

Pick up the Pace? What Judges Do In a Day
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The Honourable Robert J. Bauman, Chief Justice of British Columbia

I read with interest Daphne Bramham’s recent column, “Canadian courts need to pick up the pace of justice” (*Vancouver Sun*, 12 December 2016).

It was a thoughtful article and it correctly underlines the Supreme Court of Canada’s admonition to all of us in the justice system to address “complacency towards delay”.

Ms. Bramham suggests that Canadian courts still work so-called “bankers’ hours”. We all know that in this super-competitive world, bankers no longer work “bankers’ hours”. But, as Ms. Bramham acknowledges later in her article, neither do judges and, in particular, trial judges.

I thought it timely to add a little more detail on what the typical day of a judge includes.

The court sitting day may seem short to many but I would stress that the taking of evidence in a formal court setting, where the stakes to the parties and to society as a whole can be very high, is an intense experience. The concentration required is often exhausting — just ask any of your friends who have served on a civil or criminal jury in our province.

Sitting in court is only part of the job description; in the mornings before court at 10 a.m., many trial and appellate judges have case management duties which start at 9 a.m. and at times extend after court hours in the afternoon. Most of us arrive at the courthouse well before 9 a.m. to read documents, arguments and case law and get ready for the day. Most mornings my law clerk and I are at our desks or discussing issues at 7 a.m. Many of us regularly work evenings and part of the weekend. In the Court of Appeal, where I preside, judges are working an average of 60 hours per week.

For every hour spent in court, a judge spends at least one hour reading the relevant case materials, analyzing the legal issues and writing judgments. In the Court of Appeal the ratio of reading and writing time to court sitting time is often a great deal higher (although total sitting time is lower).

There is a further complicating factor for trial judges: the popularity of the “summary trial”. The summary trial is a trial conducted in a courtroom on the basis of affidavits, transcripts of pre-trial proceedings and written legal arguments. It is a proceeding that bypasses the formal trial process where witnesses give their evidence orally. It substantially reduces the actual time in court for the litigants. It has become an indispensable procedure that addresses the cost of—and actual access to—justice for hundreds of litigants in our province every year. But it comes at a cost to the judges hearing what we call “binder litigation” (the often hundreds of pages of materials are bound in three-ring binders for the judges’ late night reading). Essentially, the summary trial reduces the evidence and argument of a typical multi-day trial into an intense half-to full-day summary proceeding. The work for the trial judge, however, remains the same. Meanwhile, the possibility of many additional trials before that judge in any one week rises significantly.

The men and women who sit as judges in the Superior and Provincial courts in our province work long hours and do work that exacts an emotional and physical toll. The public of our province deserves no less. While we can always improve our system and we must always remember that the convenience of the public whom we serve is paramount, it needs to be remembered that only a portion of a judge’s day-to-day duties takes place inside the courtroom.