

B.C. COURT OF APPEAL
2007
ANNUAL REPORT

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MEMBERS OF THE B.C. COURT OF APPEAL

Chief Justice

The Honourable Chief Justice Finch

May 5, 1983 (Supreme Court)
May 28, 1993 (Court of Appeal)
June 6, 2001 (Chief Justice of British Columbia)

Justices of the Court of Appeal

The Honourable Madam Justice Rowles

March 31, 1983 (County Court)
January 1, 1987 (Supreme Court)
October 11, 1991 (Court of Appeal)

The Honourable Madam Justice Prowse

January 1, 1987 (County Court)
September 8, 1988 (Supreme Court)
June 24, 1992 (Court of Appeal)

The Honourable Madam Justice Ryan

May 26, 1987 (County Court)
July 1, 1990 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Mr. Justice Donald

June 30, 1989 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Madam Justice Newbury

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

The Honourable Madam Justice Huddart

September 4, 1981 (County Court)
May 26, 1987 (Supreme Court)
March 19, 1996 (Court of Appeal)
June 30, 2003 (Supernumerary)

The Honourable Mr. Justice Hall

July 11, 1991 (Supreme Court)
December 19, 1996 (Court of Appeal)
August 1, 2006 (Supernumerary)

The Honourable Mr. Justice Mackenzie

May 5, 1992 (Supreme Court)
June 23, 1998 (Court of Appeal)
May 6, 2007 (Supernumerary)

The Honourable Madam Justice Saunders

December 23, 1991 (Supreme Court)
July 2, 1999 (Court of Appeal)

The Honourable Mr. Justice Low

March 31, 1977 (County Court)
July 1, 1990 (Supreme Court)
July 28, 2000 (Court of Appeal)

The Honourable Madam Justice Levine

September 26, 1995 (Supreme Court)
February 6, 2001 (Court of Appeal)

The Honourable Mr. Justice Smith

May 31, 1993 (Supreme Court)
October 1, 2001 (Court of Appeal)

The Honourable Mr. Justice Thackray

February 16, 1990 (Supreme Court)
December 19, 2001 (Court of Appeal)
October 28, 2002 (Supernumerary)
October 28, 2007 (Retired)

The Honourable Mr. Justice Lowry

October 11, 1991 (Supreme Court)

June 30, 2003 (Court of Appeal)

The Honourable Madam Justice Kirkpatrick

November 20, 1989 (Supreme Court Master)

November 27, 1992 (Supreme Court)

June 2, 2005 (Court of Appeal)

The Honourable Mr. Justice Chiasson

September 14, 2006 (Court of Appeal)

The Honourable Mr. Justice Frankel

March 2, 2007 (Supreme Court)

May 10, 2007 (Court of Appeal)

The Honourable Mr. Justice Tysoe

June 24, 1992 (Supreme Court)

June 22, 2007 (Court of Appeal)

STAFF OF THE B.C. COURT OF APPEAL

Jennifer Jordan	Registrar
Meg Gaily	Law Officer
Maria Littlejohn	Associate/Deputy Registrar
Patrick Boyer	Manager/Deputy Registrar
Alix Going	Executive Assistant to Chief Justice Finch

Law Clerks 2007–2008

Greg Allen
Deborah Brouwer
Stephanie Case
Michael Hall
Sarah Hudson
Christine Joseph
Meagan Lang
Rebecca Levi
Michelle Maniago
Graham Reynolds
Claire Wilson

Judicial Staff

Diane Berry
Susan Devenish
Elise Du Mont
Cherry Luscombe*
Jackie Mangan
Susan McEvoy
Brenda McPhee
Cherry Mills
Victoria Osborne-Hughes*
Sandra Smith*

* **Victoria**
** **Kamloops**
*** **Kelowna**

Registry Staff

Kathy Amantea**
Shelly Ducharme**
Matt Dykeman
Torri Enderton
Debbie Hale***
Shayna Irvine
Linda Kieran*
Jennifer Rahiman
Diane Schwab
Moira Syring*

Ushers

Bill Deans
David O'Brien

Webmasters

Fairfax Culpepper
Susan Devenish

SUPERIOR COURTS JUDICIARY STAFF

Judicial Administration

Frank Kraemer Q.C.	Executive Director & Senior Counsel, Judicial Administration
Alix Campbell	Director, Judicial Administration
Margaret Neuhaus/ Rani Amott	Manager, Support Services
Colin Sharwood/ Kevin Arens	Manager, Information Technology and Finance
Tammy McCullough	Secretary to Executive Director & Senior Counsel
Yvonne Samek	Finance and Administration Clerk
Michelle Sam	Judicial Administration Clerk

Judges' Library

Diane Lemieux
Fairfax Culpepper
Myrna Hawes*

Judgment Clerk

Heidi Hoefner

***Victoria**

*Manager,
Project Management Office* Bob Braganza

IT Services Mark Hujanen, Service Delivery Manager

REPORT OF THE HONOURABLE CHIEF JUSTICE FINCH

The Court's Complement

There were four changes to the Court's complement in 2007.

On 6 May 2007, the Honourable Mr. Justice K. C. Mackenzie elected supernumerary status. Mr. Justice Mackenzie was first appointed to the Supreme Court of British Columbia in May 1992, and then to the B.C. and Yukon Courts of Appeal in June 1998. Before he became a judge, Mr. Justice Mackenzie had distinguished careers as counsel in civil litigation and, for some years, as a legal academic as well. His long and varied experience as both lawyer and judge have made him a most versatile and valuable member of the Court. We are very pleased that the Court will continue to benefit from his wisdom and experience in his new role as a supernumerary judge.

On 28 October 2007, the Honourable Allan D. Thackray reached the mandatory retirement age. Mr. Justice Thackray was called to the Bar in 1959, following his graduation from the Faculty of Law at the University of British Columbia. For many years he practiced with the law firm then known as Harper Grey Easton. Mr. Justice Thackray was appointed to the B.C. Supreme Court in February 1990 and to the B.C. and Yukon Courts of Appeal in December 2001. Although he elected supernumerary status a year later, he remained an extremely active and hardworking member of the Court. In addition to his assigned duties, he regularly volunteered to sit for those judges who for health, family or other

reasons were unable to do so. Mr. Justice Thackray wrote scholarly judgments in all fields of law, and throughout his tenure he remained consistently cheerful and enthusiastic. All members of the Court will miss his collegial spirit, and join in wishing him and his wife Maureen many happy and fulfilling years in the next chapter of their lives.

On 10 May 2007, the Honourable Mr. Justice S. David Frankel was appointed a justice of the B.C. and Yukon Courts of Appeal. This appointment came just two months after his appointment as a justice of the Supreme Court of British Columbia, an unprecedented brevity of tenure in that court. His appointment to the Court of Appeal filled the vacancy created by the retirement of Madam Justice Southin in October 2006.

Before his appointment as a judge, Mr. Justice Frankel practiced law with the Department of Justice as counsel in criminal and constitutional cases. His practice gave him frequent appearances in the Court of Appeal, and in the Supreme Court of Canada. His distinguished work as counsel was well-known to the members of this Court, who were very pleased with the addition of his learning and experience to our complement.

On 22 June 2007, the Honourable Mr. Justice David F. Tysoe was appointed a justice of the B.C. and Yukon Courts of Appeal. His appointment filled the vacancy created by the election to supernumerary status of Mr. Justice Mackenzie in May. Mr. Justice Tysoe was called to the bar in 1976, and had a busy

commercial practice at Farris and Company until his appointment to the Supreme Court of British Columbia in June 1992. In his 15 years as a trial judge, Mr. Justice Tysoe tried cases in all areas of law, and developed a reputation as a courteous and thoughtful, yet decisive, judge. He became knowledgeable in computer technology, and has served on the Technology Committees of both Superior Courts. He was greeted by his new colleagues as a most welcome addition to the Court of Appeal.

At the end of 2007, the Court had a full complement of 15 fulltime judges, and three supernumerary judges. There was no net change in the Court's total complement as compared with 2006, as one supernumerary judge retired, and one fulltime judge elected supernumerary status.

The Work of the Court

In 2007, the Court delivered reserved judgments in 260 appeals and a further 114 reserved judgments on chambers applications. These numbers are comparable with those of recent years, although the number of reserved chambers judgments is an increase.

The research for, and writing of, reserved judgments (along with preparation for upcoming appeals), occupies most of the judges' non-sitting time. The number of reserved judgments on appeals has remained more or less constant, at between 250 and 300 per year, for the last ten years. In addition, the Court pronounced judgment with oral reasons in a further 250 appeals, and in the vast majority of chambers applications.

Although the volume of work has remained constant, during the same time period the number of supernumerary judges has decreased significantly. Responsibility for the writing of reserved judgments is shared among those members of the Court who have heard the appeals. The result has been that each sitting judge has borne a greater share of writing responsibility as the Court's total complement has diminished.

As noted above, there was no net change in the total number of judges during 2007.

There were 1045 filings of new appeals in 2007, down slightly from the 1111 new filings in 2006.

Statistics for criminal and civil case loads for 2007, with comparable numbers from 1996 to the present, are attached as appendices to this report.

Sittings of the Court

In 2007, Division 1 sat for 40 weeks, Division 2 sat for 32 weeks and Division 3 sat for nine weeks. In addition, the Court sat for seven weeks in Victoria and one week in the Yukon. There were no sittings in the Interior due to the lack of demand. The Court sat a total of 89 divisions in 2007. This is three more divisions than in 2006. The Victoria sittings were increased by one week, but the sitting schedule is still reduced over previous years due to fewer appeals in Victoria.

Timeliness of Judgments

The Court continues to work towards full compliance with the guidelines set by the Canadian Judicial Council for pronouncement of reserved judgments within six months from the date of

hearing. Out of the total 82 reserved criminal judgments rendered in 2007, 90% were pronounced within the six months guideline. On the civil side, of the 178 reserved judgments delivered in 2007, 90% were pronounced within the six months guideline. Of all reserved judgments, both civil and criminal, 70% were rendered within three months or less of the hearing date.

Finality

There were 98 applications for leave to appeal from decisions of our Court filed with the Supreme Court of Canada in 2007.

The Supreme Court of Canada considered 105 applications for leave to appeal (some of these were from 2006 filings). Of these applications, 19 were granted, 63 were dismissed and two applications were discontinued. There were 21 leave decisions pending at the end of 2007.

In 2007, the Supreme Court of Canada heard 13 appeals from B.C. cases. Of these, two appeals were allowed, three appeals were dismissed and there were eight reserved judgments pending at the end of 2007. In addition to these decisions, another 12 judgments were rendered in B.C. cases which had been heard in previous years. Of these, five appeals were allowed and seven appeals were dismissed.

In 2007, 16% of the applications for leave to appeal to the Supreme Court of Canada were from B.C. appeals. Of the judgments rendered in 2007, 22% were appeals from B.C.

Self-Represented Litigants

In 2007, out of 698 civil appeals filed, 110 cases (16%) involved a litigant who was not represented by counsel. There were fewer judgments rendered in civil appeals involving self-represented litigants. Of 290 civil cases disposed of in 2007, 35 (12%) involved at least one in-person litigant.

On the criminal side, there were 347 appeals or applications for leave to appeal filed. Of that total, 51 (15%) were appeals or applications by self-represented litigants. Of the 200 criminal appeals heard in 2007, 48 (24%) appeals involved in-person litigants.

The Court again acknowledges the significant contributions of the Bar in providing *pro bono* assistance to litigants unable to afford legal services. The Court is most grateful to all lawyers who have provided free legal advice, counsel, or other assistance to needy litigants in the appeal process.

Registry and Staff

The senior staff positions in the Court of Appeal Registry remained unchanged in 2007. Jennifer Jordan has continued to serve as the Registrar of the Court providing effective leadership, especially in the emerging area of electronic technology. Maria Littlejohn continues as Associate/Deputy Registrar of the Court and Patrick Boyer continues as the Deputy Registrar/Manager for the Court.

The Court's Law Officer, Meg Gaily, retired at the end of 2007 after nine years with the Court. She provided much - appreciated support in a number of areas, assisting with the Court's committee work,

reducing the time judges spend on administrative tasks, and generally helping to make the Court run in a smooth and effective manner.

We are appreciative of the efforts of all members of the staff on behalf of the Court.

In addition to these dedicated public servants, the Court is also served by a body of fine personnel in the Court Registry, in the courtrooms, and by our judicial assistants and law clerks.

To all the persons who contribute to the effective operation of the Court, the judges express their sincere gratitude.

And to all members of the Court, I give my sincere thanks for another year of tireless effort in the cause of justice.

COMMITTEE REPORTS

RULES COMMITTEE

Members:

The Honourable Madam Justice Rowles (Chair)
The Honourable Madam Justice Prowse
The Honourable Madam Justice Newbury
The Honourable Madam Justice Huddart
The Honourable Mr. Justice Low
The Honourable Mr. Justice Smith
The Honourable Mr. Justice Lowry
The Honourable Mr. Justice Frankel
Jennifer Jordan, Registrar
Meg Gaily, Law Officer

Meetings

The Court of Appeal Rules Committee meets regularly throughout the year to discuss proposals by the judges of the Court, the Registrar, and lawyers, for amendments to the *Court of Appeal Act* and *Rules*. The Rules Committee reports to the full Court on recommendations for amendments. We consult with members of the Bar when there is a proposal that significantly changes the practice and procedure of the Court.

Committee Membership

Madam Justice Huddart and Mr. Justice Smith retired from the Rules Committee after many years of service. The Committee members wish to thank them for their efforts over the past years. The Committee welcomed as new members Madam Justice Prowse, Madam Justice Newbury and Mr. Justice Frankel.

Amendment to the Court of Appeal Act

Bill 33 contains an amendment to Section 25 (1) of the *Court of Appeal Act*,

R.S.B.C. 1996, c. 77, by adding "or if a certificate of readiness has been filed within that period but a notice of hearing has not been filed within 2 months after the filing of the certificate of readiness," *after* "notice of application for leave to appeal.". There is no date yet for the proclamation of this amendment.

Amendments to the Court of Appeal Rules

Proposals include:

- Add Rule 26.1 (Settlement of Appeal Books)

26.1 (1) The registrar shall settle appeal books in the following circumstances:

- (a) the respondent alleges that the appellant has not included evidence which is necessary to resolve the issues on appeal; or
- (b) the court or a justice refers the settling of appeal books to the registrar; or
- (c) an appellant asks for assistance in the preparation of appeal books; or

(d) the registry staff, after consultation with the appellant, refers the settlement of appeal books to the registrar.

(2) The party requesting the settlement of appeal books before the registrar shall file an appointment in Form 29 and serve the appointment on all other parties at least five days before the date fixed for the settlement.

(3) The registrar may, after hearing the parties, give directions as to the form and content of the appeal books, notwithstanding the failure of any other party to appear for the appointment.

- Amend Form 9 to stipulate that the reasons for judgment to be included in the Appeal Record must be a copy of the original signed reasons for judgment found in the court file.
- Amend Form 12 to delete reference to filing affidavits in order they were filed and to instead include the order in which they were signed.

Practice Directives

Condensed Books (March 26, 2007) – allows counsel to bring essential documents (evidence, authorities) in a “Condensed Book” for the judges and opposing counsel. They are not filed beforehand and they do not eliminate the need for transcript extracts and full authorities.

Citation of Authorities (June 18, 2007) – (a) consolidating different sections; (b) making the Directive comply with the McGill Guide; (c) insuring that electronic copies of decisions provided to the Court contain the same paragraph numbering as the reported series; (d) if a reference to a paragraph number is not available in an electronic series, the reference shall be to

page numbers in the reported series; (e) encourages double-sided printing of authorities; and (f) requires all authorities to be printed in 12 point type.

The Rules Committee discussed the use of footnotes in factums, but agreed that there is no need to issue a practice notice or directive or to revise the rules. Acceptable footnotes are those that merely list citations in a readable font. Unacceptable footnotes are those that are hard to read, contain substantive material, or are of a length that would violate the 30-page rule if written in 12 point type.

Criminal Appeal Rules Review

The Rules Committee continued its review of the Criminal Appeal Rules with a view to updating the Rules according to current practices and procedures.

Supreme Court Rule Amendments

The Rules Committee discussed the origin of Rule 26, regarding the preparation of Appeal Books, and noted concerns from the judges where in-person appellants prepare Appeal Books. It is sometimes unclear from the contents of the Appeal Books what material was before the lower court. The Committee noted that the Supreme Court Rules regarding the filing of materials on applications have changed since the Court of Appeal Civil Rules were revised in 2002.

Reasons to Follow

There was an anomaly with the release of “reasons to follow” in chambers, as the judgment has already been pronounced in Court (satisfying s. 21(1) of the *Act*). The Committee proposed that judges make a distinction in chambers when releasing these judgments. This practice was adopted by the Court.

Notice to Registry re: Leave to Appeal and Appeals as of Right

Issues regarding misinformation given to litigants and the lack of clarity in the leave to appeal/appeal as of right filing dilemma have led to problems in chambers. The counter staff now has a list of the statutes requiring leave and other anomalies. While the registry staff does not give legal advice, they have some ability to steer the litigant in the proper direction. The Practice Note of the Registrar, revised in December, 2005, where a party may seek directions from a chambers justice, is currently under review.

Court of Appeal E-Filing Rules

The electronic filing project rule (R. 54.1) was repealed July 2, 2007. There is no e-filing project in the Court of Appeal at this time. When the project commences, the former Rules will be examined with a view to suitable amendment.

Notice to the Profession re: filings outside of Vancouver

There is an issue about the justices receiving materials in a timely fashion when documents are filed in Victoria. The following Notice to the Profession was issued to deal with this problem:

***Preferred Filing Registry
Notice to the Profession
Re: Hearings in Victoria
(December 3, 2007)***

The B.C. Court of Appeal sits regularly in Vancouver, monthly in Victoria and occasionally in Kamloops and Kelowna. Vancouver is the central registry for the Court of Appeal. Most of the judges of the Court reside in Vancouver and the scheduling and review

of material takes place in Vancouver. All of the files and books are located in Vancouver. For the hearing of appeals and chambers matters, the material is sent from Vancouver to the registry where the matter will be heard. For hearings and chambers applications set to be heard in Vancouver, and for related written submissions, the Court requires that all relevant materials be filed in Vancouver, if possible. This will avoid delays in the materials being transferred from outside registries to the Vancouver Registry. The co-operation of counsel in this regard is appreciated.

PLANNING COMMITTEE

Members:

The Honourable Chief Justice Finch (*ex officio*)
The Honourable Mr. Justice Donald
The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Low (Chair)
The Honourable Madam Justice Levine
The Honourable Mr. Justice Lowry
The Honourable Mr. Justice Chiasson
Frank Kraemer Q.C., Executive Director & Senior Counsel, Judicial Administration
Jennifer Jordan, Registrar
Meg Gaily, Law Officer

Changes in Committee Membership

Mr. Justice Mackenzie retired from the Planning Committee after many years of valuable service. Mr. Justice Chiasson joined the Planning Committee. The Committee members also welcome Frank Kraemer Q.C., Executive Director & Senior Counsel, who will add a valuable perspective to the work of the Committee.

Committee Protocol

The Court has adopted a protocol for membership on Court committees. The usual term for membership is three years with a further possible extension of another three years. New members will be appointed to committees in September of each year.

Use of Laptops in the Courtroom

The issue of the use of laptops in the courtroom, specifically by counsel, has been raised as an issue which needs further exploration. Traditionally, the Court of Appeal has operated without the need for computers in the courtroom. However, with younger lawyers more accustomed to

working digitally, the Court has decided to explore the potential for the use of laptops in the courtroom. Research has to be done and consultation with the profession and with media representatives is necessary. To accomplish this, a new Court committee has been formed – the Technology Committee – which will meet in 2008 and discuss options for consultation with the various interested groups.

Internet Blocking of Search Engines

For many years, the Superior Courts have blocked widespread indexing of the judgments on their website by such search engines as Google and Yahoo. This decision was made many years ago to protect the privacy interests of litigants. While the judgments themselves are blocked, the courts' website can be located through the various search engines. The Court confirmed its approval in continuing this practice.

Scheduling of Cases in the Court

Some protocols have been articulated for the scheduling of appeal hearings. The

summer sittings of the Court of Appeal are reserved for urgent cases only. If counsel wish to have a case heard in the summer, they must write to the Registrar setting out their reasons why the appeal is urgent. To better accommodate sentence appeals, the judges have asked to have no more than three sentence appeals scheduled in any one day. This will allow for the giving of oral reasons for judgment. Also, for chambers matters over the holidays, staff will attempt to spread the hearings evenly throughout the week.

Court Clerks

Due to staffing issues in the Victoria registry, members of the Court have been accompanied by Vancouver court clerks when travelling to Victoria. This has improved efficiency and has assisted the Victoria registry staff.

In addition, there is a plan to cross-train trial court clerks in the business of the Court of Appeal to allow trial court clerks to fill in when there is a shortage of appeal court clerks.

Orientation Manual

In anticipation of potentially six judicial appointments to the Court of Appeal in 2008, the Orientation Manual for new judges needed to be revised and updated with the most recent Court policies. This work was completed in early 2008; an electronic version is planned for the Court's intranet.

Intranet Page

The Committee approved a revised intranet site which combined links to frequently visited websites and internal Court material (specifically the Court's manuals), as well as a link, through the daily hearing list, to electronically-filed documents such as transcripts and factums. Implementation will be completed in 2008.

Staffing in the Court of Appeal

Registry staff has been cross-training in order to permit flexibility in job performance when other staff are on holidays or otherwise absent. Because of the small number of registry staff, any absence presents a challenge for the remaining staff members. The use of cross-trained employees during the summer months was a huge success.

A new job description was created for the Law Officer in the Court of Appeal. The re-written job description places an emphasis on research and judgment editing and proofreading. This new position was filled in January 2008.

LAW CLERK COMMITTEE

Members:

The Honourable Madam Justice Ryan
The Honourable Madam Justice Saunders (Chair)
The Honourable Mr. Justice Smith
The Honourable Mr. Justice Frankel
Frank Kraemer Q.C., Executive Director & Senior Counsel, Judicial Administration
Meg Gaily, Law Officer

Law clerks in the Court of Appeal commence their terms in September each year and finish variously after 10, 11, or 12 months (i.e. in June, July, or August).

In September 2007, 11 clerks began their clerkships at the Court of Appeal for the 2007-2008 term. Six are scheduled to complete their terms in June 2008; three will work through July 2008; the remaining two will continue through August 2008. Of the clerks who started in September 2007, there are three from University of British Columbia, four from University of Victoria, and one each from University of Toronto, Osgoode Hall, and Dalhousie University; one has law degrees from both Dalhousie and Oxford.

In January 2007, the Law Officers to the Court of Appeal (Meg Gaily) and to the Supreme Court (Jill Leacock and Heidi McBride) received 79 applications for the 28 law clerk positions available in the two

courts for the 2008-2009 term. In February 2007, the Law Officers interviewed the majority of those applicants. Subsequently, the judges of the Court of Appeal Law Clerk Committee interviewed 21 candidates and selected 11 for the positions in the Court of Appeal.

In November 2007, Madam Justice Ryan and Madam Justice Saunders, members of the Supreme Court Law Clerk Committee, the Law Officers, and some then-serving clerks, attended recruitment information sessions at both UBC Law School and UVic Law School.

The Law Officers and the members of the Law Clerk Committee continue to refine the recruitment and application process.

The Committee expresses its thanks to Ms. Gaily, Ms. Leacock and Ms. McBride, and to Susan Devenish and Krystal Mason, for their assistance.

LIBRARY COMMITTEE

Members:

The Honourable Madam Justice Kirkpatrick (Chair)
The Honourable Madam Justice Humphries*
The Honourable Madam Justice D. Smith*
The Honourable Madam Justice Satanove*
Frank Kraemer Q.C., Executive Director and Senior Counsel, Judicial Administration
Diane Lemieux, Librarian
(*B.C. Supreme Court)

The Judges' Library continues to balance the need for change in the face of burgeoning technology with proven historical practices.

The Library organized training sessions for judges, masters, and judicial staff who require access to legal databases such as LexisNexis/Quicklaw, Westlaw-e Carswell, and QPLegaleze. A refresher presentation of the new Quicklaw was given in November 2007.

The Library is responsible for converting and posting the decisions of the Court of Appeal and the Supreme Court on the courts' website. In 2007, 1798 Supreme Court judgments were published, 610 Court of Appeal judgments were published, and 5 Yukon Court of Appeal judgments were published.

The Judges' Library, like most libraries, seeks innovative ways to preserve services and its permanent collection in the face of ever-increasing costs and changing demands. For example, in 2007, the average increased cost for digests, texts, report services, etc., was 4.67%.

The Library has attempted to control costs by reducing reliance on hard-bound copies

of the law reports. In Vancouver, the Library cancelled one topical reporter and one duplicate set of a reporter. In New Westminster, the Library cancelled one criminal law reporter due to cost and space considerations, and because that reporter is available online.

The Library purchased 108 new acquisitions in 2007, more than 50% of which were texts.

On the environmental front, items normally photocopied can now be scanned and e-mailed. Case digests available online are no longer photocopied and delivered in paper format unless requested. Lengthy journal articles can now be retrieved electronically with the use of a USB flash drive or e-mail.

Upgrades in e-mail, scanning, photocopying, and faxing capabilities have allowed the Library, with the assistance of the Information Technology department, to promptly deliver items such as articles, reported case law, and court judgments.

We encourage the recycling of dated Criminal Codes and White Books to the Law Courts Education Society for use in their justice system education program.

EDUCATION COMMITTEE

Members:

The Honourable Mr. Justice Donald
The Honourable Madam Justice Newbury
The Honourable Madam Justice Huddart
The Honourable Madam Justice Levine
The Honourable Mr. Justice Frankel

The members of the Education Committee changed at the end of 2007. Retiring members of the Committee, Madam Justice Huddart and Madam Justice Levine, with their many years of service, are to be praised for their ability to come up with interesting topics and guests over the past six years. The Committee welcomes new members Mr. Justice Donald, Madam Justice Newbury, and Mr. Justice Frankel.

The education program for the Court has two basic components: “Law at Lunch”, and an education feature at each of the semi-annual meetings of the Court.

Law at Lunch is an informal lunch meeting of the judges, held about once a month, at which a speaker presents a topic that relates generally to our work as judges and its impact on others.

In 2007, Law at Lunch programs included: a talk on “Perspectives on Pakistan”, a discussion on labour relations in British Columbia, and an examination of human rights in the context of national security.

At the 2007 Spring Court meeting, Catherine Best presented a paper on the proliferation of case law and whether there is a remedy. This was followed by a discussion of the changes in the reporting of case law in the electronic age.

At the 2007 Fall Court meeting, Madam Justice Hamilton (of the Manitoba Court of Appeal) and Mr. Justice Donald presented a program on the self-represented litigant. The program highlighted the Electronic Bench Book for judges prepared by the National Judicial Institute and reviewed the materials available for litigants in the B.C. Court of Appeal, including guidebooks on preparing and responding to civil appeals, and criminal reference material prepared by Legal Services.

Judges of the Court are given the opportunity to attend educational programs offered by various organizations including the National Judicial Institute, the Canadian Institute for the Administration of Justice, the Federation of Law Societies, the Continuing Legal Education Society of British Columbia, the Canadian Bar Association, and university law schools.

All of these education activities are designed to assist judges to remain current in our understanding of substantive and procedural legal developments, as well as in some of the broader issues that form the background to judicial work.

PRO BONO COMMITTEE

Members:

The Honourable Chief Justice Finch
The Honourable Mr. Justice Donald
The Honourable Madam Justice Levine
Meg Gaily, Law Officer

The Committee wishes to thank the lawyers who have volunteered their time and expertise in the Pro Bono Program:

Sarah Batut
Jeff Bryant
Ian Carter
Simon R. Coval
Heather Dale
Angela Dunn
Craig Ferris
Angus Gunn
Kellie Hamilton
Timothy C. Hinkson
John R. Jordon
Randal J. Kaardal
Georgiale Lang

Elizabeth Liu
Jamie Maclaren
James MacInnis
Sherwin Mah
Donald R. McLeod
David McWhinnie
Roy Millen
Brent B. Olthuis
Ryan W. Parsons
Richard Peck Q.C.
Mark Pontin
David Turner

JOINT COURTS TECHNOLOGY COMMITTEE

Members:

The Honourable Mr. Justice Groberman* (Chair)
The Honourable Mr. Justice Masuhara* (Vice-Chair)
The Honourable Madam Justice Levine
The Honourable Madam Justice Boyd*
The Honourable Mr. Justice Tysoe
Frank Kraemer Q.C., Executive Director and Senior Counsel, Judicial Administration
Jennifer Jordan, Registrar
Kevin Arens, Manager Information Technology and Finance
Cindy Friesen*, Manager, Trial Coordination
Heidi McBride*, Law Officer (Secretary)
(*B.C. Supreme Court)

The Committee discussed a number of issues and projects including: the courts' proposed new website; judicial access to DARS; and ongoing technology support issues.

Digital Audio Recording System (DARS)

Replacement of analog recorders with a Digital Audio Recording System (DARS) was fully realized in 2007, with a great deal of assistance and support from Court Services IT. Training was provided to court staff and the judiciary. The Committee participated in the DARS project and provided significant input to ensure that judicial requirements were taken into account.

Website Redesign

After conducting an online survey of website users, redesign of the Superior Courts' website was undertaken this year. The new design will facilitate access to information frequently searched by the

legal profession and the public. The new website will be launched in 2008.

Software Renewal

The Committee participated in the software renewal initiative undertaken by the Office of the Attorney General. The Committee provided input on enhancing technological efficiencies in the present system while keeping options open for future opportunities and initiatives.

Ongoing Support

In addition to new initiatives undertaken in 2007, the Committee monitored service levels provided by the IT department. It also responded to many issues raised by the courts, such as:

- providing suggestions to the courts on "best practices" for maintaining confidentiality and security in the system, including network password changes;

- providing input to the Integrated Court Planning Committee to integrate electronic initiatives into the courts;
- monitoring the Supreme Court e-filing pilot project, which operates in seven registries throughout the province; and
- reviewing options and renewing the contract with Microserve.

JUDICIAL ACCESS POLICY WORKING COMMITTEE

Members:

Jennifer Jordan, Registrar (Chair)
Alix Campbell, Director, Judicial Administration, Superior Courts (to March, 2007)
Frank Kraemer Q.C., Executive Director & Senior Counsel, Judicial Administration
(from April, 2007)
Virginia Day, Director, Business Transformation & Change Management
Meg Gaily, Law Officer
Heidi McBride, Law Officer, Supreme Court
Ingrid Munroe, Director Judicial Administration, Provincial Court
Gene Jamieson, Legal Officer, Provincial Court
Kathryn Thomson, Legal Policy Consultant

Mandate of the Committee

The Committee is a joint committee consisting of representatives from all three courts and Court Services members. The Committee develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies relating to access to court records, specifically in electronic format. The Chief Justices and Chief Judge are consulted before a policy is adopted. In addition to policy work, the Committee also reviews access applications for those seeking bulk access to court record information.

Work of the Committee

In 2007, work of this Committee continued to revolve around issues relating to the Digital Audio Recording System (DARS), discussions about access to criminal record information, and consolidation of the various access policies. The Committee continued and is nearing completion of its work of preparing an access policy that will address access to digital audio recordings

by the judiciary, Court Services staff, parties, media, members of the public, and transcription contractors (the DARS Access Policy).

During the year, the Committee received, considered, and granted a number of applications from a variety of government agencies and departments for access to court records for the purpose of fulfilling their statutory mandates.

Looking Forward to 2008

In addition to considering applications for access to court records, the Committee expects to complete its work on the Public Access Policy and the DARS Access Policy. The Committee will also continue to work on finalizing an Access Policy Manual which is designed to assist Court Services staff in accessing and understanding the access policies of the courts.

STATISTICS

SUPREME COURT OF CANADA

There were 98 applications for leave to appeal from decisions of our Court filed with the Supreme Court of Canada in 2007.

The Supreme Court considered 105 applications for leave to appeal (some of these were from 2006 filings). Of these applications, 19 were granted, 63 were dismissed, two were discontinued and there were 21 decisions pending at the end of 2007.

In 2007, the Supreme Court of Canada heard 13 appeals from B.C. cases. Of these appeals, two appeals were allowed, three

appeals were dismissed and there were eight reserve judgments pending at the end of 2007. In addition to these decisions, another 12 judgments were rendered in B.C. cases which had been heard in previous years. Of these, five appeals were allowed and seven appeals were dismissed.

In 2007, 16% of the applications for leave to appeal to the Supreme Court of Canada were from B.C. appeals. Of the judgments rendered in 2007, 22% were appeals from B.C.

B.C. COURT OF APPEAL

Volume of Litigation*

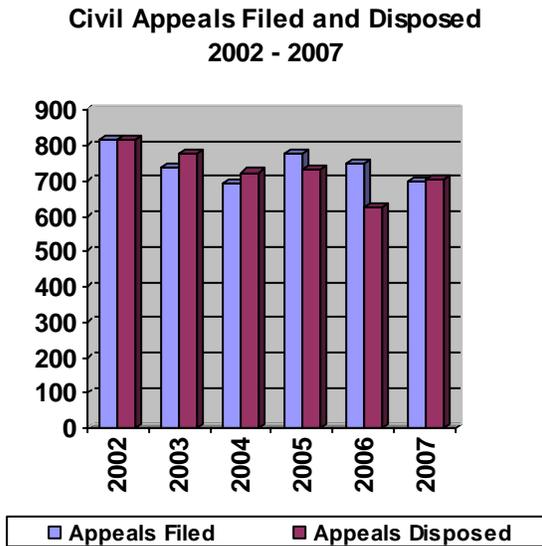
The charts on this page show the volume of litigation and compare the number of appeals filed, both civil and criminal, and the number of appeals disposed for the years 2002 - 2007.

(*Please refer to the appendices for the actual numbers applicable to these charts.)

Civil

Figure 1 demonstrates the declining number of civil appeals filed between 2002 and 2004, the increase in appeals filed for 2005, and a slight decrease again for 2006 and 2007. The disposed appeals dropped noticeably in 2006, and is followed by a slight increase in 2007. The disposition rate for appeals in 2007 has risen to 101% of filings. (Appendix 1)

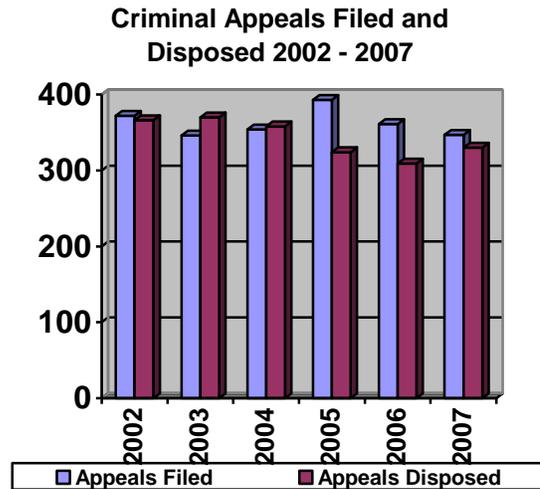
Figure 1



Criminal

There are substantially fewer criminal appeals filed as compared to civil appeals. Figure 2 shows that the number of criminal appeals disposed of since 2005 is less than the number of criminal appeals filed, which results in a growing backlog of criminal appeals. For 2007, there was an increase in the number of criminal dispositions, with a disposition rate of 95% of filings. (Appendix 2)

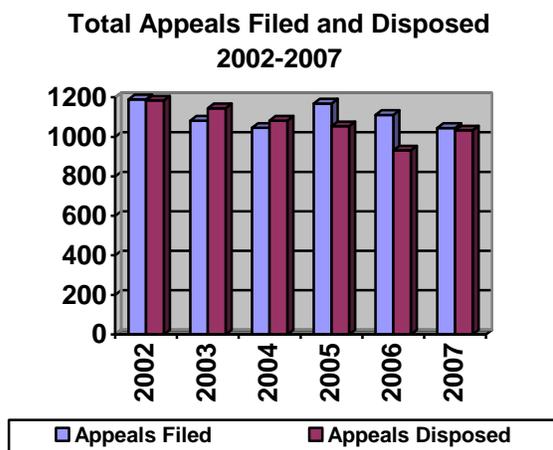
Figure 2



Global

For a more complete picture of total court activity, Figure 3 combines the civil and criminal filings and dispositions. The overall dispositions in 2007 kept pace with the filings that year. (Appendix 3)

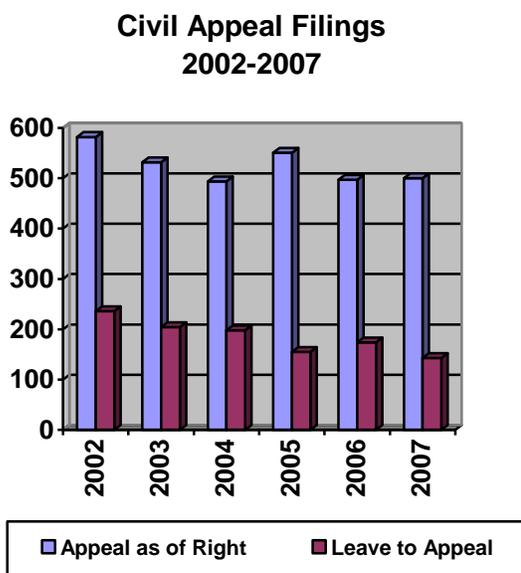
Figure 3



Types of Civil Appeals Filed

Only 20% of the civil appeals filed in 2007 were from applications for leave to appeal. These appeals require the permission of a justice before they can be heard by a panel of three judges. In 2007, 88% of the applications for leave to appeal were granted. Figure 4 shows the comparison of applications for leave to appeal with appeals as of right.

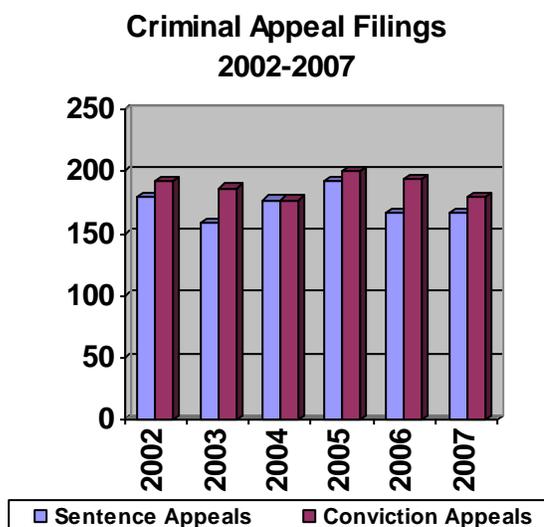
Figure 4



Types of Criminal Appeals Filed

In criminal appeals, appeals from convictions and acquittals take up most of the hearing time of the Court, while sentence appeals and summary conviction appeals require less time. Figure 5 gives a comparison of criminal appeals filed between 2002 and 2007. Sentence and summary conviction appeals amount to just under half (48%) of the total criminal appeals filed.

Figure 5

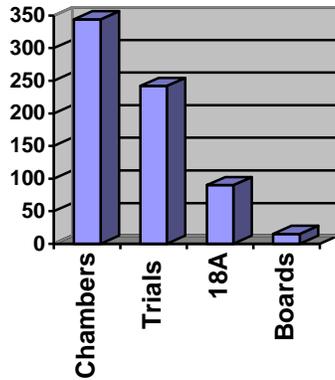


Origin of Appeals

Another way to categorize the civil work of the Court is to look at the type of proceeding that gave rise to the appeal. The majority of appeals arise from chambers matters and summary trials (under Rule 18A). The 2007 figures show there were substantially more appeals from chambers matters and Rule 18A summary trials than appeals from trials. Figure 6 shows the types of appeals according to the underlying proceeding. Twice as many appeals are from proceedings other than trials.

Figure 6

Origin of Appeals 2007

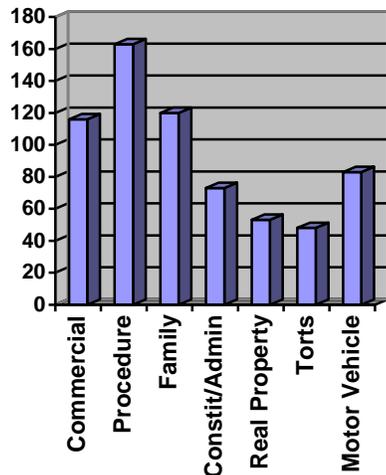


Civil Case Categories

In addition to the origin of civil appeals, there are seven broad categories of civil appeals. Figure 7 gives a flavour of the variety of cases which are heard by the Court of Appeal.

Figure 7

Civil Categories Appeals Heard 2007

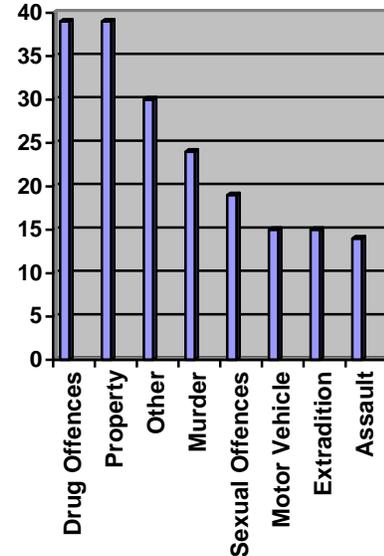


Criminal Case Categories

Another interesting breakdown is for the types of criminal cases that are dealt with by the Court. Drug and property offences form the largest categories of criminal appeals, amounting to almost 40% of the cases before the Court. “Other” covers various offences such as arson, mischief, and *habeas corpus* cases. Figure 8 shows the top eight categories.

Figure 8

Criminal Categories Appeals Heard 2007



Appeals Allowed/Dismissed

The rate of civil and criminal appeals allowed over the past six years has remained relatively constant and usually falls between 36% to 41% of the appeals heard. Figure 9 shows the number of civil appeals allowed and dismissed and Figure 10 shows the number of criminal appeals allowed and dismissed.

Figure 9

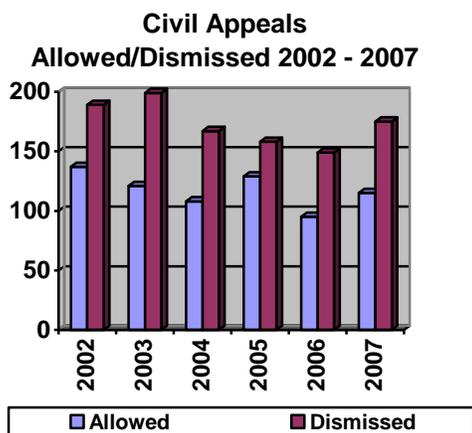
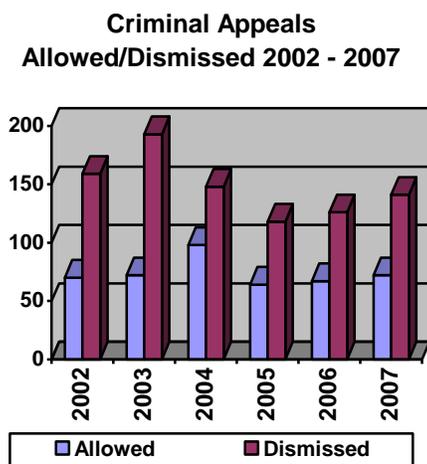


Figure 10



The largest fluctuation over the years is the difference in the number of criminal appeals allowed. The percentage comparison is 27% allowed in 2003 and 40% in 2004. In 2007, the rate slightly increased to 36%. The statistics take into account partial appeals allowed as well as appeals where new trials may be ordered.

Self-Represented Litigants

Figure 11 represents the number of self-represented litigants compared to the number of represented litigants who filed appeals in 2007. This number does not

capture those litigants who file their own appeal but subsequently retain counsel; nor does it show the change where counsel is subsequently let go. This year the percentage of civil self-represented litigants is 16% and the percentage of criminal self-represented litigants amounts to 15% of all the appeals filed.

Figure 11

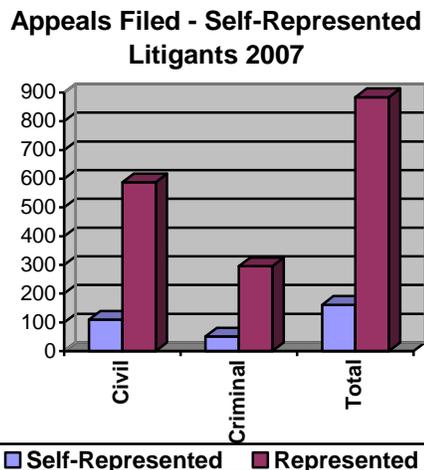
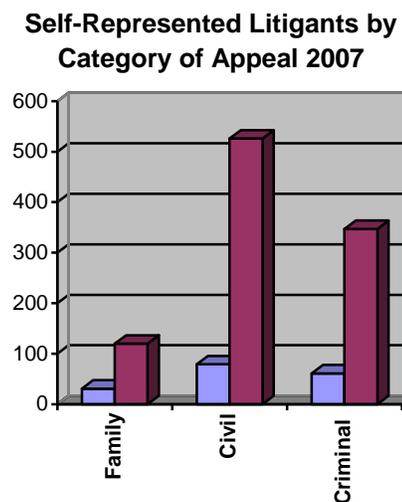


Figure 12 represents the percentage of self-represented litigants, by category, out of the total number of appeals in that category.

Figure 12



Appendix 1
British Columbia Court of Appeal
Civil Statistics 1996-2007

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
APPEALS FILED:												
Notice of Appeal	902	854	822	787	679	660	582	532	494	551	497	500
Leave to Appeal	272	273	272	224	248	258	236	204	198	155	174	143
Notice of Appeal and Leave										70	79	55
TOTAL FILED	1174	1127	1094	1011	927	918	818	736	692	776	750	698
COURT DISPOSITIONS:												
Appeals Allowed	174	159	142	151	148	133	137	121	108	129	95	115
Appeals Allowed %	39%	39%	37%	43%	42%	43%	42%	38%	40%	45%	39%	40%
Appeals Dismissed	271	250	241	196	197	177	189	199	165	158	149	175
Appeals Dismissed %	61%	61%	63%	57%	58%	57%	58%	62%	60%	55%	61%	60%
TOTAL COURT DISPOSITIONS	445	409	383	347	345	310	326	320	273	287	244	290
Appeals Concluded in Chambers or Abandoned	1055	988	744	673	544	522	492	455	451	443	379	413
TOTAL DISPOSITIONS	1500	1397	1127	1020	889	832	818	775	724	730	623	703
Dispositions as % of Filings	128%	124%	103%	101%	96%	91%	100%	105%	105%	94%	83%	101%
Judgments Reserved (Court)	210	188	182	174	197	178	193	181	200	166	177	171
Judgments Reserved (Cham)									104	64	75	86
Appeals with 5 Judges	27	3	5	3	12	16	10	16	4	1	1	3
Court Motions: Reviews	8	10	13	16	10	7	17	13	14	13	18	13
Granted	4	5	6	0	3	6	2	7	3	5	4	2
Refused	4	5	7	16	7	1	15	6	11	8	14	11
Chambers Motions	736	643	664	568	530	419	427	451	397	298	277	241
LEAVE TO APPEAL												
Granted	95	74	65	18	80	75	65	56	47	46	37	38
Refused	76	71	48	39	37	35	26	30	11	8	7	5
Total	171	145	113	57	117	110	91	86	58	54	44	43

Appendix 2
British Columbia Court of Appeal
Criminal Statistics 1996-2007

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
APPEALS FILED:												
Sentence	207	249	219	199	182	156	133	126	150	175	152	150
Conviction	220	232	231	203	174	177	128	130	124	137	145	117
Summary Conviction	29	48	54	39	40	37	47	33	27	17	15	17
Acquittal & Other	69	50	63	68	78	69	64	57	53	64	49	63
TOTAL FILED	525	579	567	509	474	439	372	346	354	393	361	347
COURT DISPOSITIONS												
Appeals Allowed	92	115	127	103	84	111	70	72	98	66	67	72
Appeals Allowed %	26%	31%	31%	29%	28%	37%	31%	27%	40%	36%	35%	36%
Appeals Dismissed	266	253	283	248	218	193	159	193	148	118	126	141
Appeals Dismissed %	74%	69%	69%	71%	72%	63%	69%	73%	60%	64%	65%	64%
TOTAL DISPOSITIONS	358	368	410	351	302	304	229	265	246	184	193	200
Summary Dismissals, Abandonments in Court/Chambers	176	193	134	118	149	139	137	105	112	140	116	130
TOTAL DISPOSITIONS	534	561	544	469	451	443	366	370	358	324	309	330
Disposed as % of Filings	102%	97%	96%	92%	95%	101%	98%	107%	101%	82%	86%	95%
Appeals with 5 Judges	2	3	3	4	5	5	0	1	0	1	0	0
Judgments Reserved	92	116	117	78	89	89	86	109	93	85	85	80
Judgments Reserved Chambers	--	--	--	--	--	--	--	--	--	10	12	28
Chambers Motions	302	332	316	305	218	260	230	219	172	137	151	111

Appendix 3
British Columbia Court of Appeal
Total Appeals Filed and Disposed 1996-2007

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
APPEALS FILED:	1699	1706	1661	1520	1401	1357	1190	1082	1046	1169	1111	1045
Appeals Allowed	266	274	269	254	232	244	207	179	206	195	162	187
Appeals Allowed %	33%	35%	34%	36%	36%	40%	37%	32%	40%	41%	37%	38%
Appeals Dismissed	537	503	524	444	415	370	348	383	313	276	275	316
Appeals Dismissed %	67%	65%	66%	64%	64%	60%	63%	68%	60%	59%	63%	62%
COURT DISPOSITIONS:	803	777	793	698	647	614	555	562	519	471	437	490
Appeals Concluded in Chambers or Abandoned	1231	1181	878	791	693	661	629	560	515	490	414	543
TOTAL DISPOSITIONS	2034	1958	1671	1489	1340	1275	1184	1145	1082	1054	932	1033
Dispositions as % of Filings	120%	115%	101%	98%	96%	94%	99%	106%	103%	90%	84%	99%
Judgments Reserved	302	304	299	252	286	267	279	290	397*	325*	349*	365*
Appeals with 5 Judges	29	6	8	7	17	21	10	17	4	2	1	3
Chambers Motions	1038	975	980	873	748	679	657	670	569	435	428	352

*Now includes chambers reserved judgments