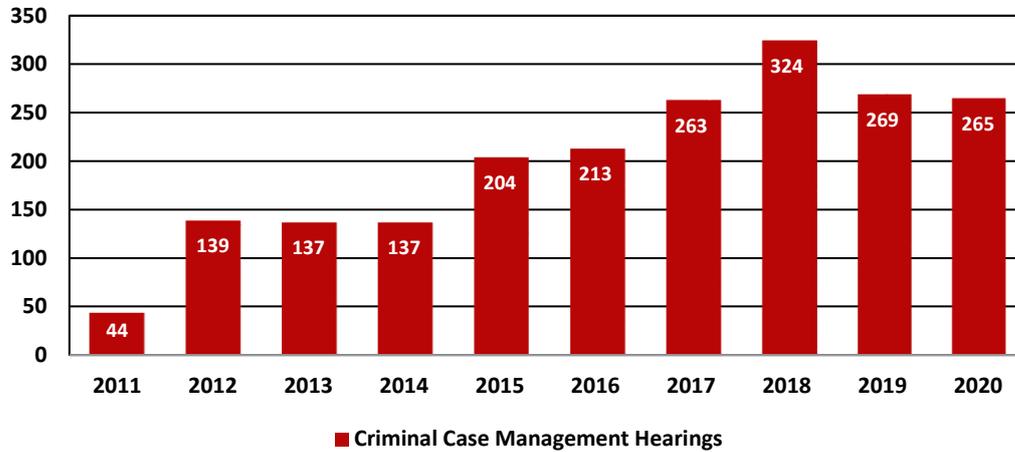


Part of the work in chambers includes the case management of appeals, which are captured in the statistic above. The Court applies a form of focused case management, only seeking to manage those appeals where deadlines are missed or where the parties request the Court’s assistance.

In 2020, there were seven family law appeals and 37 civil appeals case managed by a justice or the Registrar.

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. These statistics include criminal case management conducted by the Registrar, reported below.

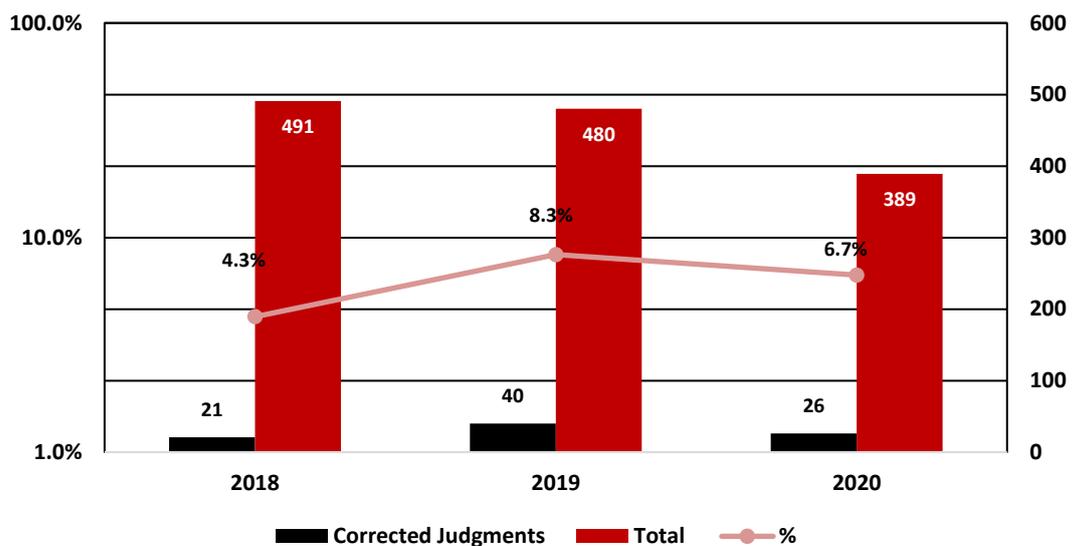
## CRIMINAL CASE MANAGEMENT HEARINGS, 2011–2020



### ERRORS IN ORAL AND RESERVE JUDGMENTS

Since 2017, the Court has been tracking the number of errors found in its published judgments. In 2020, the Court published 26 corrected judgments out of 389 judgments, or 6.7%.

## ERRORS IN ORAL AND RESERVE JUDGMENTS, 2018–2020



## THE REGISTRAR'S HEARINGS

In 2020, the Registrar conducted 107 hearings, 11 more than in 2019. The increase is largely due to additional case management responsibilities, mainly on the criminal side.

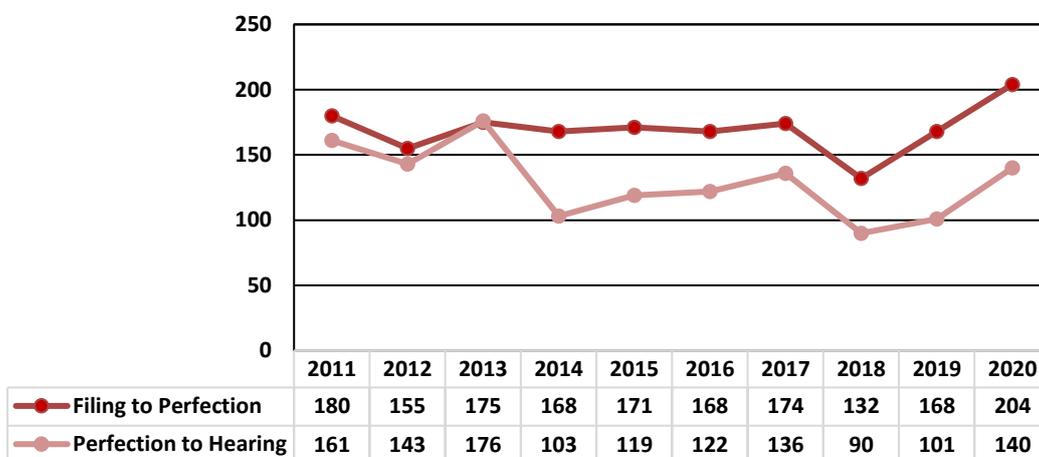
With respect to civil matters, there were 31 hearings out of 49 scheduled. Within those hearings, 18 court orders were settled, 15 bills of cost were assessed (one bill of special costs was assessed), six sets of books were settled, and ten case management conferences were held in respect of electronic appeals or other civil matters. With respect to criminal matters, the Registrar heard 76 case management hearings.

In 2020, there were two registrar's decisions reviewed by a justice in chambers, both of which were dismissed.

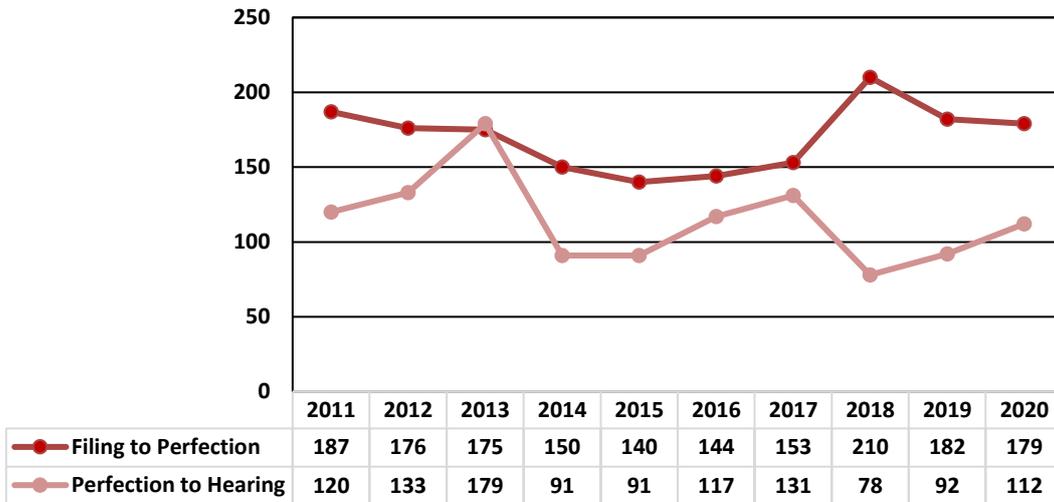
## TIME LAPSE STATISTICS: FILING TO HEARING

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.

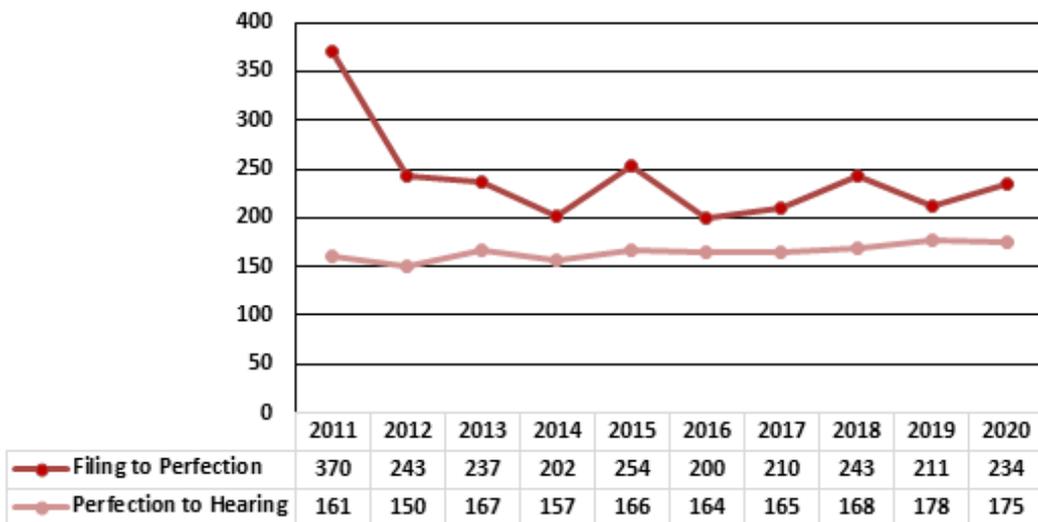
### CIVIL 2011–2020



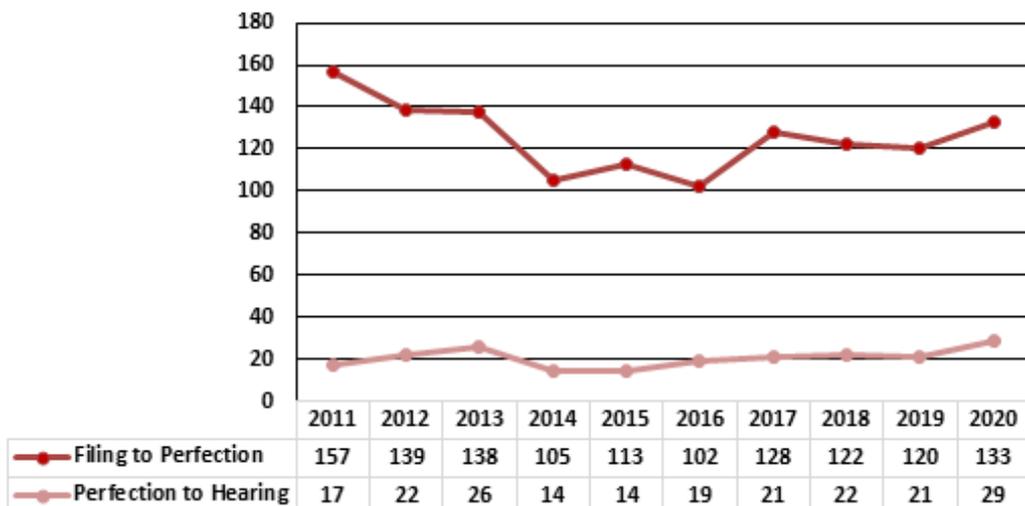
## FAMILY 2011–2020



## CONVICTION 2011–2020



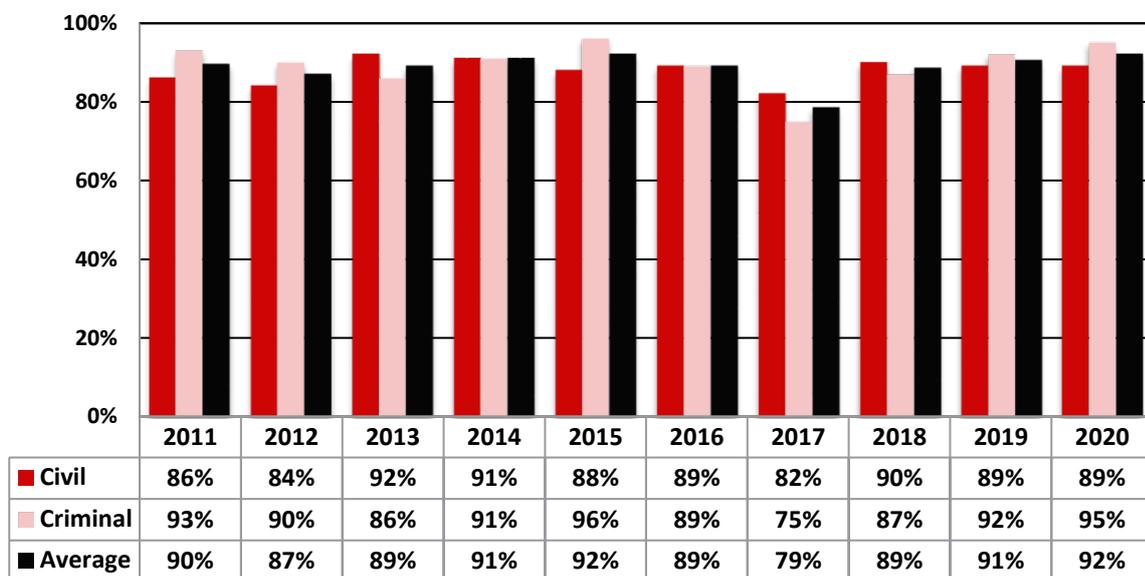
## SENTENCE 2011–2020



## 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 2011–2020



“In 2020, 5% of leave applications from British Columbia to the Supreme Court of Canada were successful (2 of 42 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 2020, 5% of leave applications from British Columbia to the Supreme Court of Canada were successful (two of 42 considered). Of the 130 appeals heard by the Supreme Court of Canada from British Columbia between 2009 and 2020 (inclusive), 61 were dismissed and 55 were allowed.

|  | 2009       | 2010       | 2011       | 2012       | 2013       | 2014       | 2015       | 2016       | 2017       | 2018       | 2019       | 2020*      |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>B.C. Leave Applications Submitted</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>  | <b>42</b>  |
| Granted                                  | 13         | 10         | 11         | 14         | 8          | 9          | 10         | 12         | 9          | 6          | 7          | 2          |
| Dismissed                                | 56         | 52         | 60         | 54         | 62         | 71         | 51         | 60         | 54         | 57         | 56         | 33         |
| Reserved                                 | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 1          | 7          | 14         | 6          |
| Discontinued                             | 0          | 1          | 2          | 0          | 0          | 0          | 1          | 2          | 1          | 0          | 0          | 0          |
| Extension of time - dismissed            | 1          | 2          | 2          | 2          | 2          | 1          | 1          | 1          | 0          | 1          | 0          | 1          |
| Quashed                                  | 0          | 1          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          |
| Remanded                                 | 0          | 0          | 1          | 1          | 4          | 0          | 1          | 1          | 0          | 0          | 0          | 1          |
| <b>Percentage from B.C.</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>9%</b>  |
| <b>B.C. Appeals Heard</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>   | <b>6</b>   |
| Allowed                                  | 6          | 7          | 4          | 6          | 5          | 6          | 3          | 9          | 4          | 2          | 2          | 1          |
| Dismissed                                | 3          | 6          | 9          | 8          | 7          | 2          | 7          | 8          | 5          | 1          | 1          | 4          |
| Reserved                                 | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 0          | 3          | 5          | 5          | 1          |
| <b>Percentage from B.C.</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> | <b>16%</b> |

\*As of December 31, 2020

“Due to the COVID-19 pandemic and mandatory civil electronic filing, there has been a dramatic increase in the number of e-filed documents in 2020, rising by more than 263% from 2019 and 310% from 2014.

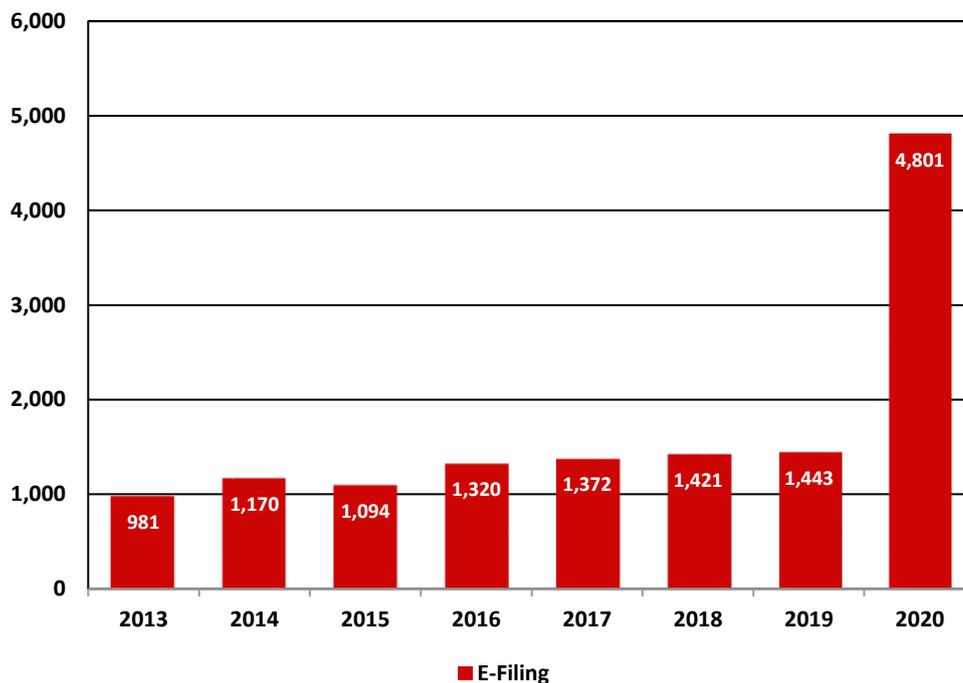
## ELECTRONIC FILING

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. Due to the COVID-19 pandemic and mandatory civil electronic filing, there has been a dramatic increase in the number of e-filed documents in 2020, rising by more than 263% from 2019 and 310% from 2014.

In 2020, there were 4,801 e-filed documents. The most commonly e-filed documents were Notices of Appearance with 461 filings, followed by affidavits with 445 filings, and Notices of Appeal with 357 filings. Thirty Notice of Appeal filings were created with a new tool that automatically draws data from the Supreme Court to populate the Notice of Appeal form.

### TRENDS: E-FILING 2013–2020





# Committee Reports

# PLANNING, PRIORITIES, AND ACCESS TO JUSTICE COMMITTEE

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## MEMBERS

The Honourable Chief Justice Bauman (Chair)

The Honourable Madam Justice Bennett

The Honourable Madam Justice Garson

The Honourable Mr. Justice Harris

The Honourable Madam Justice Fenlon

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 2020:

## ACCESS TO JUSTICE BC & JUSTICE SUMMITS

The Chief Justice reported to the Court in 2020 on the work of Access to Justice BC and the work of the government-led Justice Summit.

Access to Justice BC (A2JBC) 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 A2JBC 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 A2JBC initiatives can be found on the A2JBC 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.

In 2020, A2JBC began to develop a Family Law Justice Strategy,

“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 first put forth in the 2017 report.

aimed at transforming family law in response to data gathered on Adverse Childhood Experiences. The focus is on the well-being of the family.

The 13th Justice Summit took place virtually in the Fall on the topic of “Diversion and Alternatives to Short Term Incarceration.”

## 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;
- **Enhancements to WebCATS Case Management System:** With the COVID-19 pandemic, the age of the Court’s case management system has begun to affect the Court’s ability to properly manage, archive, and retain electronic documents. Particularly during the pandemic, when the Court relied very heavily on e-filing in civil appeals, the limitations of this system were exposed. 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 first put forth 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; and
- **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. Due to the COVID-19 pandemic, these discussions were put on hold and will resume in 2021.

## THE MANAGEMENT OF HIGH-SECURITY APPEALS

As reported in the 2019 annual report, 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. Security enhancements

“  
This year, Access Pro Bono referral counsel received 41 inquiries from self-represented litigants in response to 122 offers of pro bono assistance handed out at the Registry when an appeal was commenced (98 to appellants and 24 to respondents).

relating to those appeals were completed in 2020.

## INDIGENOUS RECONCILIATION

Beginning in 2020, the Court provided training for judicial and registry staff on foundational knowledge about Indigenous peoples in Canada. The purpose is to further reconciliation initiatives and, more narrowly, to ensure staff are equipped with basic knowledge in their interactions with Indigenous staff and members of the public.

## PRIVACY IN SEXUAL ABUSE AND ASSAULT APPEALS

In 2019, the Court conducted a historical review of published sexual abuse and assault cases going back to 1996 to ensure that, where necessary, appropriate redactions to protect the identities of complainants and witnesses were observed. The review completed in 2020 and the Chief Justice approved several historical redactions.

## BULK ACCESS REQUESTS TO COURT INFORMATION

The Court reviewed its current policies relating to the access to court information when the requestor is seeking “bulk” or aggregate information and made several enhancements relating to commercial access requests, among other amendments intended to bring the policy into line with the Court’s practice and evolving external factors.

## SELF-HELP WEBSITE

The Court’s [self-help website](#) is a partnership between the Court of Appeal and the Justice Education Society. In 2020, the self-help website had 6,517 visitors and 30,582 page views. 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

Last 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 41 inquiries from self-represented litigants in response to 122 offers of pro bono assistance handed out at the Registry when an appeal was commenced (98 to appellants and 24 to respondents). Twenty-seven of those litigants received services from pro bono lawyers, including

16 litigants who received pro bono representation services before the Court of Appeal, and two received referrals to lawyers with significantly reduced fees, so-called “low bono” services.

The lawyers who volunteered their time to take appeals involving self-represented litigants in 2020 were:

|                    |                |                    |
|--------------------|----------------|--------------------|
| Greg Allen         | Layne Hellrung | Jeremy Shragge     |
| Reut Amit          | Emma Irving    | Mark Skorah, Q.C.  |
| Alexander Bjornson | Naomi Krueger  | Maria Sokolova     |
| Jake Cabott        | Peter Mennie   | Eileen Vanderburgh |
| Aubin Calvert      | Roy Millen     | Erin White         |
| Simon Coval, Q.C.  | Lia Moody      | Stefan Wittman     |
| Malcolm Funt       | Matthew Nied   | David Wotherspoon  |
| Nicole Gilewicz    | Tom Posyniak   | David Wu           |
| Stephanie Hamilton | Julia Roos     |                    |
| Brandon Hastings   | Jordan Schultz |                    |

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. | Richard Lindsay, Q.C.                  |
| Vincent Critchley                    | The Honourable Kenneth Mackenzie, Q.C. |
| The Honourable Thomas Cromwell, C.C. | Richard Margetts, Q.C.                 |
| Tim Delaney                          | Joe McArthur                           |
| John Dives, Q.C.                     | The Honourable Kathryn Neilson, Q.C.   |
| The Honourable Lance Finch, Q.C.     | William Storey                         |
| Patrick Foy, Q.C.                    | The Honourable Kenneth Smith, Q.C.     |
| The Honourable Nicole Garson, Q.C.   | Martin Taylor, Q.C.                    |
| Randy Kaardal, 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.*

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., Dante Abbey, and Michael Lomax.

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.

## RULES AND PRACTICE COMMITTEE

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### MEMBERS

The Honourable Chief Justice Bauman  
The Honourable Mr. Justice Groberman  
The Honourable Mr. Justice Goepel (Chair)  
The Honourable Mr. Justice Fitch  
The Honourable Madam Justice Fisher  
The Honourable Mr. Justice Abrioux  
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 2020:

### CIVIL APPEAL ACT AND RULE REFORM PROJECT

The revised *Court of Appeal Act* was set to be tabled in the legislature during the spring 2020 session, however COVID-related legislation was prioritized in both the spring and fall session following the provincial election in October 2020. The revised *Act* has now been passed into law by the legislature and now the revised *Rules* and accompanying Forms must be approved by Cabinet.

In 2020, a review of the *Act* was undertaken to determine whether lessons learned during the COVID-19 pandemic (e.g. regarding need to sit remotely, quickly change filing directions, suspend filing and service deadlines for all appeals) were necessary. Small changes were proposed to government concerning these areas. The Committee also began examining proposed court forms in greater detail.

### CRIMINAL ADVISORY COMMITTEE

A meeting was held in November of 2020 with representatives

“  
In March, April, and May 2020 the Court of Appeal significantly modified its operations in response to the COVID-19 pandemic and issued a series of Notices to the Public and announcements, all of which are indexed on the Court’s website.

of the criminal bar to discuss improvements to criminal practice and procedure. The following topics were discussed: (1) criminal case management; (2) a criminal e-filing proposal expected to be introduced in early 2021; and (3) issues related to extensions of appeal bail and the appellant’s attendance at court when judgment is reserved. A subcommittee was struck to consider appeal bail-related issues. Finally, the Advisory Group expressed a desire to review the ineffective assistance of trial counsel practice directive.

## NOTICES AND 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.

In March, April, and May 2020 the Court of Appeal significantly modified its operations in response to the COVID-19 pandemic and issued a series of Notices to the Public and announcements, all of which are indexed on the Court’s website. Highlights of those directives are below:

Four notices developed into the central guiding documents for modified court operations in 2020:

### *Notice to the Public Regarding the Court of Appeal for British Columbia’s Response to COVID-19*

First issued on March 17, 2020, this Notice has been regularly updated over the course of 2020 to reflect pandemic conditions, public health orders and recommendations, and the Court’s changing capacity to accommodate proceedings in courtrooms and by video conference or other remote means. The Notice was last updated on December 21, 2020.

This Notice contains information about:

- the suspension of required time periods to start civil or family proceedings (which will end on March 25, 2021);
- service and filing deadlines for existing appeals (which were reinstated on September 14, 2020);
- mode of hearing for appeals (including the new [Court Proceedings Form](#), which aims to promote efficient scheduling and protect the privacy and confidentiality of information related to video conference proceedings), chambers matters, and Registrar’s hearings; and
- information for self-represented litigants.

### *Notice to the Public Regarding Video Conference Proceedings*

First issued on April 29, 2020, this Notice was last updated on July 7, 2020.

This Notice contains an overview of the video conference hearing process, directions related to hearing etiquette and decorum, and a step-by-step guide to appearing in a Zoom video conference appeal, including directions on what to do if technological issues occur.

*Notice to the Public Regarding Access to Court Proceedings during the Pandemic*

First issued on April 29, 2020, this Notice was last updated on December 21, 2020.

This notice contains information about public and media access to Court of Appeal proceedings, including details on the public's ability to observe Zoom appeals and the rights of accredited media to obtain access to audio.

*Notice to the Public Regarding Modified Filing Directions in Civil and Criminal Appeals*

Initially, the *Notice to the Public Regarding the Court of Appeal for British Columbia's Response to COVID-19* contained detailed information about the filing and service requirements, including safe methods for those that did not wish to attend the courthouse during the pandemic. On July 7, 2020, the Court formalized many filing requirements within this notice, including the requirement that counsel in civil appeals e-file mandatorily.

*Declarations in Court Orders (Civil & Criminal Practice Directive, 5 March 2020)*

This civil and criminal practice directive describes the practice required for orders relating to a declaration and has been amended to reflect its application to both civil and criminal appeals. It replaces and repeals the earlier version dated October 11, 2019.

“The Committee has been examining ways in which Yukon and British Columbia case management practices can be combined to allow justices that sit in Yukon to have access to an electronic record and to better track the filing of Yukon materials.

## TECHNOLOGY COMMITTEE

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### MEMBERS

The Honourable Chief Justice Bauman (*ex officio*)  
The Honourable Mr. Justice Groberman  
The Honourable Mr. Justice Hunter (Chair)  
The Honourable Madam Justice Griffin  
The Honourable Mr. Justice Butler  
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 2020:

### 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. As reported in 2019, the Court has now launched its new Notice of Appeal e-filing project, which populates the Notice of Appeal form by drawing on data from the Supreme Court of British Columbia in civil cases. This year, 30 appeals were filed using this method, which is hoped will decrease data entry errors and rejections.

### ACCESS TO ELECTRONIC DOCUMENTS IN YUKON

The Committee has been examining ways in which Yukon and British Columbia case management practices can be combined to allow justices that sit in Yukon to have access to an electronic record and to better track the filing of Yukon materials. The British Columbia and Yukon databases must be kept separate, given they are managed and funded by different Courts and their respective administrations. Filing by email will be used until a more permanent solution can be arrived at by the Yukon Government.

### ONLINE BOOKING OF APPEALS

COVID-19 has interrupted the Court’s plan to launch the online

“COVID-19 has interrupted the Court’s plan to launch the online booking of appeal hearings in March 2020. The Court will return to this project in 2021, with the hope that will launch the service next year.

booking of appeal hearings in March 2020. The Court will return to this project in 2021, with the hope that will launch the service next year.

## ELECTRONIC APPEALS

With the COVID-19 pandemic, the Court has required lawyers in civil appeals to file materials electronically and allowed optional electronic filing for anyone else. In criminal appeals, electronic filing will be launched in early 2021, though the Court still receives many criminal filings by email.

The receipt of electronic materials has shifted requirements for counsel and the Court. Accordingly, adjustments have been required to the way the Court hears appeals and how justices are equipped and trained to work electronically. In the 12 electronic appeals heard up to 2019, the Court had some understanding going into the COVID-19 pandemic of how virtual proceedings should be structured and what minimum requirements were necessary to allow justices to review evidence electronically. These involve not only software and training but also updates to Court infrastructure to allow the court to manage and work with electronic documents throughout their lifecycle.

As reported previously, 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. In 2020, the Court procured new temporary storage facilities for its electronic records to fulfil this temporary need.

## USE OF ZOOM & VIDEOCONFERENCING

As the Court moved to the use of Zoom in the Spring of 2020 in response to the COVID-19 pandemic, it did so consciously with the knowledge that institutional solutions, such as Microsoft Teams, had significant drawbacks. The main concern with the use of Microsoft Teams, despite being a more secure solution at that time, is that it does not allow for efficient public observation of appeals. Until a solution is found to this issue, the Court will continue to rely on Zoom as its principal videoconferencing solution.

In 2020, the Court also completed the project to allow for videoconferencing in Courtroom 50. Because Courtroom 50 is a

heritage site, the installation of technology needs to be balanced with the need to maintain the historical fixtures in the courtroom.

## **INSTALLATION OF WIFI**

The government project to install WiFi in all British Columbia courthouses has been progressing more slowly than anticipated due to COVID-19. The judiciary has deployed judicial WiFi routers to its courtrooms as a temporary fix while this project is completed. The government WiFi network will be accessible to both the justices and members of the public.

## **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 2020—in January, April, September, and November—to discuss such ongoing projects, such 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 “Digital Content Strategy”;
- Virtual hearings in response to COVID-19 and improved videoconferencing;
- The development of online booking in the trial courts;
- “Telewarrants” processes in the trial courts;
- Technological requirements for the new Abbotsford law courts; and,
- E-filing service expansion in the Provincial Court.

## **ENHANCEMENTS TO WEBCATS**

As discussed above, 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 2020, there were several major releases and discrete enhancements made

“Updates were made to ensure that documents can be downloaded by justices, regardless of whether they are stored locally or electronically filed through Court Services Online (CSO).

to WebCATS by the information technology team, many in response to the COVID-19 pandemic. The following enhancements were the most significant:

- The Court automated the posting of the following lists on the Court’s website in addition to the list of available court dates:
  - Weekly Hearing List
  - Daily Chambers List
  - Available Chambers Dates
  - Available Court Dates
  - Upcoming Judgments List
- Enhancements were made to ensure court clerk notes included as much publication ban and sealing order detail as possible;
- Several changes were made within WebCATS to improve its readability (e.g. filings can now be sorted and background colours are higher contrast);
- The Court automated several processes around the notification of agencies if a Records Suspension (pardon) is issued;
- Updates were made to ensure that documents can be downloaded by justices, regardless of whether they are stored locally or electronically filed through Court Services Online (CSO). Electronic books were organized into categories for easier reference;
- The speed to download documents was increased by enhancements to local servers as well as an increase to the limit for e-filing to 100MBs;
- Security enhancements were made to allow the Sheriff Service to see when their presence is required in the courtroom;
- More enhancements were made to allow WebCATS to see information on government servers without requiring a person to login to those government servers;
- Along with several security enhancements detailed above, a new High Security flag was added with the option to disallow e-filing;
- Criminal e-filing functionality was added to WebCATS to allow for criminal e-filing to commence in early 2021; and
- Improvements were made to allow for more efficient use of Chrome, Firefox, and other modern browsers with WebCATS, despite its age and current reliance on Internet Explorer.

## EDUCATION COMMITTEE

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### MEMBERS

The Honourable Madam Justice Stromberg-Stein  
The Honourable Mr. Justice Willcock (Chair)  
The Honourable Madam Justice Fenlon  
The Honourable Madam Justice DeWitt-Van Oosten  
Shirley Smiley, Legal Counsel  
Sally Rudolf, Legal Counsel

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The Education Committee is responsible for presenting education programs for the justices of the Court in furtherance of the objectives identified in the Canadian Judicial Council 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 justices are accountable for their own ongoing professional development. Members of the Court have attended a wide range of educational programs offered by 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.

Members of the Committee and Justices of the Court of Appeal serve as Directors of the Canadian Institute for the Administration of Justice and the Justice Education Society and as instructors and speakers at their programmes and the programmes of the National Judicial Institute. Members of the Court have also served on the editorial boards and as contributors to the publications of the Continuing Legal Education Society of British Columbia and as instructors at CLE courses.

The Education Committee seeks to assist the court by identifying and organizing educational opportunities. The Committee annually reviews and edits the Court's manuals of appellate practice and procedure. This report is not an accounting of the many and varied educational programs in which members of the Court have participated but an outline of the Committee's work.

It has organized the following educational programs in 2020-2021:

Indigenous Offenders and the Administration of Justice

May 13, 2020

Jonathan Rudin, LL.B., LL.M. (Osgoode Hall), Program Director,  
Aboriginal Legal Services of Toronto

Reliability and Validity of Risk Assessment Instruments

May 27, 2020

Professor Daryl Kroner Ph.D. (Psychology), (Southern Illinois)

Recent Developments in the Law of Contract

June 10, 2020

Professor Andrew Newcombe, LL.B. (Victoria) LL.M. (Toronto)  
Acting Associate Dean, Academic and Student Relations, University  
of Victoria

University of Victoria's Common-law/Indigenous Law Program

October 14, 2020

Professor John Burrows, B.A., M.A., J.D., LL.M. (Toronto), Ph.D.  
(Osgoode Hall), LL.D. F.R.S.C., Canada Research Chair in Indigenous  
Law at the University of Victoria Law School

Capacity to Consent

November 18, 2020

Dana Peterson, Crown Counsel, Sexual Violence Advisory Group,  
Attorney General of Ontario

Developments in Cybercrime

December 2, 2020

Director General Chris Lynam, National Cybercrime Coordination  
(NC3) Unit/Royal Canadian Mounted Police

COVID-19 and State Security

January 27, 2021

Professor Fionnula Ni Aolain, Queen's University Law Faculty,  
Belfast, Northern Ireland, LL.B., Ph.D. (Queen's Belfast) LL.M.  
(Columbia), Regents Professor & Robina Chair in Law, Public  
Policy & Society, Faculty Director, Human Rights Center, Professor,  
Queen's University of Belfast, School of Law, Northern Ireland, UN  
Special Rapporteur for Counter Terrorism & Human Rights.

Our spring educational program will include sessions on Electronic  
Appeals and Management of Electronic Documents, Indigenous  
Reconciliation, Mental Health and COVID-19, and International  
Criminal Cases.

“  
In 2020, the  
Committee  
concentrated on two  
areas: evaluating  
and testing video  
conferencing  
platforms and seeking  
out and testing  
electronic document  
management  
platforms.

## JOINT COURTS TECHNOLOGY COMMITTEE

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### MEMBERS

The Honourable Mr. Justice Willcock  
The Honourable Mr. Justice Hunter  
The Honourable Mr. Justice Masuhara (Chair)  
The Honourable Mr. Justice Myers  
The Honourable Madam Justice Adair  
The Honourable Mr. Justice Branch  
The Honourable Madam Justice Fitzpatrick  
The Honourable Mr. Justice Punnett  
Timothy Outerbridge, Registrar, Court of Appeal  
Scott Nielsen, Registrar, Supreme Court  
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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### MANDATE

The Committee’s mandate is to review developments in technology and their impacts on the Court of Appeal and the Supreme Court.

### WORK OF THE COMMITTEE

In 2020, the Committee concentrated on two areas: evaluating and testing video conferencing platforms and seeking out and testing electronic document management platforms. The video conferencing platform Microsoft Teams is now in operation and being utilized by the Supreme Court, while the Court of Appeal is using Zoom for its hearings.

A temporary electronic file transfer platform was developed, and a permanent platform for the filing of application records and books of authorities is being worked on. Subsequent phases for a more robust electronic document management platform are in the planning stage.

There have been considerable interactions with the Court Services Branch with regards to obtaining priority for the Court’s technology needs.

The next refresh of judicial computers is being planned for 2021.

## JUDICIAL ACCESS COMMITTEE

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### MEMBERS

Karen Leung, Legal Officer, Provincial Court (Chair)

Caroline Berkey, Legal Officer, Provincial Court

Shirley Smiley, Legal Counsel, Court of Appeal

Brenda Belak, Legal Counsel, Supreme Court (resigned from Committee September 2020)

Leah Pence, Legal Counsel, Supreme Court (from February 2020)

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

Stephanie Delacretaz, Assistant Director, Strategic Information & Business Applications, Ministry of Justice – Court Services Branch

Erin Turner, Acting Director, Policy, Legislation and Planning, Ministry of Attorney General - Court Services Branch

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 2020, the work of the Committee included the following:

### ACCESS APPLICATIONS

As in previous years, in 2020 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

“  
In 2020, the Data Governance Working Group finalized a revised judicial electronic access policy (JEAP), first implemented in 2008.

their statutory mandates, improve the efficiency of their operations, or to support legal research and analysis services provided. 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 2020, the Data Governance Working Group finalized a revised judicial electronic access policy (JEAP), first implemented in 2008. Since 2015, the Courts have received increased requests for access to different types of electronic records from different entities than in the past. The revised JEAP better reflects current protocols for administering bulk access to court records and electronic information that is not available at the registry counter.

“For the first time, the Committee conducted all interviews by video conference, regardless of place of residence, which ensured that all candidates shared a similar interview experience.”

## 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 Committee’s main tasks 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 2020, the judicial law clerk program received 136 applications for 33 law clerk positions at the two courts for the 2021-2022 term (12 at the Court of Appeal and 21 at the Supreme Court). Students from the University of British Columbia (UBC) made up the largest group of applicants, followed by the University of Victoria and Thompson Rivers University. In February 2020, 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, selecting 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. Of the 12 clerks selected in 2020, there were five from UBC, three from the University of Toronto, two from Queens University, and one each from Osgoode and NYU.

Beginning in November 2020, judicial law clerk program applicants could view up-to-date recruitment information online. The Law Clerks Committee also prepared an informational video jointly with the Supreme Court for distribution through law schools across Canada in the fall of 2020. For the first time, the Committee conducted all interviews by video conference, regardless of place of residence, which ensured that all candidates shared a similar interview experience.

The Committee thanks legal counsel Sally Rudolf, Shirley Smiley, and Brenda Belak, as well as Kristine Dhamrait and Gladysmay Pascua, for their assistance and administrative support.

“As with many aspects of the Courts’ operations, this year underscored the importance of technology as use of electronic resources expanded.”

## LIBRARY COMMITTEE

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### MEMBERS

The Honourable Madam Justice Bennett

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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In a very challenging year in which many other libraries closed, the library staff, led by head librarian Diane Lemieux, continued to provide excellent support to justices, law clerks, and Court staff, many of whom were working remotely.

As with many aspects of the Courts’ operations, this year underscored the importance of technology as use of electronic resources expanded. This will continue going forward due both to the demand for access to those resources and the increasing cost of paper resources. In keeping with this trend, over the coming year, the library will be cancelling subscriptions to various loose-leaf periodicals that are otherwise available online.

This will require justices and staff to continue to develop familiarity with the electronic resources, both in terms of what is available and how to use the resources. Library staff are available to assist in this regard.

The Committee would like to acknowledge and thank the library staff for the exemplary service they provide, particularly in these challenging times.



# Members of the Court

# MEMBERS OF THE COURT OF APPEAL

## CHIEF JUSTICE OF BRITISH COLUMBIA

### CHIEF JUSTICE ROBERT JAMES BAUMAN

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

## JUSTICES OF THE COURT OF APPEAL

### 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)

### 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)

### 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)
- April 3, 2020 (Retired)

**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)

**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)
- January 2, 2020 (Supernumerary)

**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)

**MR. JUSTICE PETER G. VOITH**

- January 22, 2009 (Supreme Court)
- September 9, 2020 (Court of Appeal)

## CHANGES TO THE COURT'S COMPLEMENT

The Court began 2020 with a full complement of justices. One additional vacancy was created in 2020 with the election to supernumerary status of Madam Justice Fisher. The vacancy was filled during the year by Mr. Justice Voith.

### APPOINTMENTS

#### THE HONOURABLE MR. JUSTICE PETER G. VOITH

The Honourable Mr. Justice Peter Voith was appointed a justice of the Court of Appeal for British Columbia and the Court of Appeal of Yukon on September 9, 2020. He was previously appointed to the Supreme Court of British Columbia on January 22, 2009.

Justice Voith was born in Budapest, Hungary, and grew up in Montreal. He obtained his undergraduate degree from McGill University, received his LL.B. from UBC in 1980, and was called to the Bar of British Columbia in 1981. He practiced as a corporate solicitor at Ladner Downs before obtaining an LL.M. from Columbia University in 1983 and a second LL.M. from the University of Cambridge in 1984. He practiced as a barrister with Davis & Co. before co-founding Hunter Voith Litigation Counsel, and later Hunter Litigation Chambers.

Prior to his judicial appointment, Justice Voith was consistently recognized as one of the leading practitioners in commercial and public law. He was appointed Queen's Counsel in 2004 and was elected a fellow of the American College of Trial Lawyers in 2007. He also served as a non-bencher member of the Ethics and Discipline Committees for the Law Society of British Columbia. Throughout his career, he has been involved with various access to justice initiatives and legal, judicial, and community education programs. He taught as an adjunct professor at UBC Law for 10 years and has spoken at numerous programs and conferences. He has volunteered for a number of charitable organizations, including as President and a Director of the Justice Education Society.

### RETIREMENTS

#### THE HONOURABLE MADAM JUSTICE NICOLE J. GARSON

The Honourable Madam Justice Nicole Garson retired from the Court of Appeal for British Columbia in April 2020, having served as a justice of this court for nearly 11 years. Justice Garson was appointed to the Supreme Court in 2001 and to the Court of Appeal in 2009.

Raised in England and Saskatchewan, Justice Garson studied law at the University of Saskatchewan and Dalhousie, receiving her LL.B. degree in 1975. She first articulated in Ontario then moved to Manitoba, where she was called to the bar in 1977. In 1981, she relocated to Vancouver and was called to the bar in British Columbia. She practiced complex general, commercial, and insurance litigation with Boughton Peterson Yang Anderson and later with Campney & Murphy. Justice Garson developed a speciality in insurance law, personal injury law, pension and trust matters, and the professional liability of accountants. She was appointed Queen's Counsel in 1999.

Over the course of her esteemed career, Justice Garson was a strong advocate for young counsel and a frequent contributor to Continuing Legal Education programs in civil litigation. Justice Garson was known to approach problems with intellectual integrity, straightforward common sense and fair-mindedness. She is remembered by her colleagues as a warm and generous justice whose wit and intelligence will be sorely missed on the bench. In her time at the court, Justice Garson made a significant contribution to many areas of jurisprudence. She was also the head of the Rules Committee for many years and was known to be the go-to expert on civil rules.

All members of the Court wish Justice Garson the best on her retirement.

## **IN MEMORIAM**

### **THE HONOURABLE LANCE S.G. FINCH, Q.C., O.B.C.**

On August 30, 2020, the Honourable Lance S.G. Finch passed away. He will be remembered as a compassionate, steady, and humble member of the judiciary. He was 82.

The Honourable Lance Finch was born in Edmonton, where he lived until his family moved to Victoria in 1951. He studied at the then Victoria College and graduated with an LL.B. from the University of British Columbia in 1962.

He articulated at Guild Yule Schmidt Lane Collier and Hinkson (now Guild Yule LLP) and was called to the bar in 1963. As a litigator, he had a wide-ranging practice that included insurance defence, personal injury, municipal law, and commercial litigation. He was a former president of the Vancouver Bar Association and served two terms as a bencher of the Law Society.

In 1983, he was appointed to the Supreme Court of British Columbia, serving until his appointment to the Court of Appeal for British Columbia and Yukon in 1993. In 2001, he was appointed

Chief Justice of British Columbia. He retired from the bench in 2013, returning to Guild Yule LLP as associate counsel, where he provided advice on trials, appeals, arbitrations, and mediations.

He was recognized many times for his contributions to the legal profession, receiving the Queen’s Golden Jubilee Medal in 2002, the Queen’s Diamond Jubilee medal in 2012, and the UBC Law Alumni Lifetime Achievement Award in 2013. He was appointed Queen’s Counsel in 2015 and in 2017 received the Order of British Columbia, the highest honour in the province. He also served for many years as the President of the International Society for the Reform of Criminal Law.

Lance Finch championed judicial independence and judicial education, sitting on the Canadian Judicial Council for 12 years. As Richard Wagner, Canada’s Chief Justice and chairperson of the Council, said, “Chief Justice Finch was a strong, wise and respected member of the Council and a fair and committed jurist.”

Up to his final weeks, Lance remained an active participant in pro bono cases before the Court of Appeal, acting as a mentor to younger lawyers preparing and arguing cases before the Court. He also had a special respect for Indigenous peoples and the challenges they face in Canadian society, speaking strongly in 2012 of the need to make space in the law for Indigenous legal orders. He wrote that we all should seek an understanding of the rich legal, ethical, and cultural traditions of Indigenous persons, believing that “[w]e all have much to learn from one another.”

In his personal life, Justice Finch took great joy from time spent with his friends and family, especially his children, grandchildren, and wife of 57 years, Judy.

#### **THE HONOURABLE T.R. BRAIDWOOD, Q.C.**

On April 11, 2020, the Honourable Mr. Justice Thomas Braidwood passed away. He was 89.

Justice Braidwood was born in Burnaby in 1930. Angelo Branca, Q.C., a family friend and one of British Columbia’s leading criminal lawyers, predicted he would become a lawyer. Justice Braidwood proved him right, graduating from the University of British Columbia’s law school in 1956 and being called to the bar in 1957.

Justice Braidwood joined Branca’s firm as an articled student and worked with Branca until 1963, when Branca was appointed to the bench. Justice Braidwood took over the practice—which included several high profile murder cases—and built up his own firm over the ensuing decades.

Justice Braidwood was devoted to the education and development of young lawyers, and he took great pride in mentoring juniors at his firm. Among those who began their careers working for him were numerous Queen's Counsel and Justices Masuhara, Bruce, Harvey, and Greyell.

In 1990, Justice Braidwood accepted an appointment to the Supreme Court of British Columbia. He was elevated to the Court of Appeal in 1996. At Justice Braidwood's retirement from the bench in 2005, Chief Justice Finch remembered his colleague as follows:

*I cannot speak highly enough of Mr. Justice Braidwood's qualities as a judge, as a colleague and as a friend. He will leave the Court as he came, with an incisive legal mind, wide experience in all fields of law, compassion for the human condition, an ability to express himself clearly and concisely, and a wonderful sense of humor. He has an endless enthusiasm for life and, to cap it off, he is a warm, generous, and modest man.*

Justice Braidwood's career following his retirement included no shortage of interesting retainers. One such retainer involved serving on an arbitration appeal panel. The dispute concerned the ownership of 133 paintings in the Beaverbrook Art Gallery, and the parties were concerned the appeal panel would be overly deferential to the arbitrator, former Supreme Court of Canada Justice Peter Cory. Justice Braidwood's enthusiasm at the opportunity to reverse a former Supreme Court justice was said to have clinched him the position. Justice Braidwood also served as the commissioner of the Braidwood Inquiry, which was struck to investigate the death of Robert Dziekański and the use of conducted energy weapons by police.

Justice Braidwood is survived by his second wife, Phyllis, and his three children, Tom Jr., Kim, and Mark. His first wife, Ann, passed away in 2001.

## STAFF OF THE COURT OF APPEAL

### CHANGES TO STAFFING COMPLEMENT

There were no additions to the staffing of the Court of Appeal Registry this year; however, the Court would like to recognize the departure of Michelle McConnachie, who served for many years as the Manager of Human Resources. Michelle has taken a new role with Forestry Innovation Investment, a provincial agency charged with maintaining and expanding markets at home and abroad for B.C. forest products.

The Court would also recognize the sudden passing of Mark Hujanen, the long-time service delivery manager of the Information Technology Department of the Superior Courts Judiciary. For more than 20 years, Mr. Hujanen provided services that were instrumental to the proper functioning of the Court's systems. His work also played a key role in developing and maintaining those systems as necessarily independent from government.

### STAFF & POSITIONS

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

#### **JUDICIAL LAW CLERKS**

|                 |                  |              |
|-----------------|------------------|--------------|
| Isabel Carey    | Courtney Gibbons | Hannah Roche |
| Spencer Colburn | Liz Guilbault    | Rory Smith   |
| Will Eberlee    | Elizabeth Janzen |              |
| Devin Eeg       | Paul Jon         |              |
| Alysha Flipse   | Galen Lambert    |              |

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#### **JUDICIAL STAFF**

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

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#### **REGISTRY STAFF**

|                  |                  |                    |
|------------------|------------------|--------------------|
| Rebecca Chappell | Taira Johnson    | Merill Sandell     |
| Michael Chu      | Sue Lang         | Moira Syring       |
| Jason Conybeer   | Robert Loy       | Jocelyn Ward       |
| Beryl Eli        | Jodi Maycock     | Jacqueline Windsor |
| Steve Evans      | Teresa Pol       |                    |
| Rachelle Guzman  | Jennifer Rahiman |                    |

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#### **SUPERIOR COURTS DOCUMENT MANAGEMENT CLERKS**

|                   |                          |               |
|-------------------|--------------------------|---------------|
| Radovan Burdej    | Gina Leon                | Darren Scherk |
| Andrew Coghlan    | Charles Manuel           |               |
| David Delafenetre | Carlos Rodas<br>Alvarado |               |

## JUDICIAL ADMINISTRATION

|                 |  |
|-----------------|--|
| Heidi McBride   | Senior Counsel and Executive Director              |
| Tracy Norman    | Manager, Human Resources                           |
| Sanjeev Lal     | Manager, Finance and Business Information Analysis |
| Ryan Wirth      | Manager of Information Technology                  |
| 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 | Manager, Judicial Support Services                 |
| Diana Foxall    | Communications Coordinator                         |

## 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              |
| Leo Brito       | Helpdesk Technician              |
| Babak Mohebbi   | Helpdesk Technician              |
| Lorne Lovett    | Business Analyst/Project Manager |
| Joanne Chong    | Business Analyst                 |
| Jojo Ho         | Software Developer               |

# APPENDIX 1 - CIVIL STATISTICS

## 2008 - 2020

|  | 2008       | 2009       | 2010       | 2011       | 2012       | 2013       | 2014       | 2015       | 2016       | 2017       | 2018       | 2019       | 2020       |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>APPEALS FILED:</b>                      |            |            |            |            |            |            |            |            |            |            |            |            |            |
| Notice of Appeal                           | 530        | 538        | 519        | 480        | 497        | 587        | 607        | 522        | 514        | 484        | 513        | 515        | 400        |
| Leave to Appeal                            | 172        | 175        | 131        | 114        | 122        | 100        | 88         | 96         | 84         | 149        | 86         | 115        | 79         |
| Notice of Appeal & Leave                   | 59         | 65         | 55         | 55         | 44         | 28         | 25         | 26         | 25         | 9          | 6          | 3          | 5          |
| <b>TOTAL FILED</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>484</b> |
| <b>COURT DISPOSITIONS:</b>                 |            |            |            |            |            |            |            |            |            |            |            |            |            |
| Appeals Allowed                            | 100        | 135        | 130        | 116        | 119        | 101        | 101        | 130        | 117        | 112        | 104        | 97         | 87         |
| Appeals Allowed %                          | 42%        | 43%        | 45%        | 42%        | 49%        | 37%        | 40%        | 50%        | 41%        | 40%        | 40%        | 42%        | 46%        |
| Appeals Dismissed                          | 138        | 180        | 159        | 159        | 125        | 169        | 149        | 131        | 169        | 168        | 155        | 134        | 102        |
| Appeals Dismissed %                        | 58%        | 57%        | 55%        | 58%        | 51%        | 63%        | 60%        | 50%        | 59%        | 60%        | 60%        | 58%        | 54%        |
| <b>TOTAL COURT DISPOSITIONS</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> | <b>189</b> |
| Appeals Concluded in Chambers or Abandoned | 449        | 441        | 419        | 436        | 414        | 379        | 420        | 359        | 371        | 348        | 346        | 318        | 208        |
| <b>TOTAL DISPOSITIONS</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> | <b>397</b> |
| Dispositions as % of Filings               | 90%        | 97%        | 100%       | 110%       | 100%       | 91%        | 93%        | 96%        | 106%       | 98%        | 100%       | 87%        | 82%        |
| Judgments Reserved (Court)                 | 192        | 245        | 233        | 241        | 176        | 201        | 199        | 209        | 226        | 169        | 186        | 171        | 145        |
| Judgments Reserved (Chambers)              | 87         | 63         | 62         | 83         | 80         | 70         | 52         | 70         | 104        | 37         | 32         | 61         | 51         |
| Appeals with 5 Justices                    | 2          | 7          | 1          | 3          | 2          | 2          | 3          | 3          | 4          | 4          | 1          | 1          | 1          |
| Court Motions: Reviews                     | 14         | 20         | 25         | 28         | 19         | 18         | 16         | 26         | 17         | 19         | 22         | 12         | 13         |
| Granted                                    | 2          | 4          | 3          | 8          | 3          | 1          | 2          | 1          | 1          | 2          | 2          | 2          | 3          |
| Refused                                    | 12         | 16         | 22         | 20         | 16         | 17         | 14         | 25         | 16         | 17         | 20         | 10         | 10         |
| Chambers Motions                           | 423        | 539        | 503        | 537        | 533        | 536        | 788        | 639        | 719        | 597        | 676        | 846        | 517        |
| <b>LEAVE TO APPEAL:</b>                    |            |            |            |            |            |            |            |            |            |            |            |            |            |
| Granted                                    | 66         | 65         | 47         | 51         | 37         | 37         | 36         | 50         | 36         | 50         | 43         | 35         | 23         |
| Refused                                    | 47         | 51         | 30         | 55         | 34         | 24         | 19         | 23         | 26         | 27         | 25         | 30         | 16         |
| <b>Total</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>  | <b>39</b>  |

# APPENDIX 2 - CRIMINAL STATISTICS 2008 - 2020

|   | 2008       | 2009       | 2010       | 2011       | 2012       | 2013       | 2014       | 2015       | 2016       | 2017       | 2018       | 2019       | 2020       |
|---|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>APPEALS FILED:</b>                                   |            |            |            |            |            |            |            |            |            |            |            |            |            |
| Sentence  | 163        | 140        | 114        | 109        | 119        | 108        | 174        | 152        | 85         | 97         | 107        | 90         | 49         |
| Conviction  | 123        | 115        | 99         | 112        | 116        | 117        | 87         | 93         | 82         | 95         | 118        | 92         | 56         |
| Summary Conviction                                      | 23         | 12         | 16         | 24         | 14         | 9          | 18         | 10         | 11         | 11         | 10         | 11         | 12         |
| Acquittal & Other                                       | 50         | 44         | 28         | 39         | 40         | 46         | 30         | 41         | 31         | 43         | 23         | 26         | 12         |
| <b>TOTAL FILED</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>129</b> |
| <b>COURT DISPOSITIONS:</b>                              |            |            |            |            |            |            |            |            |            |            |            |            |            |
| Appeals Allowed   | 82         | 69         | 52         | 41         | 35         | 62         | 101        | 44         | 32         | 42         | 30         | 50         | 49         |
| Appeals Allowed %                                       | 41%        | 41%        | 28%        | 31%        | 21%        | 34%        | 49%        | 44%        | 22%        | 34%        | 26%        | 32%        | 45%        |
| Appeals Dismissed                                       | 120        | 100        | 137        | 91         | 129        | 121        | 102        | 101        | 114        | 82         | 83         | 104        | 61         |
| Appeals Dismissed %                                     | 59%        | 59%        | 72%        | 69%        | 79%        | 66%        | 51%        | 56%        | 78%        | 66%        | 74%        | 68%        | 55%        |
| <b>TOTAL</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> | <b>110</b> |
| Summary Dismissals<br>Abandonments in<br>Court/Chambers | 139        | 149        | 121        | 99         | 123        | 129        | 76         | 85         | 97         | 111        | 78         | 64         | 55         |
| <b>TOTAL DISPOSITIONS</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> | <b>165</b> |
| Dispositions as % of<br>Filings                         | 95%        | 102%       | 121%       | 82%        | 99%        | 111%       | 90%        | 78%        | 116%       | 96%        | 74%        | 100%       | 128%       |
| Judgments Reserved<br>(Court)                           | 76         | 88         | 88         | 82         | 102        | 97         | 84         | 106        | 78         | 53         | 76         | 87         | 58         |
| Judgments Reserved<br>(Chambers)                        | 11         | 11         | 13         | 22         | 28         | 25         | 4          | 8          | 8          | 4          | 7          | 13         | 7          |
| Appeals with 5 Justices                                 | 2          | 0          | 1          | 1          | 2          | 0          | 0          | 0          | 0          | 2          | 1          | 0          | 1          |
| Chambers Motions  | 242        | 265        | 272        | 210        | 295        | 430        | 438        | 484        | 514        | 583        | 655        | 580        | 466        |

# APPENDIX 3 - COMBINED STATISTICS 2008 - 2020

|  | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--|------|------|------|------|------|------|------|------|------|------|------|------|------|
| <b>APPEALS FILED:</b>                            | 1120 | 1089 | 962  | 933  | 952  | 995  | 1029 | 940  | 832  | 888  | 863  | 852  | 613  |
| <b>COURT DISPOSITIONS:</b>                       | 440  | 484  | 478  | 407  | 408  | 453  | 453  | 406  | 432  | 404  | 372  | 385  | 299  |
| Appeals Allowed                                  | 182  | 204  | 182  | 157  | 154  | 163  | 202  | 174  | 149  | 154  | 134  | 147  | 136  |
| Appeals Allowed %                                | 41%  | 42%  | 38%  | 39%  | 38%  | 36%  | 45%  | 43%  | 35%  | 38%  | 36%  | 38%  | 45%  |
| Appeals Dismissed                                | 258  | 280  | 296  | 250  | 254  | 290  | 251  | 232  | 283  | 250  | 238  | 238  | 163  |
| Appeals Dismissed %                              | 59%  | 58%  | 62%  | 61%  | 62%  | 64%  | 55%  | 57%  | 65%  | 62%  | 64%  | 62%  | 55%  |
| <b>TOTAL</b>                                     | 440  | 484  | 478  | 407  | 408  | 453  | 453  | 406  | 432  | 404  | 372  | 385  | 299  |
| Appeals Concluded<br>in Chambers or<br>Abandoned | 588  | 590  | 540  | 535  | 537  | 508  | 496  | 444  | 468  | 459  | 424  | 382  | 263  |
| <b>TOTAL DISPOSITIONS</b>                        | 1028 | 1074 | 1018 | 942  | 945  | 961  | 949  | 850  | 900  | 863  | 796  | 767  | 562  |
| Dispositions as % of<br>Filings                  | 92%  | 99%  | 106% | 101% | 99%  | 97%  | 92%  | 90%  | 108% | 97%  | 92%  | 90%  | 92%  |
| Judgments Reserved                               | 366  | 407  | 396  | 426  | 386  | 393  | 339  | 393* | 416* | 263* | 301* | 332  | 261  |
| Appeals with 5 Justices                          | 4    | 7    | 2    | 4    | 4    | 2    | 3    | 3    | 4    | 6    | 2    | 1    | 2    |
| Chambers Motions                                 | 665  | 804  | 775  | 747  | 828  | 966  | 1226 | 1123 | 1233 | 1180 | 1331 | 1426 | 983  |

\*Data corrected to include Judgments Reserved (Chambers)

Court of Appeal for British Columbia

800 Smithe Street

Vancouver, B.C.

V6Z 2E1