



2021 Annual Report

Court of Appeal for British Columbia

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MESSAGE FROM CHIEF JUSTICE BAUMAN

Last year at this time I reflected with optimism and pride on the magnitude of change accomplished in a year like no other. I also acknowledged the disruption and stress that such rapid change may have added to an already difficult time. This year I want to comment on our collective learning and capacity building.

Similar to 2020, the COVID-19 pandemic has defined much of the work of individuals, communities, and institutions in 2021. Public health conditions, and associated restrictions, shifted a number of times over the course of the year. For the Court this meant pivoting between fully online proceedings, to a new hybrid model (with some participants in courtrooms and others appearing remotely), to fully in-person proceedings, and at times offering all of those options in the same week. The learning and adaptation that took place so rapidly in 2020 made this unprecedented flexibility possible.

As Chief Justice I continue to be proud of the ways that court staff, court users, and my judicial colleagues have incorporated new tools and best practices into the Court's daily operations.

Earlier this year the National Action Committee on Court Operations in Response to COVID-19, chaired by Chief Justice Wagner, produced a [statement on privacy, security and confidentiality considerations in relation to virtual hearings](#). The practices described are consistent with steps this Court has proactively taken, including screening in advance for any concerns related to the proceeding taking place virtually.

In January, a five-day hearing in *R. v. Moazami* took place in a courtroom because of such concerns. Arrangements were made for a closed-circuit television link to an overflow space to ensure public access while maintaining physical distance. In July, the Court began offering hybrid appeals. This format makes the physical courtroom available, but also accommodates hearing participants and observers who prefer, or need, to attend remotely. Prior to the pandemic this type of accommodation was exceedingly rare and would have required a significant investment of staff time and technology. This past year the Court was able to offer a hybrid format using the Zoom platform for all appeal proceedings from July to December.

The Court also launched its [Twitter account](#) in the summer. The mix of judgment tweets, announcements, and answers to frequently asked questions rivals the top dance moves on TikTok... or so I'm told. Kidding aside, the Twitter account has allowed the Court to quickly reach a wider group of court users when notices or processes are updated and changed—an invaluable tool for communication.

From my perspective as Chief Justice, 2021 found the Court, like many parts of our communities, better prepared to respond to changing pandemic conditions. That said, I would be remiss not to acknowledge the toll that social

As we reflect on the learning and capacity building that comes from a time of great change and adaptation, I find myself asking why put off for tomorrow what we can do today?

isolation, exclusive reliance on technology, and heightened concerns about personal and public health continues to take. I understand that these additional burdens fall disproportionately to people in equity-seeking groups, including people of colour, Indigenous people, people with disabilities, and those who are economically disadvantaged. The Court has (and will continue) to support alternative processes that are responsive to different circumstances and challenges, whatever they may be.

On March 24, 2021, the Court welcomed the appointment of Justice Leonard Marchand. Justice Marchand was previously appointed a Justice of the Supreme Court (Kamloops) in 2017 and a Judge of the Provincial Court in 2013. A member of the Okanagan Indian Band, Justice Marchand comes to the bench having dedicated much of his legal career to serving residential school survivors in a variety of settings, including through civil claims of historic child abuse cases, negotiation of the Indian Residential Schools Settlement Agreement, and as a presiding judge in the First Nations Court in Kamloops.

The Court also acknowledges the retirement of Justice David Franklin Tysoe on January 1, 2022. Justice Tysoe served as a Justice of the Court of Appeal for 14 years, having been appointed in 2007 after serving 15 years on the Supreme Court. Before his appointment to the bench, Justice Tysoe practiced with Farris Vaughn Wills & Murphy LLP where he developed expertise in insolvency, banking, and real estate law. As a judge, he was highly regarded for his tireless work ethic and concise, well-written judgments. He was also a cherished mentor to other judges and countless law clerks. His unfailingly patient, hardworking, and flexible approach is missed by court staff and judicial colleagues alike. The Court wishes him many years of happy, restful retirement.

As we reflect on the learning and capacity building that comes from a time of great change and adaptation, I find myself asking why put off for tomorrow what we can do today? The task of reflecting on, refining, and continuing to experiment with new tools, processes, and communications is upon us. Discomfort and humility are required. I find myself inspired to press forward, alongside the judges and members of the public who engage with this challenge each day.



REGISTRAR'S REPORT

THE COURT'S ACTIVITY

2021 was a busy year for the Court. Last year, the Court reported a 28% decrease in appeals filed due to the effect of the COVID-19 pandemic, dropping appeals filed down from 852 in 2019 to 613 in 2020. As predicted in last year's report, there has been a rebound in 2021, with an increase in appeals filed by exactly 28%, rising back to 849 appeals. 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.

The Court began 2021 by hearing its appeals and chambers applications remotely, as it had been doing since November 9, 2020. As COVID-19 numbers began to abate, the Court introduced so-called "hybrid" hearings on June 30, 2021, allowing parties to appeals and chambers applications to attend either in the courtroom or remotely. For any appeals that were heard with a remote party, the Court continued to broadcast the proceedings using the Zoom platform.

In mid-April 2021, the Court introduced optional electronic filing for all criminal appeals and an online platform to book all appeal hearings of less than a day online. As COVID-19 numbers began to climb again at the end of 2021, the Court returned to hearing matters virtually again in January 2022.

In 2021, the Court delivered written reserve judgments in 274 appeals (194 civil and 80 criminal) and pronounced judgment with oral reasons in a further 113 appeals (89 civil and 24 criminal). In chambers, the Court gave reserve judgments in 72 civil motions and 15 criminal motions.

SITTINGS OF THE COURT

To hear an appeal, the Court sits a minimum of three justices, known as a "division." In 2021, the Court sat 86 divisions in Vancouver, four fewer than in 2020. In addition to its Vancouver sittings, the Court sat for three weeks in Victoria. Due to the pandemic, the Court did not sit in Kamloops or Kelowna in 2021. 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 two weeks in the Spring and Fall of 2021, mainly virtually.

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 were on an upward trend until 2019, when the steady increase subsided. In 2021, the number of motions brought before a single justice in chambers rose slightly from the year before, from 983 motions in 2019 to 1,132 motions in 2021.

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SERVICES FOR SELF-REPRESENTED LITIGANTS

In 2021, the Court continued its efforts to improve the services provided to self-represented litigants that it commenced in 2019. As reported last year, those enhancements include:

- **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.
- **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.
- **Process Flowcharts:** In January 2021, the Court updated its process flowcharts to provide an overview of the appeal process and how it has changed during the pandemic, geared specifically to self-represented litigants.

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. Some of these needs were met in late 2020, when the Courts hired a Communications Coordinator, but other staffing needs remain extant.
- **Infrastructure:** As described in last year's report, 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 to allow for the more permanent function of electronic and virtual appeals, as well as the broadcasting of appeal proceedings. In 2021, the Court continued to work with government on a project that will involve a major retrofit of one of its courtrooms and completed a project that brought stable public WiFi to all of its courtrooms.
- **Enhancements to e-Filing:** The existing e-Filing system provided through Court Services Online (CSO) continues to serve the Court well during the pandemic. With the introduction of criminal e-Filing in 2021, the Court continues to see dramatic increases in electronic filing. The Court is hopeful, with the potential introduction of new civil rules

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.

and forms in 2022, that government will continue its efforts to improve the accessibility and functionality of court forms in the coming years.

- **Document Management:** As reported in 2020, the Court is rapidly adapting many of its paper-based processes to manage digital equivalents. Working with its archivist, the Court, in partnership with government, will continue to develop business processes and systems that will accurately authenticate, track, and secure its electronic records throughout their lifecycle.

CIVIL ACT AND RULES REFORM PROJECT

On March 17, 2021, Bill 11, the *Court of Appeal Act* passed third reading in the legislature. The new *Act* will come into force by regulation of the Lieutenant Governor in Council. In 2022, the Court is hopeful that Cabinet will review and approve new civil rules, allowing for both to come into force at the same time.

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 2021, justices of the Court participated in activities with the following bodies:



Appeal court records are permanently preserved by the British Columbia Archives (paper records) and Government Records Service (digital records) according to Court Information Schedules established under the Information Management Act.

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. Appeal court records are permanently preserved by the British Columbia Archives (paper records) and Government Records Service (digital records) according to Court Information Schedules established under the Information Management Act. 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 (RIM) 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. The Document Management Clerk team supervision was moved under the new position of Office Manager in Judicial Administration in the fall of 2021.

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 administrative records for an appeal (e.g., initiating records, motion materials, correspondence, etc.). 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 Manager, Finance and Business Information Analysis, the Appellate Court Records Officer develops annual priorities for the Court of Appeal’s records and information management program. The pandemic continues to impact ongoing priorities, but here are some of the highlights of 2021:

- Completion instructions and templates for the new *Act* and *Rules* were reengineered for electronic records.
- Permanent changes in policies and procedures were enabled involving the filing and processing of electronic and paper court records.
- Procedures were developed to ensure justices receive copies of court records (paper or electronic) in a timely manner, either by parties or judicial staff.
- In 2021, the Court processed approximately 160 access requests (many for multiple court records) for factums, appeal books, appeal records, and other records related to appeal hearings.
- Consultations began on a Memorandum of Understanding between BC Archives, Government Records Service, and Court Services Branch to build partnerships and identify roles and responsibilities to ensure permanent enduring access to stable, reliable, and authentic paper and electronic court records.



STATISTICS

In 2021, the Court disposed of 640 civil appeals, or 94% of the 678 appeals filed.

STATISTICS

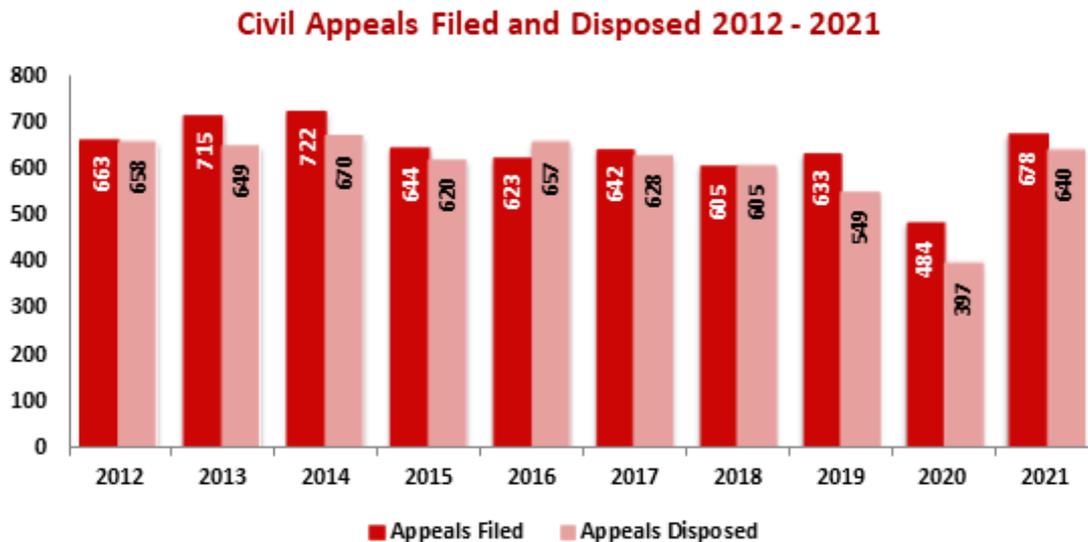
The charts below give a detailed account of the Court’s activity in 2021. The three appendices at the end of this report provide a detailed historical account of criminal and civil statistics over the last 13 years.

CIVIL APPEALS FILED AND DISPOSED

The chart below shows the number of civil appeals filed and disposed from 2012 to 2021.

In 2021, the number of civil appeals filed increased from 484 in 2020 to 678.

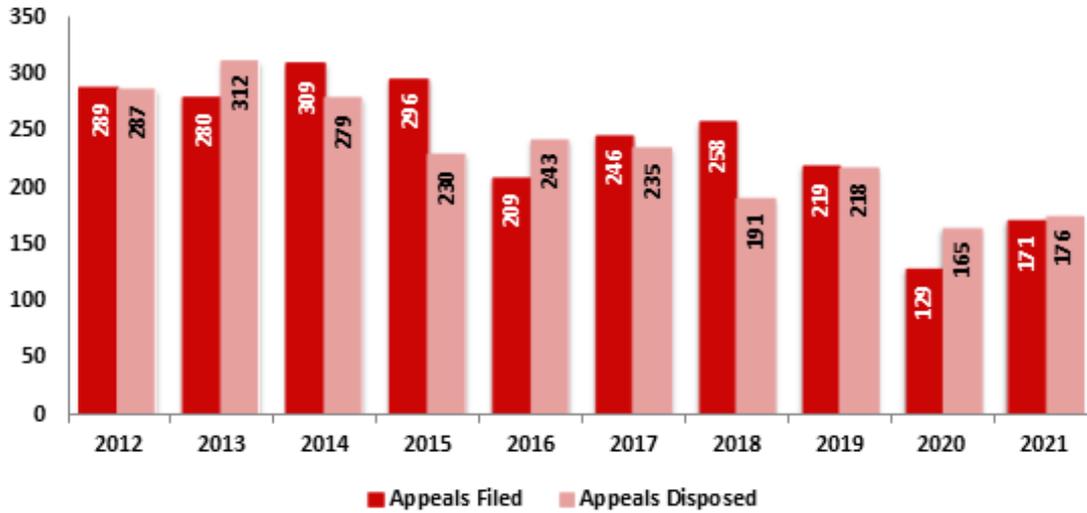
The Court measures the number of civil appeals disposed of as a percentage of the total number of civil appeals filed in a given year. In 2021, the Court disposed of 640 civil appeals, or 94% of the 678 appeals filed. An appeal that is “disposed” or “disposed of” means that it has been dismissed, allowed, 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.



CRIMINAL APPEALS FILED AND DISPOSED

In 2021, there were 171 criminal appeals filed, up from 129 filed in 2020. The Court disposed of 176 criminal appeals, or 103% of the 171 criminal appeals filed.

Criminal Appeals Filed and Disposed 2012 - 2021

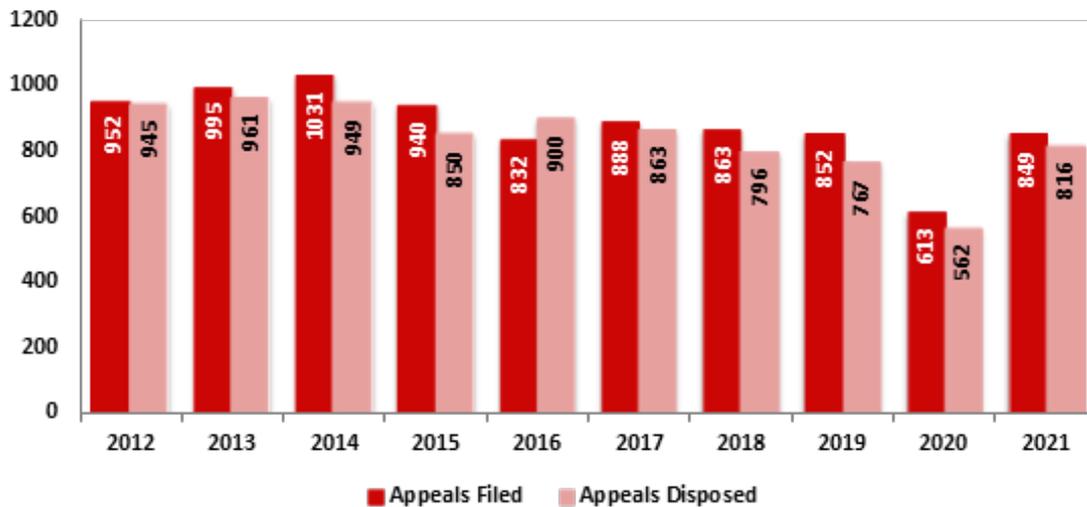


With 816 appeals disposed of and 849 appeals filed, 96% of appeals were disposed of as a percentage of new filings.

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 816 appeals disposed of and 849 appeals filed, 96% of appeals were disposed of as a percentage of new filings.

Total Appeals Filed and Disposed 2012 - 2021

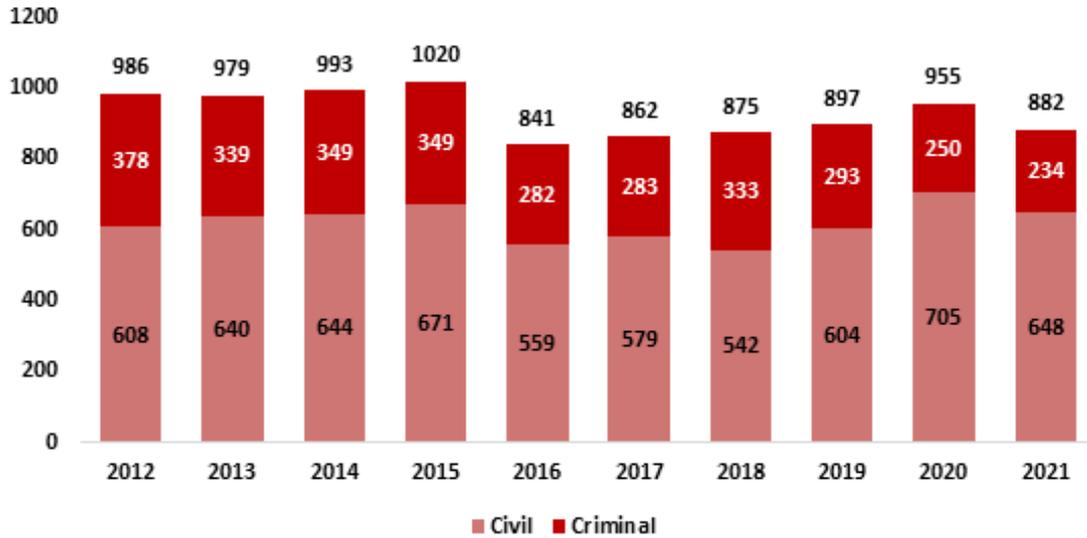


PENDING CASES BY YEAR

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 2021 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 2012 - 2021



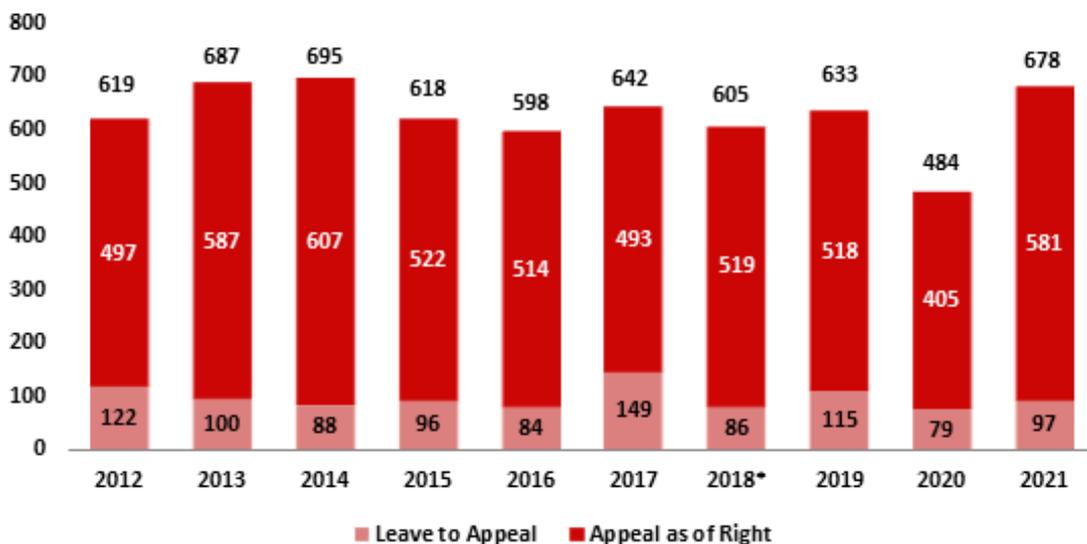
The Court heard a total of 42 leave to appeal applications in 2021, granting 18, or 42%.

CIVIL APPEALS BY LEAVE VS. BY RIGHT

In 2021, a total of 678 civil appeals were filed. Of those filed in 2021, 14% (97 of 678) 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 42 leave to appeal applications in 2021, granting 18, or 42%.

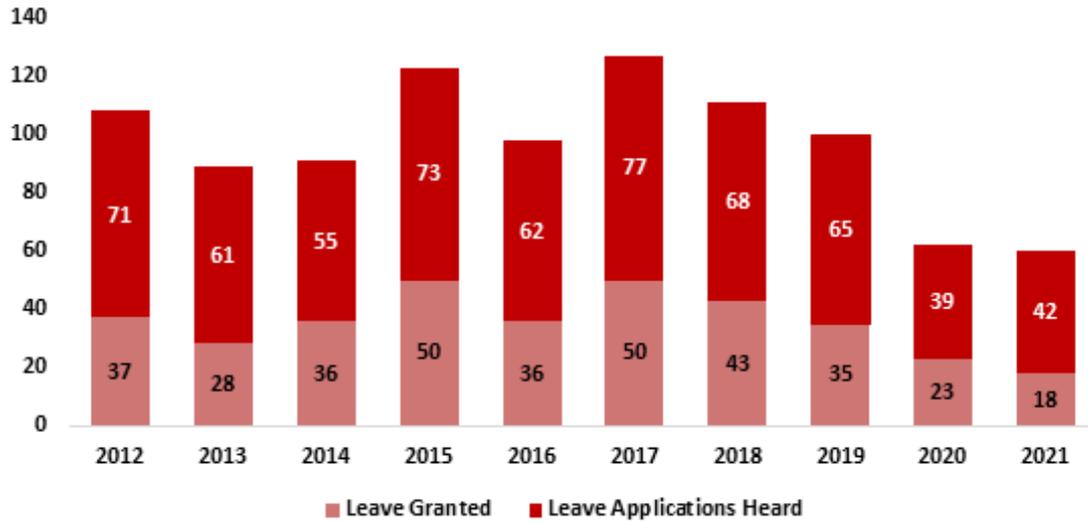
The first chart below shows appeals filed as of right versus those filed seeking leave. The second chart shows the number of applications for leave to appeal heard versus the number of those applications that were granted.

Civil Filed as of Right vs. Filed Seeking Leave 2012 - 2021



*Data corrected

Civil Leave to Appeal Applications Heard vs. Granted 2012 - 2021

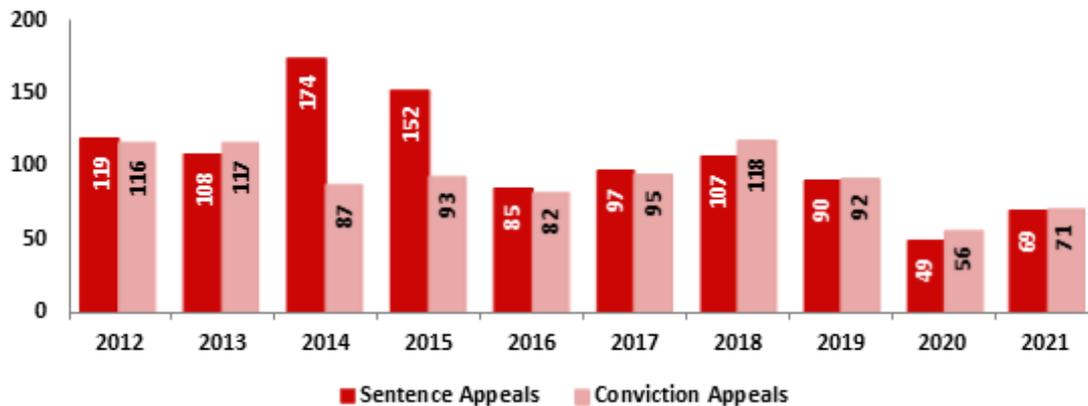


In 2021, there were 69 sentence appeals filed and 71 conviction appeals filed.

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 2012 and 2021. In 2021, there were 69 sentence appeals filed and 71 conviction appeals filed. There were 31 acquittal, summary conviction, and other appeals filed.

Criminal Appeal Filings 2012 - 2021



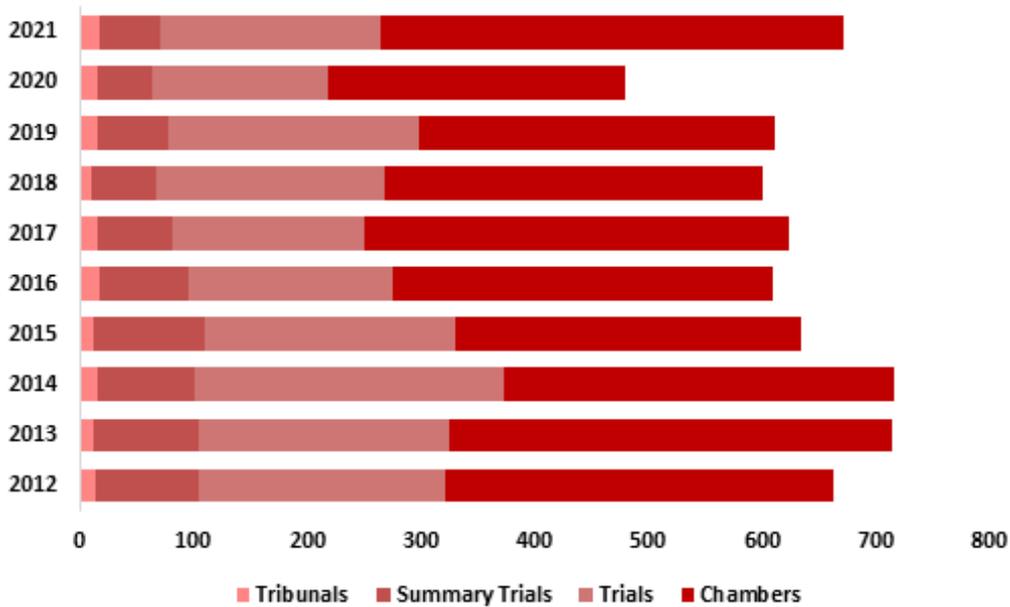
ORIGIN OF CIVIL APPEALS

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

In 2021, approximately 68% of civil appeals were from chambers matters and summary trials.

shows the types of appeals according to the underlying proceeding. In 2021, approximately 68% of civil appeals were from chambers matters and summary trials.

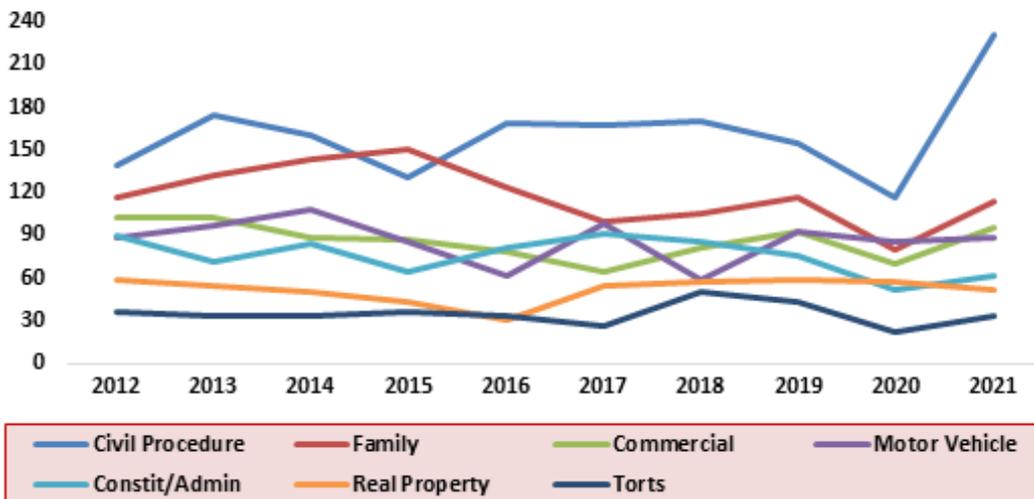
Origin of Civil Appeals 2012 - 2021



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 2012 and 2021 by number of appeals.

Civil Case Categories 2012 - 2021



In 2021, the proportion of civil appeals allowed was 44% of the total civil appeals heard (114 allowed, 147 dismissed). For criminal appeals, 35% were allowed (38 allowed, 70 dismissed).

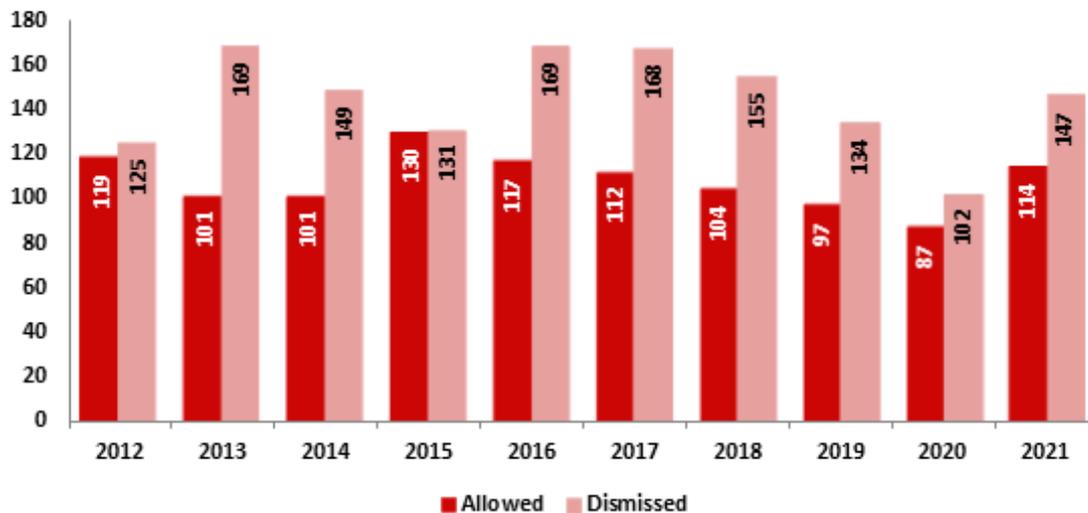
APPEALS ALLOWED AND DISMISSED

An appeal is “allowed” when the Court overturns or varies the order under appeal from the lower court or tribunal. In 2021, the proportion of civil appeals allowed was 44% of the total civil appeals heard (114 allowed, 147 dismissed). For criminal appeals, 35% were allowed (38 allowed, 70 dismissed).

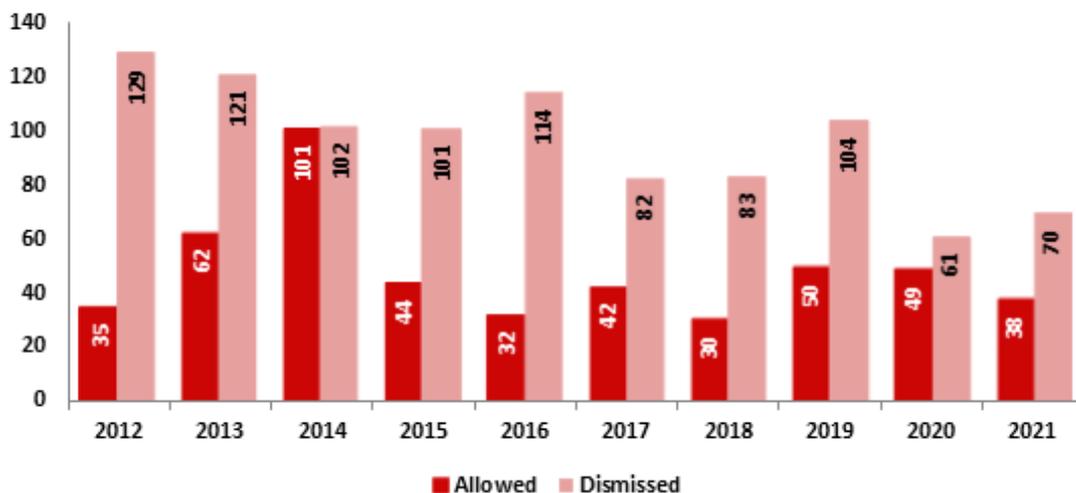
The “allowed” statistics include appeals partially allowed by any variations in the order under appeal. The number of appeals allowed in part is not insignificant. In 2021, there were 32 civil appeals allowed in part, or 28% of the 114 allowed. There were ten criminal appeals allowed in part, or 26% of the 38 allowed.

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

Civil Appeals Allowed/Dismissed 2012 - 2021



Criminal Appeals Allowed/Dismissed 2012 - 2021



In 2021, out of 678 civil appeals and applications for leave to appeal filed, 167 appeals (25%) were appeals or applications for leave to appeal involving at least one self-represented litigant.

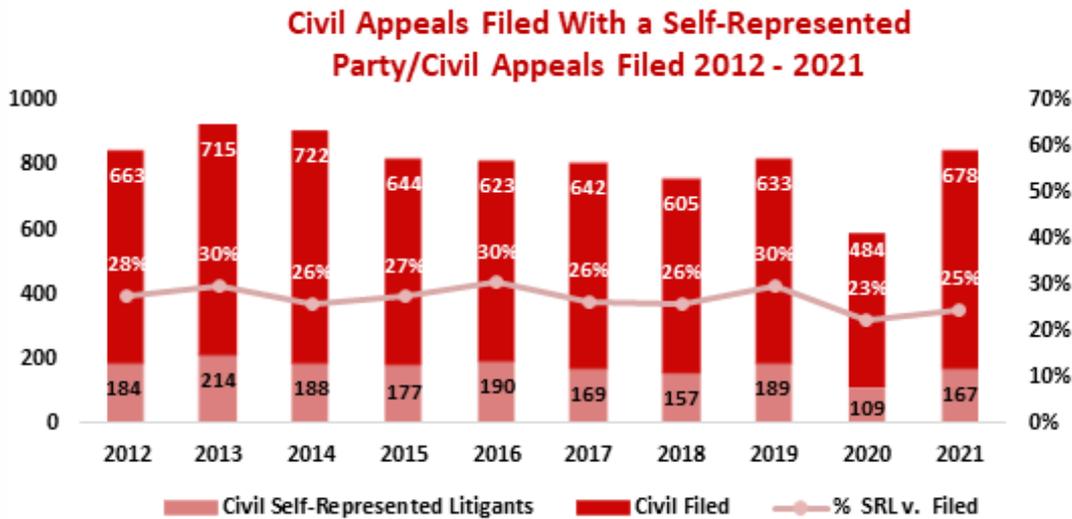
SELF-REPRESENTED LITIGANTS

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 2021 with the total number of civil appeals filed in those years.

In 2021, out of 678 civil appeals and applications for leave to appeal filed, 167 appeals (25%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is an increase from 2020, where the figure was 23%.

Of the appeals filed in 2021 involving at least one self-represented litigant, 80% involved self-represented appellants and 20% involved self-represented respondents. Of 261 civil appeals disposed of by the Court in 2021, 53 cases (20%) involved at least one self-represented litigant. This is the same as 2020, where the figure was 53 of 189 (28%).

The graph below illustrates the trend with respect to appeals filed between 2011 and 2021.



In 2021, out of 114 family appeals or applications for leave to appeal filed, 36 appeals (32%) were appeals or applications for leave to appeal involving at least one self-represented litigant. This is a decrease from 2020, where the figure was 35 out of 80 (44%).

Out of the 36 family appeals filed involving self-represented litigants, 72% involved self-represented appellants and 28% involved self-represented respondents. Of the 36 family appeals disposed of by the Court in 2021, eight cases (24%) involved at least one self-represented litigant. This is a decrease from 2020, where the figure was 11 of 29 (38%).

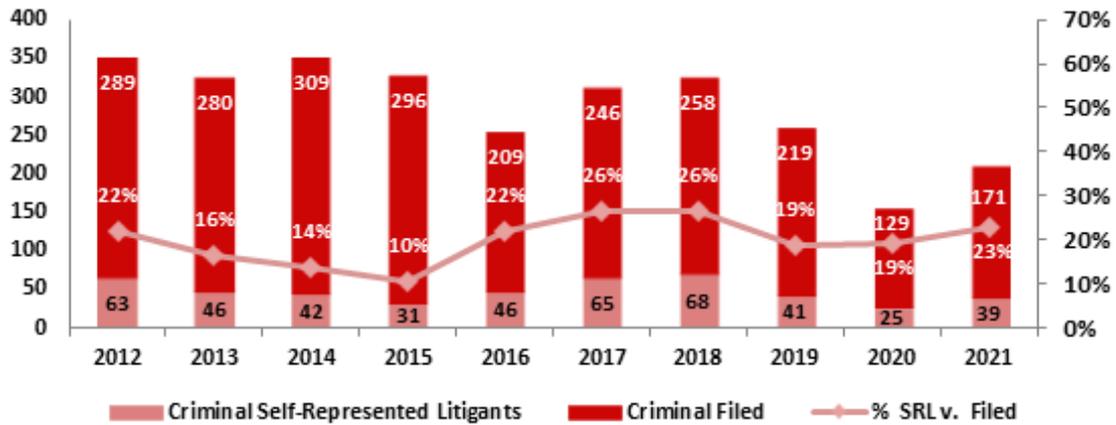
Turning to criminal appeals, out of 171 appeals or applications for leave to appeal filed, 39 appeals (23%) were appeals or applications for leave to appeal

Out of the 39 criminal appeals filed, 35 involved self-represented appellants.

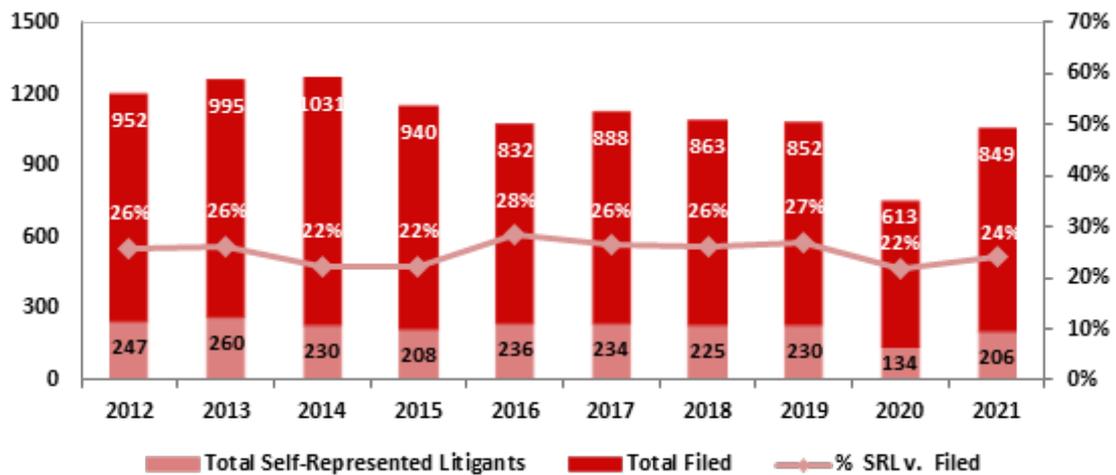
involving a self-represented litigant. This percentage is higher than 2020, where the figure was 19%.

Out of the 39 criminal appeals filed, 35 involved self-represented appellants. Of the 108 criminal appeals or applications for leave to appeal disposed of by the Court in 2021, 11 (10%) involved a self-represented litigant. This is the same as 2020.

Criminal Appeals Filed With a Self-Represented Party/Criminal Appeals Filed 2012 - 2021



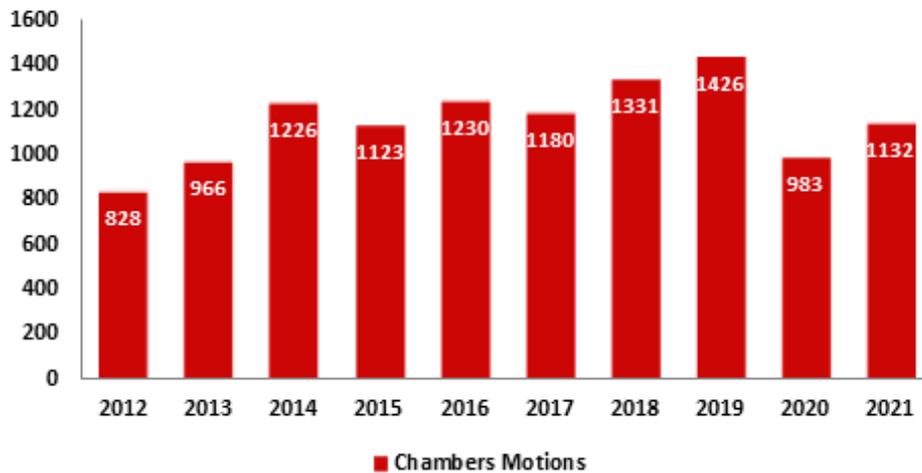
Total Appeals Filed with Self Represented Litigants/Total Appeals Filed 2012 - 2021



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 chart below shows the number of chambers motions brought in both civil and criminal appeals in a given year.

Chambers Motions Criminal and Civil, 2012 - 2021



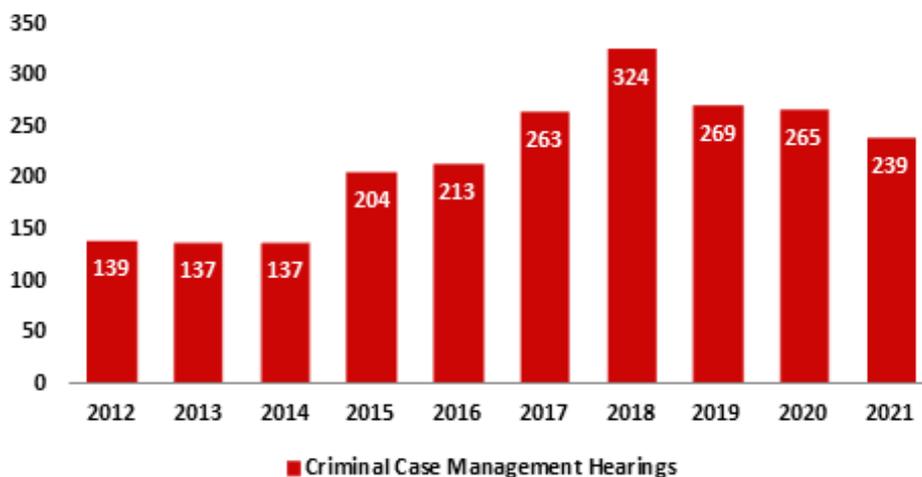
In 2021, there were 11 family law appeals and 19 civil appeals case managed by a justice or the Registrar.

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 2021, there were 11 family law appeals and 19 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.

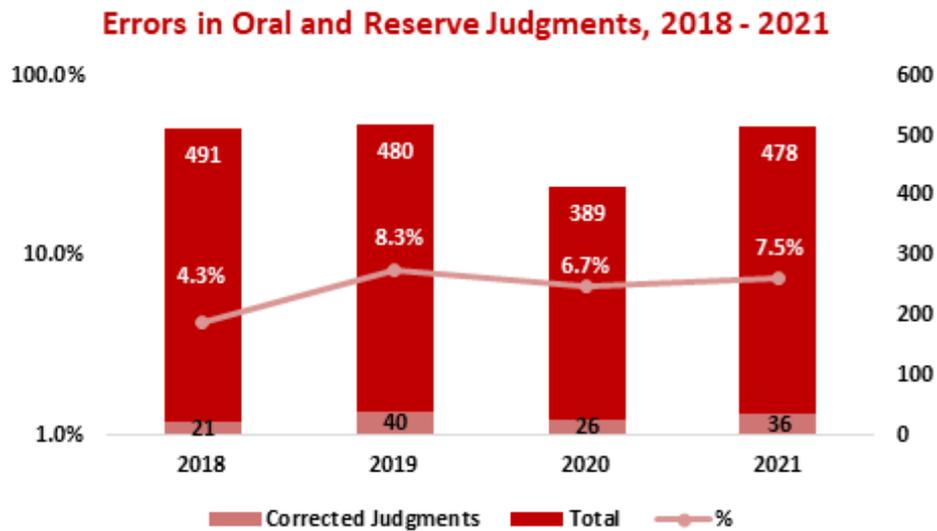
Criminal Case Management Hearings, 2012-2021



In 2021, the Registrar conducted 137 hearings, 30 more than in 2020.

ERRORS IN ORAL AND RESERVE JUDGMENTS

Since 2017, the Court has been tracking the number of errors found in its published judgments. In 2021, the Court published 36 corrected judgments out of 478 judgments, or 7.5%.



REGISTRAR'S HEARINGS

In 2021, the Registrar conducted 137 hearings, 30 more than in 2020. The increase is largely due to additional case management responsibilities, mainly on the criminal side.

With respect to civil matters, there were 47 hearings out of 69 scheduled. Within those hearings, 23 court orders were settled, 29 bills of cost were assessed (one bill of special costs was assessed), three 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 72 case management hearings.

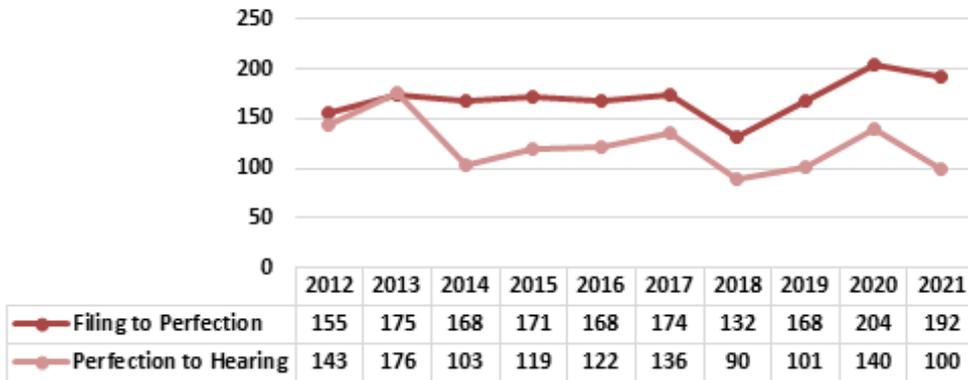
In 2021, there were two registrar's decisions (one being the bill of special costs) reviewed by a justice in chambers, both of which were dismissed.

TIME LAPSE STATISTICS: FILING TO HEARING

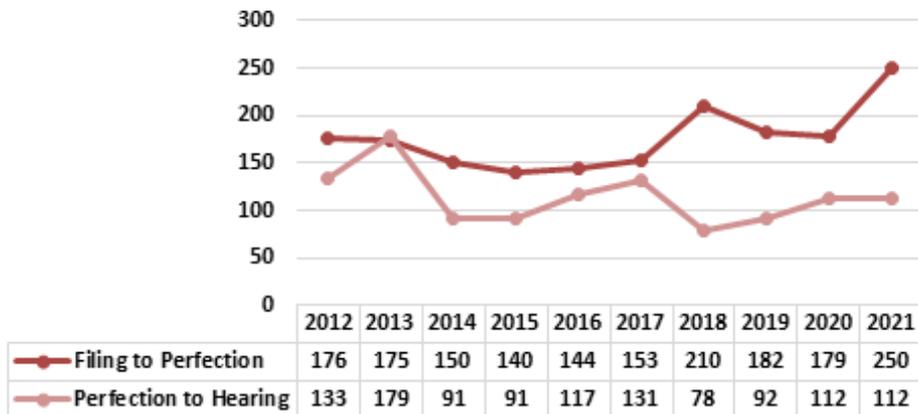
The four charts below represent two timeframes showing the mean amount of time for an appeal to progress through the Court from start to finish. The term "filing to perfection" measures the time in days from the filing of the initiating document to the time an appeal is ready to be scheduled for hearing. 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.

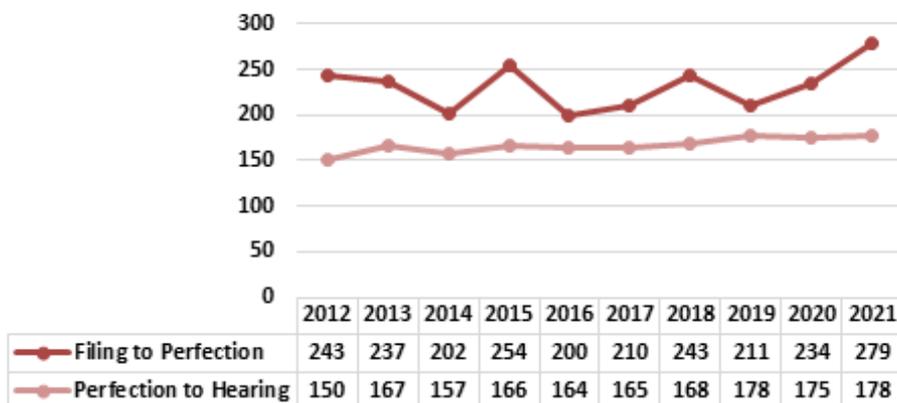
Civil 2012 - 2021



Family 2012 - 2021

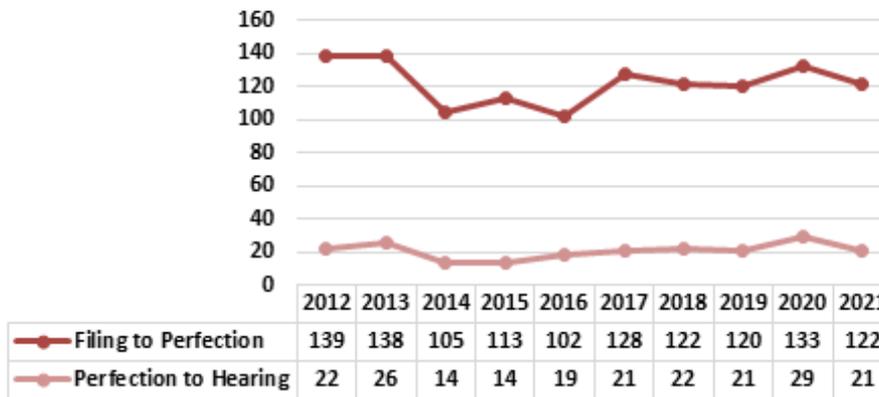


Conviction 2012 - 2021



In 2021, 13% of leave applications from British Columbia to the Supreme Court of Canada were successful (7 of 52 considered).

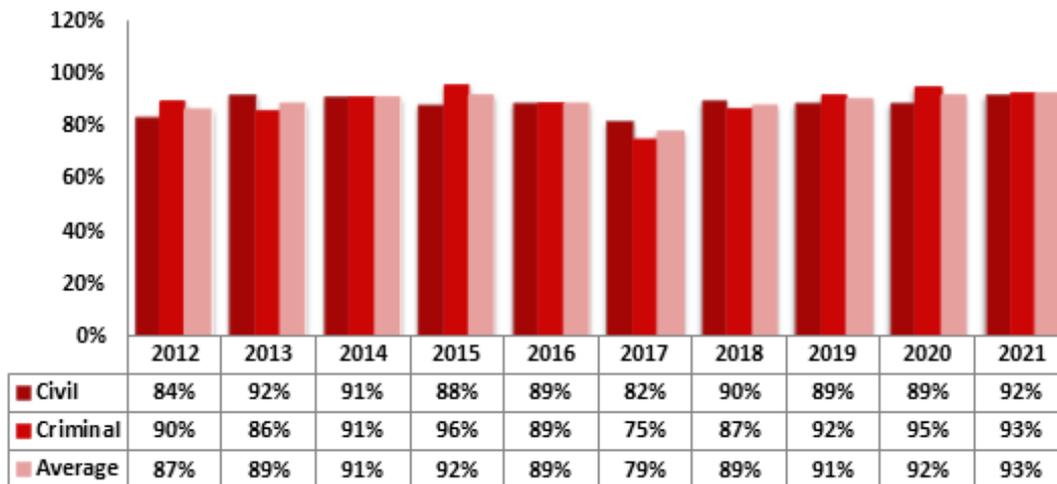
Sentence 2012 - 2021



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 2012 - 2021



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 2021, 13% of leave applications from British Columbia to the Supreme

Court of Canada were successful (7 of 52 considered). Of the 133 appeals heard by the Supreme Court of Canada from British Columbia between 2010 and 2021 (inclusive), 70 were dismissed, and 57 were allowed.

	2011	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020*	2021
B.C. Leave Applications Submitted	66	76	71	76	81	64	76	65	71	77	42	52
Granted	10	11	14	8	9	10	12	9	6	8	4	7
Dismissed	52	60	54	62	71	51	60	55	64	68	37	45
Reserved	0	0	0	0	0	0	0	0	0	0	0	0
Discontinued	1	2	0	0	0	1	2	1	0	0	0	0
Extension of time - dismissed	2	2	2	2	1	1	1	0	1	0	1	0
Quashed	1	0	0	0	0	0	0	0	0	0	0	0
Remanded	0	1	1	4	0	1	1	0	0	0	1	0
Percentage from B.C.	14%	14%	13%	14%	16%	13%	13%	13%	15%	14%	9%	12%
B.C. Appeals Heard	13	13	14	12	8	10	17	12	8	8	6	12
Allowed	7	4	6	5	6	3	9	4	2	2	1	2
Dismissed	6	9	8	7	2	7	8	5	1	1	4	6
Reserved	0	0	0	0	0	0	0	0	0	0	0	4
Percentage from B.C.	20%	19%	18%	16%	10%	16%	27%	18%	12%	12%	16%	21%

*As of February 7, 2022

ELECTRONIC FILING

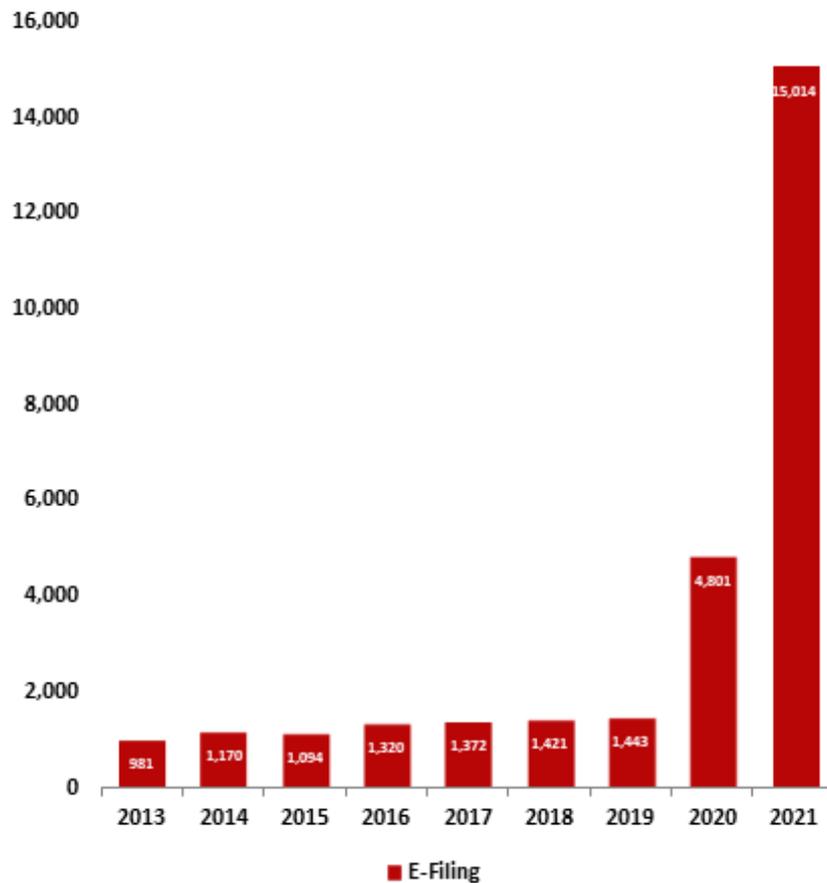
WebCATS, the web-based Court of Appeal tracking system, is the Court's electronic case management system. WebCATS has been available to the public through Court Services Online (CSO) since 2005, allowing the public to search civil and criminal indices for free and to view individual files for a nominal 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 significant increase in the number of e-Filed documents again in 2021, rising by more than 300% from 2020 and over a ten-fold increase since 2019.

...there has been a significant increase in the number of e-Filed documents again in 2021, rising by more than 300% from 2020 and over a ten-fold increase since 2019.

In 2021, there were 14,610 civil e-Filings and 404 criminal e-Filings for a total of 15,014. The most commonly e-Filed documents were affidavits with 1,051 filings, followed by Notices of Appearance with 954 filings, and Notices of Appeal with 524 filings. Thirty-three (33) 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 - 2021





COMMITTEE REPORTS

PLANNING, PRIORITIES, AND ACCESS TO JUSTICE COMMITTEE

MEMBERS

The Honourable Chief Justice Bauman (Chair)
The Honourable Madam Justice Bennett
The Honourable Mr. Justice Harris
The Honourable Madam Justice Fenlon
The Honourable Madam Justice DeWitt-Van Oosten
The Honourable Mr. Justice Marchand
Timothy Outerbridge, Registrar
Heidi McBride, Executive Director and Senior Counsel
Sally Rudolf, Legal Counsel
Shirley Smiley, Legal Counsel

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

The following matters were considered in 2021:

ACCESS TO JUSTICE BC & JUSTICE SUMMITS

The Chief Justice reported to the Court in 2021 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.accessjusticebc.ca. In 2019, the Triple Aim was signed and endorsed by over 50 organizations in British Columbia.

In 2021, A2JBC continued the development of its Family Law Justice Strategy, aimed at transforming family law in response to data gathered on Adverse Childhood Experiences. The U.S. published a major study on access to justice barriers. The issues and problems are very similar across jurisdictions. The Chief Justice intends to continue with leadership with this group on the issue.

Now that electronic filing has become a permanent fixture in the Court's operations, the Court will continue to press for the review and replacement of the WebCATS case management system...

The last Justice Summit took place virtually in the Fall of 2020 on the topic of “Diversion and Alternatives to Short Term Incarceration.” There were no Justice Summits in 2021.

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. Now that electronic filing has become a permanent fixture in the Court's operations, the Court will continue to press for 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. Given the Court's digital records will not be held by the Royal British Columbia Museum and instead by the Government Records Service, the Court will oversee the development of a memorandum of understanding between government and both of these institutions.

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 relating to those appeals were continued in 2021.

INDIGENOUS RECONCILIATION

In 2021, the Court completed 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

In May 2021, the Court adopted this Committee's recommendations and parties were directed to use the titles "Mr. Justice," "Madam Justice," or "Justice" as the circumstances require.

equipped with basic knowledge in their interactions with Indigenous staff and members of the public.

PRIVACY IN SEXUAL ABUSE AND SEXUAL ASSAULT CASES

As discussed in previous annual reports, the Court has been examining historical sexual assault judgments and examining privacy impacts. The Court's legal counsel reviewed 157 sexual assault judgments from the 1990s and early 2000s, and identified 30 judgments of concern. Of the 30 judgments, legal counsel recommended 19 judgments receive some form of amendment, primarily initializing complainant names. The amendment process is currently underway.

MANNER OF ADDRESS FOR JUDGES

The Committee examined proposals to dispense with the use of the honorifics "my lord" and "my lady" in Court proceedings. In May 2021, the Court adopted this Committee's recommendations and parties were directed to use the titles "Mr. Justice," "Madam Justice," or "Justice" as the circumstances require. The changes are within [Appearing before the Court \(Civil & Criminal Practice Directive, 18 November 2021\)](#).

PROTOCOL FOR DELAYED RELEASE OF SENSITIVE JUDGMENTS

Occasionally, the Court must release a judgment where there are risks that sensitive or confidential information might be inadvertently disclosed. In 2021, the Court formalized a process that had been used in several cases that will allow a reasons for judgment to be confidentially reviewed by the parties prior to its formal release.

TWITTER ACCOUNT

On June 14, 2021, the Court launched its Twitter account. The Court's official Twitter account is [@BCCourtofAppeal](#), which is used to share information about the Court and its activities with members of the public, the bar, the media, and other organizations. The Court's Social Media Terms of Use may be found [here](#).

LAW COURTS INN SPACE

With the closing of the Law Courts Inn space, the Court has engaged in discussions with the government about the appropriate use of that space. Any decisions in this area will be addressed in future Court announcements and/or annual reports.

The Court is considering options to re-broaden its approach to broadcasting appeals and any decisions or changes in practice in this area will be made in 2022.

PUBLIC ACCESS TO COURT HEARINGS

Throughout the pandemic, the Court provided broadcasts of its Court hearings using the Zoom platform. As the Court was able to allow “in courtroom” hearings or hybrid hearings, the Court has only been broadcasting in so-called “hybrid” hearings, where one or more parties elects to attend by Zoom. The Court is considering options to re-broaden its approach to broadcasting appeals and any decisions or changes in practice in this area will be made in 2022.

SELF-HELP WEBSITE

The Court’s [self-help website](#) is a partnership between the Court of Appeal and the Justice Education Society. In 2021, the self-help website had 8,132 visitors and 39,228 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

In 2020, 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.

In 2021, Access Pro Bono referral counsel received 77 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). 33 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 2021 were:

Alexander Bjornson	Emily Hansen	Jordan Schultz
Amanda James	Emma Irving	Joshua Hutchinson
Amy Mortimore	Erin White	Julia Riddle
Angela Atwood-Brewka	Garry Thomas	Julia Roos
Aubin Calvert	Gordon Behan	Kayla Strong
Ben Ingram	Greg Allen	Laura Miller
Brandon Hastings	Heather Doi	Layne Hellerung
Caitlin Ohama-Darcus	Ian Knapp	Lia Moody
Claire Hunter, Q.C.	Jake Cabbott	Logan Rogers
Cody Reedman	James Parker	Malcolm Funt
David Wortherspoon	Jeff Hernaez	Matthew Nied
David Wu	Jeremy Shragge	Matthew Stainsby
Donald McLeod	Jessica Lithwick	Matthew Sveinson
Emily Clough	Joel Morris	Maria Sokolova

Mark Skorah, Q.C.
Maya Ollek
Morgan Burris
Nicole Gilewicz

Peter Mennie
Riley Mennie
Roy Millen
Stacey Waterman

Stephanie Hamilton
Susan Humphrey
Tom Posyniak
Trevor Bant

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:

barb findlay, Q.C.
The Honourable Edward Chiasson, Q.C.
Vincent Critchley
The Honourable Thomas Cromwell, Q.C.
Tim Delaney
John Dives, Q.C.
Patrick Foy, Q.C.
The Honourable Nicole Garson, Q.C.
Andrew Gay, Q.C.
Randy Kaardal, Q.C.
Richard Lindsay, Q.C.

The Honourable Kenneth Mackenzie,
Q.C.
Richard Margetts, Q.C.
Joe McArthur
Jacqueline McQueen, Q.C.
The Honourable Kathryn Neilson, Q.C.
The Honourable Robert Sewell, Q.C.
William Storey
The Honourable Kenneth Smith, Q.C.
Martin Taylor, Q.C.

Finally, the Court would like to thank the members of the legal community who provided training sessions to counsel on the conduct of an appeal, particularly Claire Hunter, Q.C., Kim Hawkins, and Andrea Bryson. Other presenters in 2021 included: Registrar Outerbridge, Madam Justice Mary Newbury, and Madam Justice Lauri Ann Fenlon.

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

MEMBERS

The Honourable Chief Justice Bauman

The Honourable Mr. Justice Goepel (Chair)

The Honourable Mr. Justice Groberman

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

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 2021:

CIVIL APPEAL ACT AND RULE REFORM PROJECT

As reported last year, 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. In 2021, the [new Court of Appeal Act](#) was tabled in the legislature and passed third reading on March 17, 2021. The *Act* will be brought into force when the new *Rules* are complete, which should be some time in 2022.

CRIMINAL ADVISORY COMMITTEE

A virtual meeting was held in November of 2021 with representatives of the criminal bar to discuss improvements to criminal practice and procedure.

The following topics were discussed:

- criminal case management and, specifically, the need to improve the efficiency of appearances from both provincial and federal institutions and to regularize some of the Court’s instructions that govern

Optional e-Filing was introduced in the Spring of 2021 and it was agreed that the bar required more time prior to the implementation of mandatory e-Filing...

applications for the appointment of counsel by the Court under s. 684 of the *Criminal Code*;

- the introduction of mandatory e-Filing in criminal appeals for counsel. Optional e-Filing was introduced in the Spring of 2021 and it was agreed that the bar required more time prior to the implementation of mandatory e-Filing; and,
- the group continued its discussion around issues related to appeal bail and the appellant's attendance at court when judgment is reserved. The Court received a report from the subcommittee struck to examine these issues a year prior. The Committee agreed that allowing flexibility to the surrender conditions in bail documents was important and accordingly, allowing surrender of an appellant on the date fixed for pronouncement of a judgment or within 24/48/72 hours of a reserve judgment should be considered.

NOTICES AND PRACTICE DIRECTIVES ISSUED OR UPDATED

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

There is a separate [table of concordance](#) for COVID-19 Notices which details the history of Notices and announcements issued since March 2020 as the Court modified its operations in response to the COVID-19 pandemic.

Three notices have developed into the central guiding documents for modified court operations in 2021:

Notice Regarding Modified Court of Appeal Procedures and Access to Court Proceedings during the COVID-19 Pandemic

First issued on June 30, 2021. Last updated on February 9, 2022.

This Notice contains information about:

- Mode of hearing for appeals, chambers proceedings, and Registrar's hearings (which will take place in courtroom unless individual parties request, or elect, to appear remotely using the [Request to Appear Remotely](#) form).
- Access to hearings in courtrooms and where at least one party is appearing by Zoom (hybrid appeals).
- Guidelines for self-represented litigants.

Notice to the Public Regarding Appearing by Video

First issued on June 30, 2021. Last updated on February 9, 2022.

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 Modified Filing Directions in Civil and Criminal Appeals

First issued on July 7, 2020, when the Court formalized many modified filing requirements including the requirement that counsel in civil appeals e-File. Last updated December 16, 2021 with changed requirements for condensed books, time to file paper copies of appeal records, factums, and statements after e-Filing, permitted filing methods, and revised explanations about page numbering electronically filed documents.

TECHNOLOGY COMMITTEE

MEMBERS

The Honourable Chief Justice Bauman (*ex officio*)
The Honourable Mr. Justice Groberman
The Honourable Madam Justice Bennett (Chair)
The Honourable Mr. Justice Hunter
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

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 2021:

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 and 2020, 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, 33 appeals were filed using this method, which is hoped will decrease date entry errors and rejections.

In 2021, the Court Services Branch began to look at the Appearance form and the possibility that it could easily be pre-filled using the same process. Once the Court's new civil rules and forms are launched in 2022, the Court Services Branch will accelerate the use of "smart" forms, expanding their use beyond the two forms described above.

ACCESS TO ELECTRONIC DOCUMENTS IN YUKON

In 2021, this Committee reported on its examination of 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. In 2021, the Registrars of both courts concluded a project to support the integration of British Columbia's case management system into Yukon's. Cases will now be accurately tracked and electronic document shared between both courts.

In 2021, electronic filing was introduced as an option in criminal appeals.

ONLINE BOOKING OF APPEALS

While COVID-19 interrupted the Court's plan to launch the online booking of appeal hearings in March 2020, the service was launched in April 2021. Parties may now book civil and criminal appeals online, so long as those appeals are set for a day or less of hearing time. After its introduction in April 2021, 78 hearings were booked using this service (55 civil, 23 criminal).

ADOPTION OF E-FILING AND VIRTUAL APPEARANCES

As reported in 2020, the COVID-19 pandemic has accelerated the Court's acceptance of electronic filings and the use of videoconferencing. In 2020, the Court began to require lawyers in civil appeals to file materials electronically and allowed optional electronic filing for anyone else. In 2021, electronic filing was introduced as an option in criminal appeals.

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. While 2020 was a year where the Court had to respond rapidly to the COVID-19 pandemic, much of 2021 was spent evaluating the effects of this change and considering what changes should be kept and what should be discarded. With this goal in mind, the Registrar conducted detailed surveys that examined the impact of the changes on the Court and the public.

These surveys revealed a generally high level of satisfaction with the Court's response to the pandemic and a desire to preserve the gains made in offering both electronic filing and virtual appeals. As the COVID-19 caseload began to drop in the mid-point of 2021, the Court continued to offer counsel the ability to appear by Zoom and largely maintained the requirement for counsel to e-File. As COVID-19 cases began to climb toward the end of 2021, the Court reinstated mandatory virtual appearances.

In 2021, the Court continued to examine 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. This included ongoing discussions with the Court Services Branch and the Government Records Service concerning how both physical and electronic records will be stored.

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. However, in 2021, the government completed a project to install public WiFi in all Court of Appeal courtrooms. In particular, this will allow counsel and parties to have efficient access to their electronic documents.

In 2021, there were several major releases and discrete enhancements made to WebCATS by the information technology team, many in response to the COVID-19 pandemic.

COURTS TECHNOLOGY BOARD

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 five times in 2021—in February, May, July, September, and November—to discuss 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 various virtual hearing and document management solutions in response to COVID-19, such as the development of virtual recorders and virtual bail proceedings focused on the trial Courts;
- Various upgrades to court and courtroom infrastructure, including network cabling, WiFi, screens, televisions and other systems to support virtual hearings; and,
- Online booking and scheduling in both the trial Courts and Court of Appeal.

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 2021, there were several major releases and discrete enhancements made to WebCATS by the information technology team, many in response to the COVID-19 pandemic. The following enhancements were the most significant:

- Enhanced the tracking of cases closed under s. 25 of the *Court of Appeal Act*;
- Developed the integration of teleconference fields and Zoom links in WebCATS to support remote hearings;
- Enhanced the accuracy of available chambers dates to be posted on the website;
- Enhanced the search capability in the Court’s counsel/law firm database to minimize data entry by staff;
- A major refresh of the judicial landing page for WebCATS, allowing easier visibility and navigation to review e-filed document and individual cases;
- Enhanced the Registry’s ability to input accurate time estimates for both appeals and chambers matters in the scheduling area of WebCATS;
- Added support for hybrid hearings (when both Zoom and in-person appearances are used simultaneously); and,

- Enhanced WebCATS to allow for the smoother use of Edge, Chrome, and Firefox web browsers.

EDUCATION COMMITTEE

MEMBERS

The Honourable Madam Justice Stromberg-Stein

The Honourable Mr. Justice Willcock (Chair – December 2021)

The Honourable Madam Justice Fenlon

The Honourable Madam Justice DeWitt-Van Oosten

The Honourable Mr. Justice Abrioux (Chair – January 2022)

Shirley Smiley, Legal Counsel

Sally Rudolf, Legal Counsel

The Education Committee is responsible for presenting education programs for the judges of the court in furtherance of the objectives identified in the Canadian Judicial Council Professional Development Policies and Guidelines. The Judicial Council has recognized that judicial education demands a three-dimensional approach encompassing: (a) substantive content; (b) skills development; and (c) social context awareness. The policy recognizes that individual judges are accountable for their own ongoing professional development. Members of the Court have attended a wide range of educational programs offered by the National Judicial Institute, the Canadian Institute for the Administration of Justice, the Federation of Law Societies, the Continuing Legal Education Society of British Columbia, the Canadian Bar Association, and university law faculties.

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 programs 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 off the Court have participated but an outline of the Committee's work. It organized the following educational programs in 2021:

January 27, 2021: **COVID-19 and State Security**

Professor Fionnula Ni Aolain, UN Special Rapporteur for Human Rights

March 11, 2021: **Management of Electronic Documents**

Registrar Outerbridge

April 14, 2021: **The Science of Resilience: Stress and Brain Function**
Dr. Marke Fenske, Cognitive-neuroscientist, University of Guelph

May 12, 2021: **Lessons from Barton and the Murdered and Missing Indigenous Women and Girls Inquiry**
Provincial Court Judge Alex Wolf

9 June 2021: **The Work of the International Criminal Court (ICC)**
Justice Kimberly Prost

20 October, 2021: **The Past and Future of COVID-19**
Dr. Caroline Colijn, mathematician and epidemiologist of the BC COVID-19 modelling group

December 4, 2021: **An Update on Wrongful Convictions in Canada**
Professor Stephen Bindman, University of Ottawa

Areas such as increasing the scope of e-Filing, online booking of hearings, electronic evidence presentment, and digital court forms continue to be under review and consideration.

JOINT COURTS TECHNOLOGY COMMITTEE

MEMBERS

The Honourable Mr. Justice Willcock
The Honourable Mr. Justice Masuhara (Chair)
The Honourable Mr. Justice Myers
The Honourable Madam Justice Adair
The Honourable Mr. Justice Branch
The Honourable Madam Justice Fitzpatrick
The Honourable Mr. Justice Myers
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

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

WORK OF THE COMMITTEE

In 2021, the Committee's main focus was the testing, selection, purchase, and deployment of new laptops and associated hardware and software to the judiciary.

The Committee also undertook a review and renewal of the contract for IT services to the judiciary, and continued to review various technologies for hearings and court documents for use in proceedings. Areas such as increasing the scope of e-Filing, online booking of hearings, electronic evidence presentment, and digital court forms continue to be under review and consideration.

Committee members have continued in representing the two courts on the Courts Technology Board.

JUDICIAL ACCESS POLICY WORKING COMMITTEE

MEMBERS

Karen Leung, Legal Officer, Provincial Court (Chair)

Caroline Berkey, Legal Officer, Provincial Court

Shirley Smiley, Legal Counsel, Court of Appeal

Leah Pence, Legal Counsel, Supreme Court

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

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 Judicial Access Policy Working Committee (APWC) 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 reviews access applications for those seeking bulk access to court record information.

In 2021, the work of the Committee included the following:

ACCESS APPLICATIONS

In 2021, 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, public, non-profit, and private agencies and departments in order to fulfill their statutory mandates, improve the efficiency of their operations, or to support the 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.

In September 2021, the Three Courts Policy on Bulk and Electronic Access to Court Records was approved by the Chiefs Justice or Chief Judge for all levels of Court.

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 September 2021, the Three Courts Policy on Bulk and Electronic Access to Court Records was approved by the Chiefs Justice or Chief Judge for all levels of Court. This policy better reflects current protocols for administering bulk access to court records and electronic information that is not available at the registry counter. In developing this policy, the Courts considered guidance from the Canadian Judicial Council on [Management of Requests for Bulk Access to Court Information by Commercial Entities](#), published in April 2021. It is anticipated that the policy will be revisited and will continue to evolve as practices related to bulk access to court information continue to develop in courts across Canada.

In January 2021, the judicial law clerk program received 169 applications for 33 law clerk positions at the two courts for the 2022–2023 term (12 at the Court of Appeal and 21 at the Supreme Court).

LAW CLERK COMMITTEE

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

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 2021, the judicial law clerk program received 169 applications for 33 law clerk positions at the two courts for the 2022–2023 term (12 at the Court of Appeal and 21 at the Supreme Court). Students from the University of British Columbia made up the largest group of applicants, followed by the University of Victoria and Thompson Rivers University. In February 2021, legal counsel for the Court of Appeal interviewed 38 applicants. In early March, the justices of the Court of Appeal Law Clerk Committee interviewed 24 of these applicants, selecting 12 successful candidates. The Committee conducted all interviews by video conference, regardless of place of residence, which ensured that all candidates had a similar interview experience.

Law clerks in the Court of Appeal commence their terms in the first week of September each year and finish variously after ten, 11, or 12 months. Out of the 12 clerks selected in 2021, there are four from the University of British Columbia, four from the University of Toronto, three from the University of Victoria, and one from Queens.

Beginning in November 2021, judicial law clerk program applicants could view up-to-date recruitment information online including an informational video prepared jointly with the Supreme Court. Also, in November, the Court facilitated an online information session for Indigenous law students and took part in the National Black Law Students Association clerkship information session.

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

MEMBERS

The Honourable Madam Justice Bennett

The Honourable Madam Justice Ker (Chair – November 2021)

The Honourable Mr. Justice Skolrood (Chair – January to November 2021)

The Honourable Mr. Justice Edelman

Heidi McBride, Executive Director and Senior Counsel

Diane Lemieux, Librarian

In another very challenging year in which many other libraries closed, the library staff, led by head librarian Diane Lemieux, continued to provide excellent support to judges, law clerks and Court staff, many 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 which are otherwise available online.

This will require judges 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)
- February 1, 2021 (Supernumerary)

Madam Justice Elizabeth A. Bennett

- August 27, 1997 (Supreme Court)
- May 14, 2009 (Court of Appeal)
- February 1, 2017 (Supernumerary)

Madam Justice Anne W. MacKenzie

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

Mr. Justice David C. Harris

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

Madam Justice Sunni Stromberg-Stein

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

Mr. Justice Peter M. Willcock

- June 19, 2009 (Supreme Court)
- June 6, 2013 (Court of Appeal)

Mr. Justice Richard B.T. Goepel

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

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)

Mr. Justice Leonard Marchand

- September 3, 2013 (Provincial Court)
- June 21, 2017 (Supreme Court)
- March 24, 2021 (Court of Appeal)

CHANGES TO THE COURT'S COMPLEMENT

The Court began 2021 with a full complement of justices. One additional vacancy was created in 2021 with the election to supernumerary status of Mr. Justice Groberman. The vacancy was filled during the year by Mr. Justice Marchand.

APPOINTMENTS

The Honourable Mr. Justice Leonard Marchand

The Honourable Justice Leonard Marchand was appointed a justice of the Court of Appeal for British Columbia and the Court of Appeal for Yukon on March 24, 2021. He was previously appointed to the Supreme Court of British Columbia on National Indigenous Peoples Day, June 21, 2017. Justice Marchand served as a Judge of the Provincial Court of British Columbia beginning September 5, 2013. As a Provincial Court Judge, he presided in the Cknúcwentn First Nations Court in Kamloops, a criminal sentencing court that takes a restorative justice approach to sentencing and develops healing plans for Indigenous offenders.

Justice Marchand grew up in Kamloops, British Columbia. He is Syilx and a member of the Okanagan Indian Band. After obtaining a Bachelor of Science in chemical engineering at the University of British Columbia in 1986, he worked in the oil industry for five years. He graduated from law school at the University of Victoria in 1994 and was called to the bar in 1995. Justice Marchand articulated and practised law at Fulton & Company LLP in Kamloops from 1994 to 2013, appearing before all levels of court and many administrative tribunals. His practice focused on the liability of public authorities.

Justice Marchand has dedicated a substantial portion of his legal career to achieving reconciliation for many Indigenous people. Among other things, he has advanced civil claims for abuses suffered at residential schools on behalf of a large number of residential school survivors. In 2005, he helped negotiate and was a signatory to the Indian Residential Schools Settlement Agreement, the largest class-action settlement in Canadian history. He was instrumental in establishing the Independent Assessment Process, which helped victims of residential school abuse pursue remedies through a more sensitive process than traditional courts. He then served on the Oversight Committee for the Independent Assessment Process and on the Selection Committee for the Truth and Reconciliation Commission. The Court welcomes his appointment and his ongoing commitment to reconciliation.

RETIREMENTS

The Honourable Mr. Justice David Tysoe

The Honourable Mr. Justice David Franklin Tysoe retires from the Court of Appeal for British Columbia and the Court of Appeal of Yukon on January 1, 2022. He served as a justice of the Court of Appeal for 14 years, having been appointed in 2007 after serving 15 years on the Supreme Court of British Columbia.

Justice Tysoe was born in Victoria, where he also obtained his undergraduate degree before completing his law degree in Vancouver at the University of British Columbia in 1975. He articulated with Farris Vaughan Wills & Murphy LLP and stayed with the firm upon his call to the bar in 1976, developing an expertise in insolvency, banking, and real estate law. In 1992, he was appointed to the Supreme Court of British Columbia.

Outside of the law, Justice Tysoe spends much of his spare time golfing, often with his son Brent. He has a knack for picking “against the spread” in football, having been a member of the same football pool for over 40 years (and having collected more than his fair share of winnings over the years).

Justice Tysoe is highly regarded for his tireless work ethic and concise, well-written judgments. He is also a cherished mentor to other judges and countless law clerks, many of whom benefitted from advice shared over an introductory lunch or afternoon walk.

Justice Tysoe made a practice of exercising kindness and patience in every interaction and earned a reputation among members of the Court and courthouse staff alike as unfailingly patient, flexible, and hardworking. The Court wishes him many years of happy, restful retirement with his wife Louise and their children, Avril, Claire, and Brent.

STAFF OF THE COURT OF APPEAL

CHANGES TO STAFFING COMPLEMENT

The Court of Appeal Registry welcomed a new manager, Matthew Soo. Mr. Soo joined the Court Services Branch in 2010 as a criminal registry clerk and later moved to Robson Square as a court clerk. In 2015, he became a Deputy District Registrar at the Vancouver Law Courts and obtained his commission as a Justice of the Peace in 2016. In 2018, he became the supervisor of the Criminal Registry at the Vancouver Provincial Court and was subsequently appointed as a Deputy Registrar of the Court of Appeal in February of 2021.

STAFF & POSITIONS

Timothy Outerbridge	Registrar
Sally Rudolf	Legal Counsel
Shirley Smiley	Legal Counsel
Linda Rainaldi	Legal Counsel
Maria Littlejohn	Associate Registrar
Matthew Soo	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

Cindy Chen	Katelyn Johnstone	Emma Moore
Crystal Choi	Romi Laskin	Jean Murray
Michelle de Haas	Ryan Markesic	Felicity Radan
Isaac Gazendam	Sancho McCann	Jennifer Rogers

Judicial Staff

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

Registry Staff

Rebecca Chappell	Taira Johnson	Merrill Sandell
Michael Chu	Sue Lang	Moira Syring
Jason Conybeer	Shelly Lin	Jocelyn Ward
Beryl Eli	Robert Loy	Jacqueline Windsor
Steve Evans	Jodi Maycock	
Jeenat Gill	Teresa Pol	
Rachelle Guzman	Jennifer Rahiman	

Superior Courts Document Management Clerks

Elle Coleman	Charles Manuel
Lan La	Darren Scherck
Daniel Kuster	Aaron Wong

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	Office Manager
Charles Manuel	Office 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

Jenny Fountain	Service Delivery Manager
David Chow	Infrastructure Project Analyst
Billy Huang	Infrastructure Project Analyst
William Huang	Helpdesk Operations Analyst
Don Sudom	IT Consultant
Alex Rodas	Helpdesk Technician
Wayland Szeto	Helpdesk Technician
Leo Brito	Helpdesk Technician
Karl Innes	Helpdesk Technician
Mike Larm	Helpdesk Technician
Lorne Lovett	Senior Business Analyst/Project Manager
Joanne Chong	Business Analyst
Jojo Ho	Software Developer

APPENDIX 1 - CIVIL STATISTICS

2009 - 2021

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
APPEALS FILED:													
Notice of Appeal	538	519	480	497	587	607	522	514	484	513	515	400	580
Leave to Appeal	175	131	114	122	100	88	96	84	149	86	115	79	97
Notice of Appeal & Leave	65	55	55	44	28	25	26	25	9	6	3	5	1
TOTAL FILED	778	705	649	663	715	720	644	623	642	605	633	484	678
COURT DISPOSITIONS:													
Appeals Allowed	135	130	116	119	101	101	130	117	112	104	97	87	114
Appeals Allowed %	43%	45%	42%	49%	37%	40%	50%	41%	40%	40%	42%	46%	44%
Appeals Dismissed	180	159	159	125	169	149	131	169	168	155	134	102	147
Appeals Dismissed %	57%	55%	58%	51%	63%	60%	50%	59%	60%	60%	58%	54%	56%
TOTAL COURT DISPOSITIONS	315	289	275	244	270	250	261	286	280	259	231	189	261
Appeals Concluded in Chambers or Abandoned	441	419	436	414	379	420	359	371	348	346	318	208	379
TOTAL DISPOSITIONS	756	708	711	658	649	670	620	657	628	605	549	397	640
Dispositions as % of Filings	97%	100%	110%	100%	91%	93%	96%	106%	98%	100%	87%	82%	94%
Judgments Reserved (Court)	245	233	241	176	201	199	209	226	169	186	171	145	200
Judgments Reserved (Chambers)	63	62	83	80	70	52	70	104	37	32	61	51	65
Appeals with 5 Justices	7	1	3	2	2	3	3	4	4	1	1	1	1
Court Motions: Reviews	20	25	28	19	18	16	26	17	19	22	12	13	19
Granted	4	3	8	3	1	2	1	1	2	2	2	3	0
Refused	16	22	20	16	17	14	25	16	17	20	10	10	19
Chambers Motions	539	503	537	533	536	788	639	719	597	676	846	517	697
LEAVE TO APPEAL:													
Granted	65	47	51	37	37	36	50	36	50	43	35	23	18
Refused	51	30	55	34	24	19	23	26	27	25	30	16	24
Total	116	77	106	71	61	55	73	62	77	68	65	39	42

APPENDIX 2 - CRIMINAL STATISTICS

2009 - 2021

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
APPEALS FILED:													
Sentence	140	114	109	119	108	174	152	85	97	107	90	49	69
Conviction	115	99	112	116	117	87	93	82	95	118	92	56	71
Summary Conviction	12	16	24	14	9	18	10	11	11	10	11	12	7
Acquittal & Other	44	28	39	40	46	30	41	31	43	23	26	12	24
TOTAL FILED	311	257	284	289	280	309	296	209	246	258	219	129	171
COURT DISPOSITIONS:													
Appeals Allowed	69	52	41	35	62	101	44	32	42	30	50	49	38
Appeals Allowed %	41%	28%	31%	21%	34%	49%	44%	22%	34%	26%	32%	45%	35%
Appeals Dismissed	100	137	91	129	121	102	101	114	82	83	104	61	70
Appeals Dismissed %	59%	72%	69%	79%	66%	51%	56%	78%	66%	74%	68%	55%	65%
TOTAL	169	189	132	164	183	203	145	146	124	113	154	110	108
Summary Dismissals Abandonments in Court/Chambers	149	121	99	123	129	76	85	97	111	78	64	55	68
TOTAL DISPOSITIONS	318	310	231	287	312	279	230	243	235	191	218	165	176
Dispositions as % of Filings	102%	121%	82%	99%	111%	90%	78%	116%	96%	74%	100%	128%	103%
Judgments Reserved (Court)	88	88	82	102	97	84	106	78	53	76	87	58	75
Judgments Reserved (Chambers)	11	13	22	28	25	4	8	8	4	7	13	7	7
Appeals with 5 Justices	0	1	1	2	0	0	0	0	2	1	0	1	0
Chambers Motions	265	272	210	295	430	438	484	514	583	655	580	466	435

APPENDIX 3 - COMBINED STATISTICS

2009 - 2021

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
APPEALS FILED:	1089	962	933	952	995	1029	940	832	888	863	852	613	849
COURT DISPOSITIONS:	484	478	407	408	453	453	406	432	404	372	385	299	369
Appeals Allowed	204	182	157	154	163	202	174	149	154	134	147	136	152
Appeals Allowed %	42%	38%	39%	38%	36%	45%	43%	35%	38%	36%	38%	45%	41%
Appeals Dismissed	280	296	250	254	290	251	232	283	250	238	238	163	217
Appeals Dismissed %	58%	62%	61%	62%	64%	55%	57%	65%	62%	64%	62%	55%	59%
TOTAL	484	478	407	408	453	453	406	432	404	372	385	299	369
Appeals Concluded in Chambers or Abandoned	590	540	535	537	508	496	444	468	459	424	382	263	447
TOTAL DISPOSITIONS	1074	1018	942	945	961	949	850	900	863	796	767	562	816
Dispositions as % of Filings	99%	106%	101%	99%	97%	92%	90%	108%	97%	92%	90%	92%	96%
Judgments Reserved	407	396	426	386	393	339	393*	416*	263*	301*	332	261	275
Appeals with 5 Justices	7	2	4	4	2	3	3	4	6	2	1	2	0
Chambers Motions	804	775	747	828	966	1226	1123	1233	1180	1331	1426	983	1132

Data corrected to include Judgments Reserved (Chambers)

Court of Appeal for British Columbia

800 Smithe Street

Vancouver, B.C.

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