

BC COURT OF APPEAL



2012 ANNUAL REPORT

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MEMBERS OF THE B.C. COURT OF APPEAL

CHIEF JUSTICE

Chief Justice Lance S. G. 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

Madam Justice Jo-Ann E. Prowse

- January 1, 1987 (County Court)
- September 8, 1988 (Supreme Court)
- June 24, 1992 (Court of Appeal)
- March 1, 2008 (Supernumerary)

Madam Justice Catherine A. Ryan

- May 26, 1987 (County Court)
- July 1, 1990 (Supreme Court)
- January 28, 1994 (Court of Appeal)
- January 1, 2008 (Supernumerary)

Mr. Justice Ian T. Donald

- June 30, 1989 (Supreme Court)
- January 28, 1994 (Court of Appeal)
- January 1, 2008 (Supernumerary)

Madam Justice Mary V. Newbury

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

Mr. Justice John E. Hall

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

Madam Justice Mary E. Saunders

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

Mr. Justice Richard T. A. Low

- March 31, 1977 (County Court)
- July 1, 1990 (Supreme Court)
- July 28, 2000 (Court of Appeal)
- April 1, 2008 (Supernumerary)

Madam Justice Risa E. Levine

- September 26, 1995 (Supreme Court)
- February 6, 2001 (Court of Appeal)
- January 1, 2012 (Supernumerary)

Mr. Justice Kenneth J. Smith

- May 31, 1993 (Supreme Court)
- October 1, 2001 (Court of Appeal)
- May 28, 2008 (Supernumerary)
- October 31, 2012 (Retired)

Mr. Justice Peter D. Lowry

- October 11, 1991 (Supreme Court)
- June 30, 2003 (Court of Appeal)
- January 1, 2011 (Supernumerary)

Madam Justice Pamela A. Kirkpatrick

- November 20, 1989 (Supreme Court Master)
- November 27, 1992 (Supreme Court)
- June 2, 2005 (Court of Appeal)
- January 1, 2012 (Supernumerary)

Mr. Justice Edward C. Chiasson

- September 14, 2006 (Court of Appeal)

Mr. Justice S. David Frankel

- March 2, 2007 (Supreme Court)
- May 10, 2007 (Court of Appeal)

Mr. Justice David F. Tysoe

- June 24, 1992 (Supreme Court)
- June 22, 2007 (Court of Appeal)
- January 1, 2012 (Supernumerary)

Madam Justice Daphne M. Smith

- December 19, 1996 (Supreme Court)
- May 8, 2008 (Court of Appeal)

Madam Justice Kathryn E. Neilson

- July 1, 1999 (Supreme Court)
- May 8, 2008 (Court of Appeal)

Mr. Justice Harvey M. Groberman

- December 14, 2001 (Supreme Court)
- May 8, 2008 (Court of Appeal)

Madam Justice Elizabeth A. Bennett

- August 27, 1997 (Supreme Court)
- May 14, 2009 (Court of Appeal)

Madam Justice Nicole J. Garson

- March 21, 2001 (Supreme Court)
- May 14, 2009 (Court of Appeal)

Mr. Justice Christopher E. Hinkson

- March 2, 2007 (Supreme Court)
- March 19, 2010 (Court of Appeal)

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)

Mr. Justice David C. Harris

- March 19, 2010 (Supreme Court)
- April 10, 2012 (Court of Appeal)

STAFF OF THE B.C. COURT OF APPEAL

Jennifer Jordan	Registrar
Timothy Outerbridge	Law Officer
Linda Rainaldi	Law Officer
Maria Littlejohn	Associate/Deputy Registrar
Vicki Jang	Manager/Deputy Registrar
Alix Going	Executive Assistant to Chief Justice Finch
Christine Gergich	Supervisor and Appellate Court Records Officer

Law Clerks 2012-2013

David Andrews
Jessica Fletcher
Graeme Hooper
Miriam Isman
Kathleen McConchie
Jessie Meikle-Kähs
Julie Menton
Thomas Posyniak
Mila Shah
Meghan Smith
Peter Waldkirch
Amanda Winters

Judicial Staff

Val Belina
Cathy Clough
Susan Devenish
Elise Du Mont
Bonnie Marcaccini*
Cherry Mills
Barbara Moss
Victoria Osborne-Hughes*

* Victoria

Registry Staff

Shelly Ducharme**
Steven Evans*
Torri Enderton
Shayna Irvine
Sue Lang
Wendy MacKenzie*
Christina McKenzie**
Erica McCuaig
Sarah Pinkney
Jennifer Rahiman
Merrill Sandell*
Taira Saulnier*
Diane Schwab
Moira Syring*
Darryl Wong

* Victoria

** Kamloops

Ushers

Bill Deans
Ryan Going
Max Pearce

SUPERIOR COURTS JUDICIARY STAFF

JUDICIAL ADMINISTRATION

Frank Kraemer, Q.C.	Senior Counsel and Executive Director
Michelle McConnachie	Director of Human Resources and Support Services
Kevin Arens	Director of Information Technology and Finance
Tammy McCullough	Assistant to Senior Counsel and Executive Director
Cheryl Steele	Finance and Administration Clerk
Michelle Sam	Judicial Assistant
Diane Lemieux	Judges' Librarian
Connie Kang	Library Technician
Cynthia Dale	Website Support & Business Information Analyst

IT Services (provided by Microserve Business Computer Services)

Mark Hujanen	Service Delivery Manager
David Chow	Help Desk Lead Technician
Simon Kim	Help Desk Lead Technician
Eddie Chan	Help Desk Technician
Michael Gou	Help Desk Technician
Will Hall	Help Desk Technician
William Huang	Help Desk Technician
Jimmy Wu	Help Desk Technician

REPORT OF THE HONOURABLE CHIEF JUSTICE FINCH

GENERAL

The Court of Appeal is constituted by the *Court of Appeal Act*, R.S.B.C. 1996, c. 77. The *Court of Appeal Act* provides for a Chief Justice and 14 other justices, as well as for supernumerary justices. Thus, the Court of Appeal may from time to time have more than 15 justices. The Chief Justice of British Columbia heads the Court of Appeal.

The Court of Appeal is the highest court in the province. It hears appeals from the Supreme Court in civil and criminal matters, from the Provincial Court on some criminal matters, and reviews and appeals from some administrative boards and tribunals.

The justices of the British Columbia Court of Appeal are also justices of the Yukon Court of Appeal. The Yukon Court of Appeal sits at least one week a year in Whitehorse. Yukon appeals are also heard in other B.C. court locations, such as Vancouver.

The Court of Appeal hears appeals regularly in Vancouver and Victoria, and as needed from time to time in Kamloops and Kelowna. The Court of Appeal has a registrar who, in addition to other administrative duties, hears matters related to the settling of orders and bills of costs.

THE COURT'S COMPLEMENT

At the beginning of 2012 there were three vacancies in the Court arising from the election to supernumerary status of Justices Levine, Kirkpatrick and Tysoe. One of those vacancies was filled by the appointment on 10 April 2012, of the Honourable David C. Harris.

Mr. Justice Harris was educated in England, receiving a B.A. degree in 1977 from Exeter College at the University of Oxford; a MPhil degree in 1979; and a Ph.D. in 1982 from Nuffield College.

Our new judge then came to Canada and enrolled in the Law School at U.B.C. He graduated in 1985 with his LL.B., served as a law clerk to the British Columbia Court of Appeal, and was called to the bar in 1987.

Mr. Justice Harris entered into a civil litigation practice in Vancouver specializing in class actions, products liability and general commercial litigation. He practised with Russell & DuMoulin (as it then was), Berardino & Harris, and Hunter Litigation Chambers. He taught civil litigation procedure at U.B.C., and served on the editorial board of the British Columbia Civil Trial Handbook.

He was appointed Queen's Counsel in 2004.

Mr. Justice Harris was appointed to the Supreme Court of British Columbia in 2010. He is married and he and his wife Maria are the parents of three grown children.

Justice Harris brings many fine qualities to his new responsibilities – scholarship, experience, industry, good judgment and the true spirit of collegiality. All members of the Court greeted his appointment enthusiastically.

The Honourable Mr. Justice Kenneth Smith

Mr. Justice Kenneth J. Smith retired as a justice of the Court of Appeal effective 31 October 2012. He had been appointed to the Court almost exactly 11 years earlier, on 19 October 2001, after previously serving as a justice of the Supreme Court of British Columbia from June 1993.

Justice Smith earned his B.A. degree at U.B.C. in 1962, and upon graduation married his high school sweetheart, Nyhla McGee, in the same year.

Justice Smith entered law school at U.B.C. in the fall of 1962, graduating in 1965. He articulated with the Vancouver law firm McTaggart Ellis. Soon after his call to the bar he joined his friend Frank Crane in the practice of law, and a year later they were joined by Len Doust. Smith and Doust remained partners and close friends through many subsequent law firm associations, ultimately establishing their own firm, Doust & Smith.

In 1988 that firm merged with Shrum, Liddle & Heberton, and shortly thereafter with McCarthy & McCarthy. Throughout, Justice Smith engaged in a civil litigation practice with expertise in various areas of tort law, including medical malpractice. He was an Adjunct Professor of Law at U.B.C., a frequent lecturer for the Continuing Legal Education Society of B.C., and lectured as well for the Trial Lawyers' Association of B.C.

Justice Smith was a wonderful colleague in the Court. He was rigorous in his analysis, thoughtful, and staunchly independent. He authored many judgments in all areas of the law, expressing his opinions with clarity and eloquence.

On his last day of sitting in Court on 15 June 2012, the Court was addressed by Mr. Doust, Q.C., the judge's long-time friend and partner. Mr. Doust said:

"This is my first, and it will be my only opportunity to appear before you. I am very thankful for it. Your contribution to the administration of justice, to individual clients, to young lawyers, to your fellow judges, to your family and to all of your friends can fairly be characterized as almost without equal. You have excelled at whatever you have done at the Bar, at the bench, and in life. It just won't be the same without knowing you are here striving for perfection and thereby making the law clear, sensible

and in accord with logic and reason. For my part, I will never feel the same. The profession will be different without you; without you, my dear friend of 53 years."

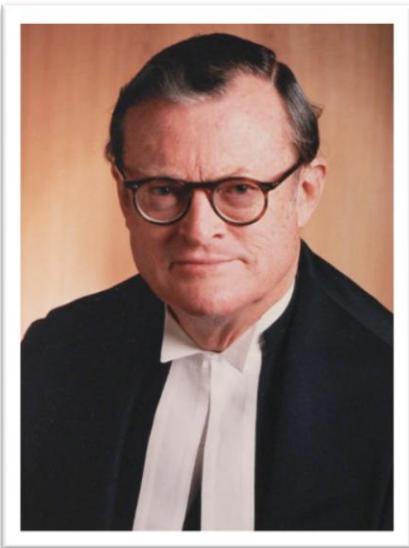
In responding remarks to Mr. Doust, Justice Smith said:

"You knew my mother and father. I, like you, wish they could be here today. My father would have enjoyed your remarks very much and my mother would have believed them. It's been 19 years since I left you in the practice of law to serve on the Superior Courts of this Province. They have been 19 wonderful years, the last 11 on this Court. If I have any regret in this most satisfying career for me it is that I have never had the privilege of having you appear before me as counsel. That omission has been cured today."

All members of the Court extend their warm good wishes and sincere thanks to Mr. Justice Smith, and to his wife Nyhla, for many happy years of a healthy and satisfying retirement.

IN MEMORIAM

The Honourable David Michael Mills Goldie, Q.C.



On 21 March 2012, the Honourable D.M.M. Goldie, Q.C. (Mike) passed away in his 88th year. He is remembered by all as an outstanding counsel, and a consummate justice of appeal.

Justice Goldie lived his early years on Bowen Island, and then went to Kitsilano High School in Vancouver. He served in the Royal Canadian Artillery during World War II, and then returned to U.B.C. where he earned his B.Com. degree in 1947. He then attended Harvard Law School on a war veteran's two-year accelerated program. He returned to serve his articles with MacDougal, Morrison and Jestley, and was called to the B.C. Bar in 1949.

He continued in private practice until 1956 when he left to join the B.C. Electric Company (now B.C. Hydro), where he soon became general counsel.

In 1961 provincial legislation vested all of B.C. Electric's shares in the Government of B.C. Justice Goldie then worked as counsel with the late Douglas McK. Brown, Q.C. to challenge the validity of the legislation. After the lawsuit was settled he joined Mr. Brown at what was then Russell & DuMoulin.

For the next 30 years Justice Goldie was leading counsel in some of the Province's longest, most difficult and most challenging lawsuits and enquiries. On his appointment to the Court of Appeal in 1991, the then Chief Justice, Allan McEachern, wrote:

"It can probably be said that he has appeared in more major constitutional cases in the Supreme Court of Canada in the last 20 years than any other lawyer except perhaps Ontario's redoubtable John Robinette, Q.C."

Throughout his career at the bar he was a model of courtesy and professionalism. When this writer was a relatively new trial judge in the Supreme Court of B.C., the then Goldie, Q.C. appeared in a high-profile commercial case opposite T.R. Braidwood, Q.C. Both counsel were far senior to the judge, not only in years, but in experience, learning and confidence. I had the clear impression that Mr. Goldie was doing his best not only to succeed for his client, but as well to educate and to put at ease the inexperienced trial judge.

He was President of the B.C. Branch of the Canadian Bar Association, and in 1989 was appointed a member of the Bi-National Dispute Settlement Panel for the Canada-U.S. Free Trade Agreement. He was an active contributor to the Canadian Institute for Advanced Legal Studies, and lectured at the Institute's Cambridge sessions.

During his eight years as a member of the Court of Appeal from 1991 to 1999, Justice Goldie continued to deploy his superior legal talents. He wrote clear analytical reasons on all subjects in a style that was readily understandable. His broad experience as a lawyer was made manifest in his judgments. In addition, he was in every respect a splendid colleague.

Justice Goldie married his charming wife Lorraine, whom he met at U.B.C. while he was at Harvard. She predeceased him. They had four children.

The Honourable Allan D. Thackray



The Honourable Allan D. Thackray passed away while working in his garden on 11 November 2012, at the age of 80.

Justice Thackray was appointed a judge of the Supreme Court of British Columbia on 22 February 1990, where he served until 19 December 2001, when he was appointed to the Court of Appeal. He served in this Court until reaching his mandatory retirement age in October 2007.

Justice Thackray was born in Moose Jaw, Saskatchewan and lived there until his family moved to Victoria, B.C. He studied law at U.B.C. and for some time after graduation worked as counsel for the Department of External Affairs in Ottawa, Mexico and Guatemala.

He returned to practice in Vancouver with the Tysoe Harper law firm, later Harper Grey. His practice was civil litigation with a specialty in medical malpractice.

He was appointed Queen's Counsel in 1982.

Justice Thackray was a meticulous lawyer and a thorough judge. He had a careful and analytical approach to the law and a deep understanding of the human condition. After his election to supernumerary status in 2002 he continued to be a most willing and energetic contributor to the work of the Court, volunteering to sit as needed, in addition to his regular Rota assignments.

Justice Thackray retained his cheerful and positive approach to life throughout his legal and judicial careers, and was a fine colleague in every sense. He is survived by his loving wife Maureen, two children, Michael and Victoria, and four grandchildren. His former colleagues in the Court will remember Justice Thackray with affection and respect, as a fine judge and a good friend.

WORK OF THE COURT

In 2012 the Court delivered reserved (written) judgments in 295 appeals and 108 chambers applications. In addition, the Court pronounced judgment with oral reasons in a further 113 appeals, and in the vast majority of chambers applications.

All reserved judgments are given a neutral citation and are posted on the Court's website. All oral judgments of a division are transcribed, given a neutral citation, and posted on the website. Oral chambers judgments are transcribed and placed in the Court file. All oral judgments can be found in Court Services Online attached as a document to the Court of Appeal file. Oral chambers judgments are available to counsel or parties upon request, but are not given a neutral citation or posted on the website unless they are considered to be of precedential value.

Most of the justices' non-sitting time is taken up either with the research for or writing of reserved judgments or with preparation for upcoming appeals. The law clerks assist the justices in these tasks. Responsibility for the writing of reserved judgments is shared among those members of the Court who have heard the appeals.

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

from the date of hearing. Out of the total 96 reserved criminal judgments rendered in 2012, 90% were pronounced within the guideline. On the civil side, of the 199 reserved judgments delivered in 2012, 84% were pronounced within the guideline. Of all reserved judgments, both civil and criminal, 62% were rendered within three months or less of the hearing date.

SELF-REPRESENTED LITIGANTS

As noted in the Registrar's Report, the Court of Appeal hears a significant number of appeals involving self-represented litigants. The number of civil filings for self-represented litigants increased 2% over last year and the number of civil hearings involving self-represented litigants stayed the same as compared to last year. However, it is interesting to note that the number of criminal appeals filed where one party was self-represented slightly increased compared to 2011, while there was a significant reduction in the number of self-represented litigants when the appeal was heard.

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, advocacy, or other assistance to litigants with arguable cases, who lack necessary financial means to engage in the appeal process. Please see more on *pro bono* representation in the Pro Bono Committee Report below.

THE JUSTICE REFORM INITIATIVE

In February, 2012, the Minister of Justice and Attorney General released its Green Paper, entitled [Modernizing British Columbia's Justice System](#). On March 15, 2012, the three courts released a [statement on judicial independence](#) aimed at helping all understand the importance of the principle to the preservation of a free and democratic society. The intent of this statement was to help inform the public of the importance of judicial independence as a concept.

Geoff Cowper, Q.C. then conducted his review, culminating in the August release of [A Criminal Justice System for the 21st Century](#), which was followed by Part One of the government's [White Paper on Justice Reform](#) in October. As these reforms begin to take root, the Court has sought to engage the Executive branch of government to discuss how such reforms may affect the Court. As a matter of law, any proposed reforms must respect the constitutional framework within which the courts operate.

Extra Judicial Appointments and Activities

In addition to the justices' workload in hearing cases and issuing judgments, every justice is involved in activities in the legal profession, for the larger Canadian judiciary, and for local communities, the Province, and Canada. Justices also attend continuing education

seminars, for lawyers and for judges, in Canada and abroad, as participants and speakers. In 2012, justices of the Court held positions on various bodies such as:

- Vancouver Institute
- Vancouver Foundation
- Justice Education Society, Board of Directors, Governance Committee
- Canadian Superior Courts Judges Association – 2012 Quadrennial Commission
- Dean’s Advisory Committee for the National Centre for Business Law, U.B.C. Faculty of Law
- Publication Ban Working Group
- Judges’ Dinner Committee (Hutcheon Papers)
- Canadian Judicial Council Judicial Ethics Advisory Committee
- Canadian Judicial Council Jury Instruction Committee
- B.C. Judicial Appointments Committee
- Jewish Federation of Greater Vancouver - Task Force on Jewish Education
- Honorary Board of Governors, Vancouver Foundation
- Bench and Bar Committee on Family Law
- National Judicial Institute Self Represented National Programme Planning Committee
- Canadian Institute for the Administration of Justice
- B.C. Rhodes Scholar Selection Committee
- International Society for the Reform of Criminal Law
- Commissioner for Federal Judicial Affairs Committee for the International Deployment of Judges
- Federal Electoral Boundaries Commission for British Columbia
- Emil Gumpert Award Committee of the American College of Trial Lawyers

Interpreters:

- Southern Interior Forest Labour Relations collective agreement

Speakers at various Seminars:

- Mastering Civil Evidence
- Administrative Law Practice
- Controlled Drugs
- Statutory Interpretation
- Advocacy course
- The Law Protecting Liberty

Wrote and edited books and articles:

- Annual Review of Insolvency Law
- Family Law Sourcebook
- CLE BC Administrative Law Practice Manual

- CLE Introducing Evidence at Trial

Assisted in:

- Inns of Court Program for young lawyers
- Inns of Court Program on Ethics
- U.B.C.-UVic Moot
- Wilson Moot preparation (UVic)
- Gale Moot preparation (U.B.C.)

A FINAL NOTE

As I approach my mandatory retirement date in June 2013, this will be the last time I have the opportunity to report to the public on the work of the Court.

It has been a great privilege for me to serve as a justice of B.C.'s two Superior Courts, from 1983 to 1993 in the Supreme Court of British Columbia, and in the Court of Appeal from 1993 to 2013. The last 12 of these years as Chief Justice of British Columbia has been a most rewarding experience and a great privilege in itself.

Canada is blessed with a democratic system of government, and the rule of law is deeply embedded in our constitution, culture and traditions. All Canadians have come to expect and to rely upon an independent and impartial judiciary, free from intervention by other branches of government, or any other external influence. The public have come as well to rely on an independent bar as an essential component of an independent Court system.

While our judicial institutions have functioned very well over my time in the Courts, all recognize that the pace of change in the world around us continues to accelerate, and that we must continue to work hard if our institutions are to adapt and to remain effective, relevant and accessible.

In recent years, the Courts have taken important steps to integrate new technology into our practices and procedures. We are, and have always been, open to implementing changes in those practices and procedures if they will serve the public better, and keep the Court in step with the world in which it must serve. Integration of new technologies in our workplace continues to be an important priority for the Court.

May I take this opportunity to express my profound gratitude to all the men and women who serve, and who have served in both of B.C.'s Superior Courts, as well as in the Provincial Court of British Columbia, during my time as a judge.

May I also express my sincere gratitude and appreciation to all those who serve the Court in so many different ways: our Judicial Assistants, and particularly Alix Going, my Executive Assistant for the past 12 years; our Registrar Jennifer Jordan and her staff; our Director of

Judicial Administration Frank Kraemer, Q.C. and his staff; our Court Clerks, Sheriffs Officers, Ushers, Law Officers and Law Clerks, without whose help the Court could not function as effectively as it does.

My thanks to all of them. My thanks also for the privilege of serving the people of British Columbia as a judge and Chief Justice.

REPORT OF THE REGISTRAR

THE COURT'S WORKLOAD

There were 952 filings of new appeals in 2012, a slight increase over the 933 new filings in 2011. The increase relates primarily to a 2% increase in civil filings, although there was also a slight increase in the criminal filings over last year.

Statistics for criminal and civil case loads for 2012, with comparable numbers from 2001 to the present, are attached as appendices to this report.

SITTINGS OF THE COURT

In 2012, division one sat for 38 weeks and division two sat for 38 weeks. There were no scheduled third division sittings in 2012. The Court also sat two divisions in the summer months. In addition, the Court sat for seven weeks in Victoria and two weeks in the Yukon. The Court also sat 3 days in Kelowna. The Court sat a total of 87 divisions in 2012, 11 divisions less than the divisions sat in 2011.

SELF-REPRESENTED LITIGANTS

In 2012, out of 663 civil appeals and applications for leave to appeal filed, 180 cases (27%) involved a litigant who was not represented by counsel. There were fewer judgments rendered in civil appeals involving self-represented litigants. Of 244 civil cases disposed of in 2012, 42 (17%) involved at least one self-represented litigant. This is the same percentage of appeals heard involving self-represented litigants as in 2011.

On the criminal side, there were 289 appeals or applications for leave to appeal filed. Of that total, 61 (21%) were appeals or applications by self-represented litigants. Of the 164 criminal appeals heard in 2012, 11 (7%) appeals involved self-represented litigants. The number of self-represented litigants in criminal appeals has increased over 2011 for appeals filed but there is a substantial decrease in the percentages of self-represented litigants on appeals heard.

REGISTRY AND STAFF

The Court of Appeal is fortunate to have such dedicated staff who serve the public and the judges with enthusiasm and dedication. In times of budget restraint and staff shortages, it is a credit to the staff that the level of services remains high.

In 2012 we welcomed back Erica McCuaig and Jennifer Rahimen to court clerk duties. As a result, Sarah Pinkney and Darryl Wong left clerking in the Court of Appeal to be clerks in other courts. The Court thanks them for their dedication and continued work with the courts.

In 2012, the Court welcomed the appointment of Christine Gergich as Supervisor for the judicial ushers and Appellate Court Record Officer. Her first task was to reorganize the judicial ushers and made them one unit for both courts. She will oversee the updating of the court records as we move to a more electronic environment.

Early 2013 saw the retirement of one of our ushers, Bill Deans, who had ably managed the court records for over 16 years. His dedication and attention to detail were valued by the judges and staff who worked with him.

WebCATS

WebCATS, the web-based Court of Appeal tracking system is the Court's electronic file 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 fee.

Court of Appeal e-filing was officially implemented in October 2012. There were 667 efiled documents in 2012, compared to 145 efiled documents in 2011.

In addition to e-filing, scanning of initiating documents, orders and oral judgments is adding further electronic documents to WebCATS. These documents are accessible through CSO. There is a restriction on viewing documents on family files as well as all affidavits.

Another change in 2012 was to amend the Available Court Dates Report to note half days (2 hours or more) and partial days (less than 2 hours). This online report has greatly assisted counsel when looking for hearing dates and has resulted in fewer calls to the registry.

In 2012 we opened up WebCATS to access by an outside agency. The Victim Safety Unit has a limited access to WebCATS in order to track matters which have been appealed to the Court.

REGISTRAR'S HEARINGS

In 2012, the Registrar conducted 80 hearings out of a total of 112 scheduled hearings. Of those 80 hearings, 38 were for the assessment of costs, 26 were to settle orders, and 13 were hearings combining the settling of the order with the assessment of costs. There were also three appointments to settle the contents of the transcript or appeal book. Thirty-four appointments were either adjourned or settled.

COMMITTEE REPORTS

PLANNING COMMITTEE

Members:

The Honourable Chief Justice Finch (Chair)
The Honourable Madam Justice Saunders
The Honourable Mr. Justice Chiasson
The Honourable Mr. Justice Tysoe
The Honourable Madam Justice Neilson
The Honourable Mr. Justice Groberman
Frank Kraemer, Q.C., Senior Counsel & Director of Judicial Administration
Jennifer Jordan, Registrar
Timothy Outerbridge, Law Officer

The Planning Committee meets several times throughout the year to consider matters of general importance to the operation of the Court. The Committee acts as the Court's executive committee. New policies, initiatives, and changes in the administration of the Court are considered by the Committee. The Committee reports to the full Court at the semi-annual meetings to obtain approval where required.

These are some of the matters considered during 2012:

COURT OF APPEAL ACCESS POLICY

[The Court of Appeal Access Policy](#) was adopted in 2012. Part 1 of the policy deals with access to court records. The practice of the Court of Appeal has been incorporated into this document and allows for limited access to criminal files (opening up access to criminal factums where there is no publication ban on the file); continuing the closure of family law files although the docket information on these files is available online through Court Services Online; and continuing the unrestricted access to civil files except where there is a sealing order or other restriction.

Part 2 of the Access Policy deals with access to proceedings within the courtroom. The Policy allows discreet use of an electronic device for receiving and sending text in the courtroom. Anyone using a device to report on proceedings is cautioned to be aware of any existing publication bans which prevent the disclosure of names or other information. As well, there is a continuing prohibition on taking pictures or video recordings. The recording of audio is limited to accredited journalists.

JUDICIAL STAFFING IN THE COURT OF APPEAL

As noted above, an Appellate Court Records Officer for the Court of Appeal was hired in 2012. This person oversees the management of the books in the Court, including the movement of the books to the judges and to the Courtroom as well as the eventual archiving and destruction of copies. A records technician was hired in early 2013 to assist with the day-to-day management of these books. A new part of the job will be to design a system for the management of electronic books.

The Records Officer also supervises the ushers for both superior courts. These personnel are responsible for the deliveries within the courthouse, setting up courtrooms, hooking up the videoconference facilities when needed and various driving duties. The management of the ushers was consolidated in 2012 to accommodate the retirement of some employees as well as the wish of others to work part-time.

ACCESS TO REASONS FOR JUDGMENT WHERE A PARDON IS GRANTED

The Committee discussed the situation where years ago reasons for judgment were posted on the Court's website and circulated to legal and online publishers as is usual. Subsequent to this, the offender was granted a pardon and asked for the reasons to be either removed from the internet or anonymized. The Committee recommended to the Court that the current policy of not removing the decision from the internet or converting the names to initials continue. The Court later adopted this recommendation and the Access Policy was amended accordingly.

ACCESS TO ORAL REASONS FOR JUDGMENT

In 2012 staff started scanning oral reasons for judgment into WebCATS. The public can access the documents through Court Services Online (CSO).

OPEN DATA STATISTICS

Court Services collects information about scheduled court sitting hours. The B.C. government has made this information available on a government website named [Data B.C.](#)

RULES COMMITTEE REPORT

Members:

Chief Justice Finch
Madam Justice Prowse (Chair)
Mr. Justice Frankel
Madam Justice Bennett
Madam Justice Garson
Mr. Justice Hinkson
Mr. Justice Harris
Jennifer Jordan, Registrar
Timothy Outerbridge, Law Officer

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 civil and criminal Rules. The Committee is also responsible for amendments to the Yukon *Court of Appeal Act* and *Rules*. The Committee reports to the full Court on recommendations for amendments. It consults with members of the bar when there is a proposal that significantly changes the practice and procedure of the Court.

COURT OF APPEAL ACT

The *Court of Appeal Act* and *Court of Appeal Rules* have been amended to provide a new process for seeking leave to appeal. Section 7 of the *Court of Appeal Act* now refers to a codified list of orders, called "limited appeal orders," from which parties must seek leave to appeal. The list of "limited appeal orders" is found in Rule 2.1 of the *Court of Appeal Rules*. The changes were effective May 31, 2012.

CRIMINAL APPEAL RULES

Pilot Project for Conviction Appeals

[The Pilot Project](#) to reduce delay in the prosecution of criminal conviction and acquittal appeals is now in its third year. By the end of December, 2012, there were over 300 conviction and acquittal appeals filed. Of these, 131 files are closed with 25 judgments on reserve and 66 appeals with future hearing dates set. The intent of the Pilot is to have the majority of these appeals heard within one year of the filing of the appeal, or as soon as possible thereafter. So far, the results show that there has been a reduction in time at all stages of the process. However, the reduction in time has still not reached the goal of having a majority of the files heard within a year of filing. The single largest impediment to getting these appeals on track is the funding decisions that need to be made by the Legal

Services Society regarding representation on the appeal. This is adding three to six months to the timeline of the appeal.

The Criminal Subcommittee, consisting of Madam Justice Prowse, Mr. Justice Frankel, Madam Justice Bennett and Madam Justice Neilson, has been doing the majority of the case management. This additional attention to the files has resulted in many large and difficult files being ready for hearing much sooner than would ordinarily have been the case.

In order to collect a more significant set of statistics, the Pilot Project will be extended for another year to December 31, 2013.

It is anticipated that lessons learned from the Pilot Project will be incorporated in the draft *Criminal Appeal Rules*, which are on hold until the Pilot concludes.

Assistance for s. 684 Applications

One of the delay issues revealed by the Pilot Project is that once legal aid is denied, an incarcerated appellant has a difficult time preparing the documents required for the appointment of counsel pursuant to s. 684 of the *Criminal Code*. Discussions have taken place with the law schools to try and put in place some plan for law students to visit the prisons and assist with the preparation of these documents. The University of Victoria program has commenced and discussions with other schools are continuing.

Bail Applications in Writing

The *Criminal Appeal Rules* currently indicate that all bail applications by unrepresented appellants are to be conducted in writing. It was agreed to amend this section to allow for the applications to proceed in writing, by videoconference or in person. In amending the section, time limits will have to be imposed on the filing of material for the bail application.

Amend Yukon Forms and Reasons for Judgment to Remove “Territory”

The Yukon *Criminal Appeal Rules* need to be amended. Yukon legislation was amended in 2003 to remove references to “Territory”. The main revisions will be to the Forms attached to the Yukon *Criminal Appeal Rules*. The same revisions will have to be made to the civil *Rules*.

CRIMINAL PRACTICE DIRECTIVES AND NOTES

Mental Disorder Appeals

A revised Practice Directive was prepared and, after consultation with the specialized bar, was implemented. The [Mental Disorder Appeals](#) (Criminal Practice Directive, 4 September 2012) sets specific time periods for steps to be taken and deals specifically with unrepresented appellants by reducing the documents they are required to file.

Publication Bans

The [Court of Appeal Access Policy](#) was amended to allow for access without a formal request to factums in criminal appeals, except where there is a publication ban. In order to facilitate the release of factums on criminal appeals, [Publication Bans](#) (Criminal Practice Note, 24 July 2012) was issued requiring counsel to note on the face of the factum any existing publication bans.

Summary Conviction Appeals

Another area of delay is the leave application on Summary Conviction Appeals. The Rules do not provide for a timeline for these applications. The Pilot Project has revealed delay in applying for leave. As well, there is no rule or practice directive which stipulates the material required on a leave application. A draft Practice Directive has been discussed with the criminal advisory group and will be revised to reflect these discussions before presentation to the Court.

Extradition Bail

A model form of order covers the situation where an appellant is on bail when the Minister's decision is released, and the appellant surrenders. The order permits a consent order allowing for release of the appellant without the necessity of a further appearance. The sureties will also have to sign the new documents.

CIVIL APPEAL RULES

Forms of Order

The Court has been adopting practices that were not contemplated when the forms of order were incorporated into the *Rules*. The Court has started to give oral judgments on dates other than the hearing date; there are frequently supplementary reasons for judgment (relating to costs); and the chambers order date was restricted to the date of the hearing. New forms of orders (Forms 23 and 25) will be introduced as rule amendments in 2013.

Amend Form 27

Form 27 is intended to provide for parties to consent to removing an appeal from the inactive list. The footer on the form refers to “reinstatement of the appeal”. This is incorrect and should be changed to read: “This form may only be used if there is no prior order to remove the appeal from the inactive list”.

Time Limit Further Evidence

When the regular time limit for notices of motion was increased to five days in 2011, the same amendment should have applied to the time limit for further evidence motions. An amendment will be made to Rule 31(2) (b) (ii) to provide for a five-day limit for the notice of motion in chambers and a two-day limit for filing any response. It is understood that this application is rarely proceeded with in chambers.

Books of Authorities

An amendment to Rule 40 (1) will allow for only one copy of the book of authorities to be filed on a chambers matter.

Eliminate Chronologies in Factums

The Court has decided to dispense with the loose chronologies included in the factums and to clarify what is sought in the chronology as set out in Form 10. These amendments were in effect in May, 2012.

Changes to Membership of the Committee

In December, 2012 the Committee bid farewell to its hardworking chair for the past three years, Madam Justice Prowse. While retiring from the Rules Committee, Madam Justice Prowse will continue on the Criminal Rules Subcommittee and oversee the Criminal Pilot Project. The Committee wishes to thank Madam Justice Prowse for her dedication, hard work and accomplishments over the past six years with the Committee.

In addition, the Committee extends a warm welcome its newest member, Mr. Justice Harris.

COURT OF APPEAL TECHNOLOGY COMMITTEE

Members:

The Honourable Chief Justice Finch (*ex officio*)
The Honourable Madam Justice Saunders
The Honourable Madam Justice Levine (chair)
The Honourable Mr. Justice Chiasson
The Honourable Mr. Justice Tysoe
The Honourable Mr. Justice Groberman
Frank Kraemer Q. C., Senior Counsel & Executive Director, Judicial Administration
Jennifer Jordan, Registrar
Timothy Outerbridge, Law Officer

The Court of Appeal Technology Committee was created to deal with issues arising from the use of computers in the courtroom. The Committee's work has focused on two aspects of this issue: the use of laptops in the courtroom by counsel and judges, and electronic appeals.

Initially, the Committee's concerns related to the effect on the Court's process from the presence and use of computers in the courtroom. The Committee first addressed physical issues, such as the placement of computers and monitors in the courtroom. Subsequently, the Committee has turned its attention to how to adapt to technological changes in appellate litigation.

In 2012, the Court's efforts were focussed on preparing for a fully electronic appeal. The appeal identified for this project was the *Federation of Law Societies v. Canada (Attorney General)* CA39434, heard in October, 2012.

The Court of Appeal EAppeal Working Group met throughout the year to prepare for this appeal. The Working Group consists of representatives of the judiciary, including the law officer, registrar and judicial IT supervisor; representatives of Court Services, including the director of business transformation, a senior policy analyst as well as consultants in the technology and business areas.

The appeal was heard by five justices of the Court. Display screens operated by junior counsel were provided for each judge and counsel. Each judge had configured their workspace on the bench according to their technology needs. The single screen was the minimum set-up, with some judges bringing in laptops as well as setting up a second screen. The preparation involved the following:

- Training for the judges on annotation tools for pdf

- Supervision of the preparation of the documents, with factums containing hypertext links to the references
- Meeting with counsel and paralegals to discuss format of documents and requirements
- Meeting with judges to discuss their requirements

At the end of the process, there were interviews with all of the participants. There will be fuller interviews with the judges once the judgment is released. The preliminary information from the participants shows the following:

- There were financial savings and time savings for counsel
- Everyone liked the ability to take all the material home or to another office with ease
- The search features made it easy to find material
- It was useful to be able to pinpoint references
- The amount of work required to prepare the documents might only be suitable for large cases.

Aside from the preparation for the electronic appeal, the Court filled its records manager position and is also hiring for a records technician. These new employees will be instrumental in moving the Court of Appeal into the electronic age.

Generally the goals of the EAppeal Working Group are the following:

- Determine the workflow where there is an electronic copy of a document filed
- Review electronic format of documents, including transcripts, appeal books and factums
- Examine the concept of original document for purposes of discussing archiving
- Investigate ways in which judges can receive electronic documents
- Consider the environment judges will use to work with electronic documents
- Expand Efiling to include the receipt of large documents
- Upgrade courtroom wiring
- Make wireless internet available in the courtrooms

Work will continue in 2013 in meeting these goals.

The Court of Appeal Technology Committee meets regularly to review developments in electronic filing and electronic appeals, to bring to bear the needs and views of the judges.

EDUCATION COMMITTEE

Members:

The Honourable Madam Justice Ryan
The Honourable Mr. Justice Donald (Chair)
The Honourable Mr. Justice Groberman
The Honourable Madam Justice Bennett

The Education Committee presents programs for the judges at monthly sessions known as “Law at Lunch” and at the spring and fall 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 the work of judges and its impact on others. Programs of greater length are presented at the semi-annual meetings.

Law at Lunch speakers were Professor Joost Blom, Q.C. on Grotius; Registrar Jennifer Jordan on Court orders and the use of WebCATS; the Honourable Tom Braidwood, Q.C. on the conduct of an inquiry commission; Messrs. Tollefson and Haddock on the University of Victoria Environmental Centre; and, for his third return visit, Dr. Max Cynader on brain health.

At the spring meeting of the Court, Dr. Johann Brink, Director of the Forensic Psychiatric Services Hospital, spoke to us about dealing with mentally disordered litigants.

While we normally conduct an education session at the fall meeting of the Court, this year we postponed the program and participated in the joint trial courts conference in November. In addition to the plenary agenda, we offered two concurrent sessions of particular interest to the judges of our court: Professor Matthew Lewans discussed new developments in judicial review, and Grace Choi and John-Paul Boyd introduced us to the new *Family Law Act*.

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

JOINT COURTS TECHNOLOGY COMMITTEE

Members:

Mr. Justice Masuhara (Chair)
Madam Justice Levine
Mr. Justice Groberman
Madam Justice Adair
Mr. Justice Myers
Mr. Justice Rogers (to March 2012)
Mr. Justice Punnett (from March 2012)
Master Baker
Jennifer Jordan, Registrar Court of Appeal
Frank Kraemer, Q. C., Executive Director & Counsel, Judicial Administration
Kevin Arens, Director, Information Technology & Finance
Cindy Friesen, Director, Supreme Court Scheduling
Timothy Outerbridge, Law Officer
Heidi McBride, Law Officer

In 2012, the committee continued to review the many technology projects in which the judiciary is involved. They include: the Court of Appeal e-filing project, the Supreme Court Scheduling System (SCSS); the Judicial Module, and the Integrated Electronic Courts initiative.

A key focus of the committee in 2012/13 was the replacement of laptops for the judiciary. Temporary measures such as replacing batteries and new hard drives were losing effectiveness. The committee developed a business case, a survey to collect judicial requirements, criteria for selection, and a timeline for acquisition and distribution. Laptops were tested and selected. Delivery and distribution of laptops to the judiciary is expected in May 2013.

JUDICIAL ACCESS POLICY WORKING GROUP

Members:

Jennifer Jordan, Registrar, Court of Appeal (Chair)
Frank Kraemer, Q. C., Executive Director & Senior Counsel, Judicial Administration
Jan Rossley, Executive Director Judicial Administration, Provincial Court (to March, 2012)
Craig Wilkinson, Executive Director Judicial Administration, Provincial Court (from November 2012)
Trish Shwart, Executive Director Business Transformation and Corporate Planning, Court Services Branch (to March, 2012)
Brenda Miller Executive Director Corporate Support, Court Services Branch (from June 2012)
Dan Chiddell, Director Strategic Information & Business Applications, Court Services Branch
Alanna Valentine Director Court Reform and Transformation, Court Services Branch (from June 2012 to December 31, 2012)
Wendy Harrison, Senior Analyst, Court Services Branch
Timothy Outerbridge, Court of Appeal Law Officer
Heidi McBride, Supreme Court Law Officer
Gene Jamieson, Q. C., Legal Officer, Provincial Court
Kathryn Thomson, Legal Policy Advisor

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 draft policies relating to access to court records, specifically those in electronic format. The Chief Justices and Chief Judge give approval before a policy is adopted. In addition to policy work, the Committee also reviews access applications for those seeking bulk access to court record information.

WORK OF THE COMMITTEE

Access to Documents and Court Record Information

In 2012, the Supreme Court approved an expanded list of documents that could be viewed through [Court Services Online](#) (CSO). These documents contain the type of information regularly available to the public. The judiciary is responsible for setting the policy in this area.

As well, the Committee has been reviewing a number of requests for special access to the courts' information and trying to balance the principle of facilitating the conduct of civil proceedings and improving access to court record information where the public interest is served with the commercial aspect of the requests. One applicant was refused where there was no demonstrable public interest in the access sought.

Access Policies

The [Court of Appeal](#) completed its access policy in 2012. This policy complements the policies of the [Supreme Court](#) and [Provincial Court](#), which were completed last year.

Access Applications

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 fulfilling their statutory mandate. There were also applications to access information for research purposes. Such a request is encouraged where there is no collection of individual identifiers.

Courthouse Libraries Pilot for Free Access to Court Services Online

The Committee approved a Pilot Project to make [Court Services Online](#) (CSO) available at no charge through the Courthouse Libraries in British Columbia.

New Files List

The media has traditionally attended at the registries to review new files opened. Many new civil files are now in electronic format, affecting access for the media. The Committee approved making available an electronic report which lists all new cases. This report is available daily through [Court Services Online](#) (CSO).

Access to Court of Appeal Records

The first application for access to the Court of Appeal case management system, WebCATS, was made in 2012. Approval of the access allowed the organization to update its records with the most current information for cases that had been appealed.

Government Reorganization

The reorganization of some branches in the Ministry of Justice has made it necessary to consider the ramifications of removing employees who access court applications and moving them to corporate and information technology branches under different management. Discussions on these moves continue.

LAW CLERK COMMITTEE

Members:

The Honourable Madam Justice Kirkpatrick
The Honourable Mr. Justice Frankel (Chair)
The Honourable Mr. Justice Tysoe
The Honourable Madam Justice D. Smith
Timothy Outerbridge, Law Officer

The Law Clerk Committee provides general supervision over the Court of Appeal's law clerk program. The Law Officer provides day-to-day supervision for the law clerks. One of the major tasks of the Committee is to interview the short list of candidates, following the interviews by the law officers of the Supreme Court and Court of Appeal. Law clerks in the Court of Appeal commence their terms in the first week of September each year and finish variously after 10, 11, or 12 months (i.e. at the end of June, July, or August).

In January 2012, the law officer of the Court of Appeal and the law officers of the Supreme Court received 133 applications for the 29 clerk positions available in the two courts for the 2012 – 2013 term, one fewer than usual due to a deferral from a previous year. Most were students from the University of British Columbia or the University of Victoria law schools and the remainder were from other Canadian and foreign law schools.

In February 2012, the law officers interviewed 99 of those applicants. Subsequently, the judges of the Court of Appeal Law Clerk Committee interviewed 20 candidates and selected 12 for the positions in the Court of Appeal. In September 2012, 12 clerks began their clerkships at the Court of Appeal for the 2012 – 2013 term. Of the clerks starting in September, there are five from the University of British Columbia, one from the University of Victoria, one from the University of Saskatchewan, one from the University of Toronto, one from Queen's University and three from Dalhousie University.

In November 2012, Mr. Justice Frankel and members of the Supreme Court Law Clerk Committee, the law officers, and some former and current clerks, attended recruitment information sessions at both the University of British Columbia and the University of Victoria law schools. A similar session was attended by Madam Justice D. Smith at Thompson Rivers University. 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 Jill Leacock and Heidi McBride, Law Officers for the Supreme Court, Timothy Outerbridge, Law Officer for the Court of Appeal, and to Susan Devenish and Andrea Keen, for their assistance.

LIBRARY COMMITTEE

Members:

Madam Justice Kirkpatrick (Chair)
Madam Justice Griffin
Madam Justice Humphries
Madam Justice Kloegman
Frank Kraemer, Q.C., Executive Director & Senior Counsel, Judicial Administration
Diane Lemieux, Librarian

The Library continues to find ways to balance its budget and provide current resources to its users.

Staff maintain the collections in Vancouver as well as locations outside Vancouver. Staff is also responsible for the processing and posting of the judgments of the Court of Appeal and the Supreme Court on the courts' websites.

The Library acquired 97 items, including 57 texts, 11 loose-leaf services, eight Continuing Legal Education materials and three reference texts.

With the launch of [ICLR Online](#) (The Incorporated Council of Law Reporting for England and Wales) on 18 October 2011, a decision was made in 2012 to change our print subscription to the official Law Reports (A.C., Q.B., Ch., Fam.) and the Weekly Law Reports to an electronic one. The recent availability of these British law reports online meant the timing was right for the purchase of a five concurrent user license. With online searching now becoming commonplace and shelf space at capacity, going from hard copy to electronic was considered a suitable choice. A weekly content alert e-mailed to judges who are interested is also part of this package alerting subscribers to recent case reports and case summaries.

The judicial members of the Committee express their thanks to staff for their work over the past year.

PRO BONO COMMITTEE

Members:

The Honourable Mr. Justice Donald (Chair)
The Honourable Madam Justice Levine
The Honourable Madam Justice Neilson
The Honourable Madam Justice MacKenzie
Jennifer Jordan, Registrar
Timothy Outerbridge, Law Officer

The *Pro Bono* Committee is responsible for overseeing Court initiatives that provide *pro bono* assistance to self-represented litigants and liaising with other organisations outside of the Court that provide similar assistance.

SELF-REPRESENTED LITIGANTS

2012 saw the Launch of the Justice Education Society's website [Court of Appeal of BC - Online Help Guide](#). The website includes a video introduction to the Court of Appeal by Chief Justice Finch. It organizes the civil information into separate streams for the Appellant and Respondent, and guides the litigant through the procedures of the Court, the preparation of materials required, what to expect from hearings in the Court and what to do once your appeal is finished.

The next phase of the project, supported with generous funding from the Law Foundation of British Columbia, is the preparation of videos including an overview of the Court of Appeal process, how to appear on a chambers application and how to present your appeal. There will also be some new guidebooks prepared.

Further work will be done on the criminal guidebooks which have been prepared by the Legal Services Society. These guidebooks will be converted to a web environment with discreet topics and a more user friendly presentation of topics.

ACCESS PRO BONO

The Court continued to involve Access Pro Bono in addressing the needs of self-represented litigants. Access Pro Bono is an organization where pro bono lawyers provide free legal advice and representation to low- and modest-income individuals on a wide range of legal issues, including family, immigration, criminal, and civil law (such as debt, employment, welfare, and housing). Access Pro Bono offers the following programs and projects:

- 105 legal advice clinics in community centres, churches, social agencies and courthouses across BC, and serving remote communities by televideo;
- a province-wide Roster Program that matches pro bono lawyers with individuals and non-profit organizations of limited means for the purpose of representation in six areas (BC Court of Appeal Program, Judicial Review Program, Federal Court Program, Wills & Estates Program, Family Law Program and Solicitors' Program);
- a superior court Civil Chambers Duty Counsel Program in the Vancouver courthouse;
- a Wills Clinic Project in Vancouver; and
- a Children's Lawyer Program in Nanaimo and Victoria.

The lawyers in the Roster Program who provided pro bono services on Court of Appeal cases in 2012 are:

Jonathan M. Aiyaduri
 Tam C. Boyar
 Melina L. Buckley
 Laura Cundari
 Caily DiPuma
 Pamela Germann
 Kasari Govender
 Angus M. Gunn Q.C.
 Sarah Hudson
 Claire E. Hunter
 Jeff Langlois
 James C. MacInnis
 Jamie F. Maclaren
 Sharon Matthews Q.C.
 Francesca V. Marzari
 Robert B. McNeney
 Roy W. Millen
 Brent B. Olthuis
 Mark S. Oulton
 Ryan W. Parsons
 Darrell W. Roberts Q.C.

The Court of Appeal Roster Program coordinators also put in many volunteer hours reviewing cases for merit. These coordinators are Simon R. Coval (civil), Richard C.C. Peck Q.C. (criminal) and Georgiale A. Lang (family).

The services of all these lawyers, without fee, are of great assistance to the Court, and are very much appreciated.

STATISTICS

SUPREME COURT OF CANADA

There were 70 applications for leave to appeal from decisions of the Court of Appeal filed with the Supreme Court of Canada in 2012.

The Supreme Court of Canada decided 58 applications for leave to appeal. Of these applications, 12 were granted and 46 were dismissed. There were nine decisions pending at the end of 2012.

In 2012, the Supreme Court of Canada heard 14 appeals from B.C. cases. Of these appeals, three appeals were allowed, five were dismissed and there were six reserved judgments pending at the end of 2012.

In 2012, 13% of the applications for leave to appeal to the Supreme Court of Canada were from the Court of Appeal. Of the judgments rendered in 2012, 18% were appeals from the Court of Appeal.

BC COURT OF APPEAL

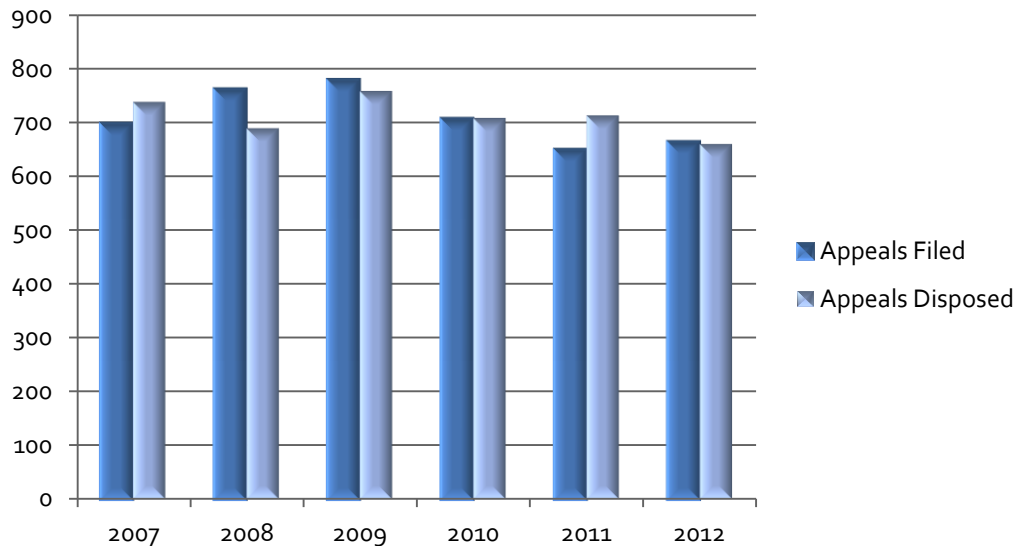
The charts on this page and the next show the volume of litigation and compare the number of appeals filed, both civil and criminal, and the number of appeals disposed of for the period 2007 - 2012. Please refer to the appendices for the actual numbers applicable to these charts.

CIVIL

Figure 1 demonstrates the general increase in appeals filed from 2007 to 2009, with a substantial drop in filings between 2009 and 2011. For 2012 the number of appeals has increased slightly. The disposed appeals have been fluctuating over the past 6 years, but otherwise have been close to or exceeded filings. The disposition rate for civil appeals in 2012 was 99% of filings (Appendix 1).

Figure 1

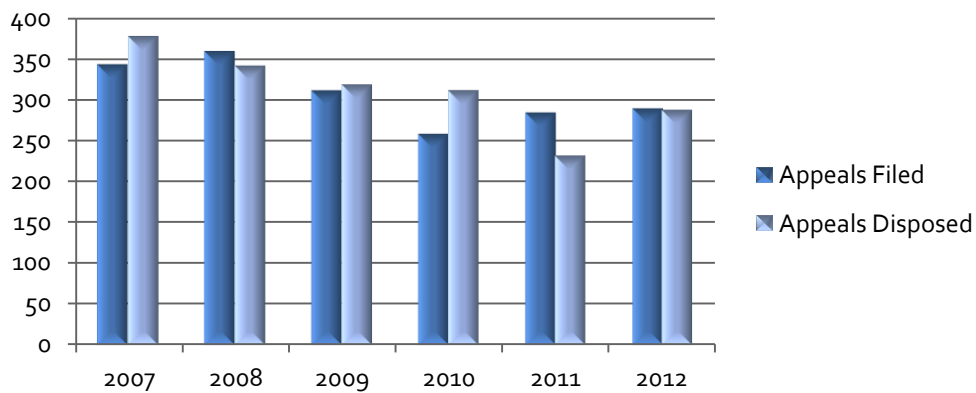
Civil Appeals Filed and Disposed 2007 - 2012



CRIMINAL

There are substantially fewer criminal appeals filed as compared to civil appeals. Figure 2 shows that, except for 2011, the number of criminal appeals disposed of is slightly more than the number of criminal appeals filed, which assists in reducing the backlog of criminal appeals which had accumulated in the earlier years. For 2012, there was a slight increase in filings. As well, the number of criminal dispositions was almost equal to the filings, resulting in a disposition rate of 99% of filings (Appendix 2).

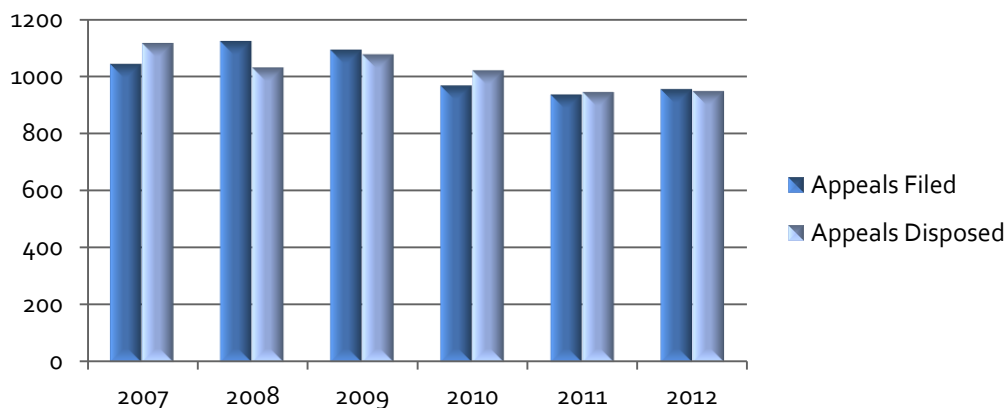
Figure 2
Criminal Appeals Filed and Disposed 2007 - 2012



GLOBAL

For a more complete picture of total activity, Figure 3 combines the civil and criminal filings and dispositions. The number of filings and dispositions remained relatively equal for 2012 (Appendix 3).

Figure 3
Total Appeals Filed and Disposed 2007 – 2012

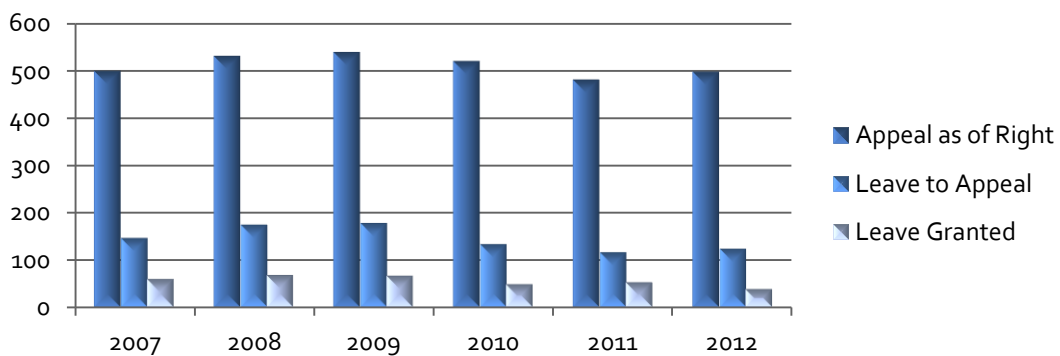


TYPES OF CIVIL APPEALS FILED

Of the civil appeals initiated in 2012, 25% were by applications for leave to appeal (which include those filing two initiating documents where an appellant is uncertain whether leave is required). These appeals require the permission of a justice before they can be heard by a division of three justices. In 2012, 52% 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 (Appendix 1).

Figure 4

Civil Appeal Filings 2007 – 2012

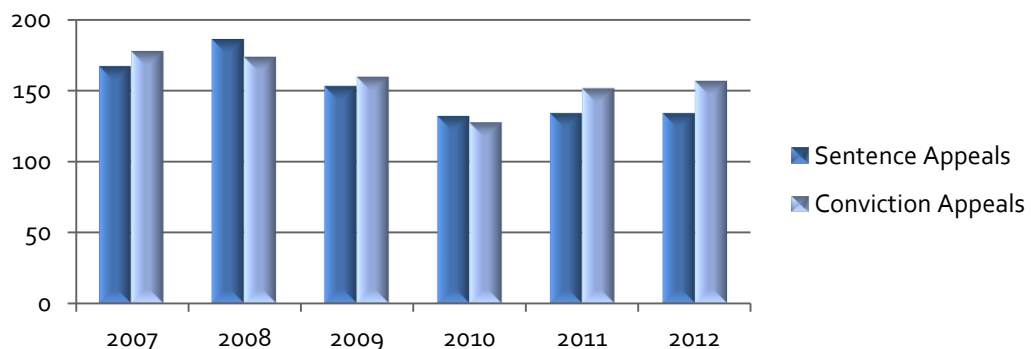


TYPES OF CRIMINAL APPEALS FILED

In criminal matters, 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 2007 and 2012. Sentence and summary conviction appeals amount to almost half (46%) of the total criminal appeals filed (Appendix 2).

Figure 5

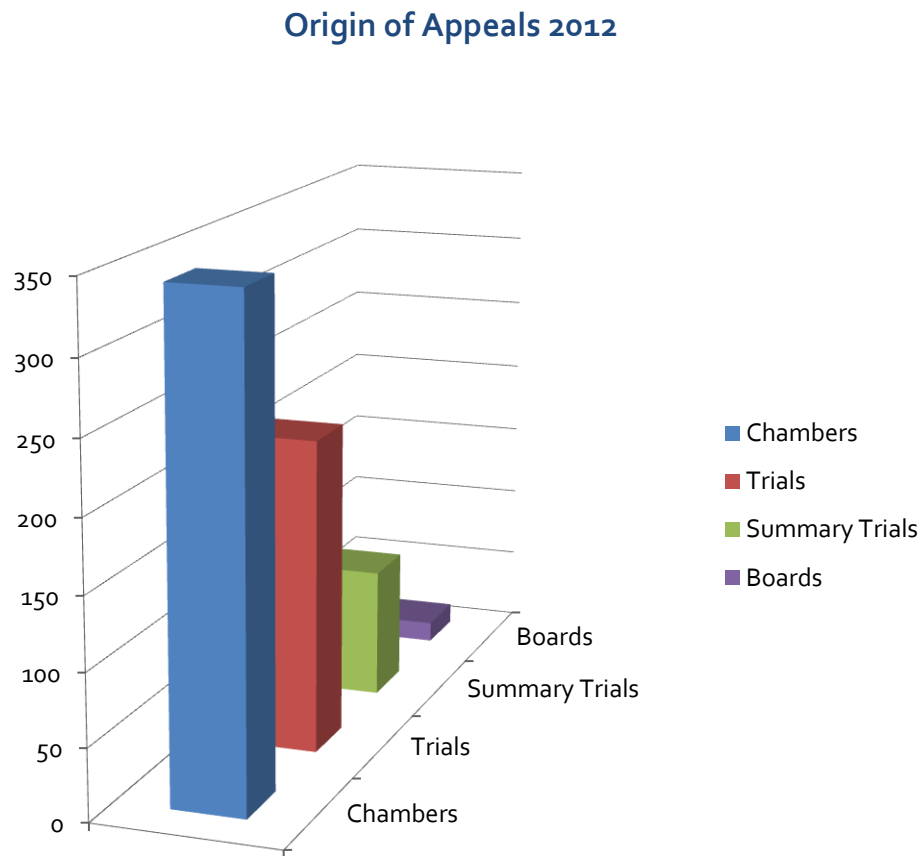
Criminal Appeal Filings 2007 – 2012



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. The 2012 figures show there were substantially more appeals from chambers matters and summary trials than appeals from trials. Figure 6 shows the types of appeals according to the underlying proceeding. Almost 70% of appeals filed were from non-trials.

Figure 6

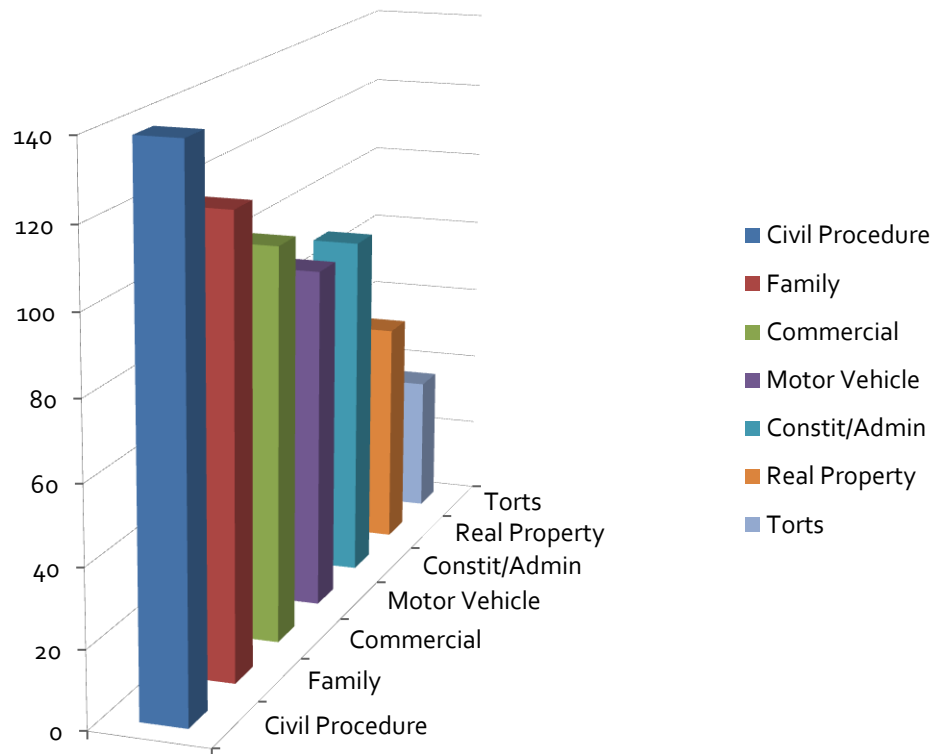


CIVIL CASE CATEGORIES

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 Case Categories 2012

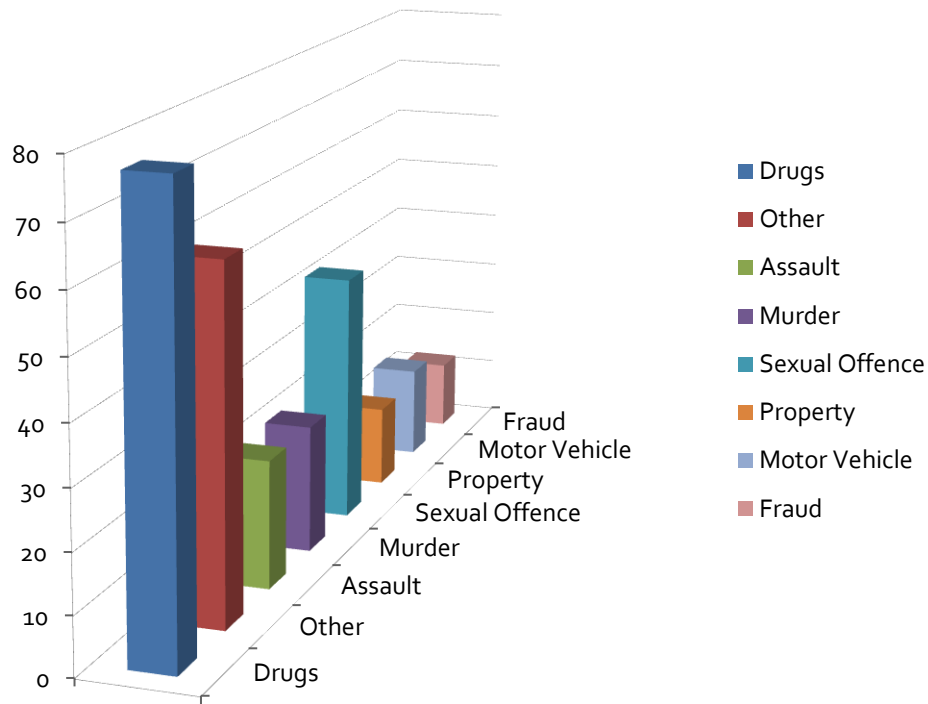


CRIMINAL CASE CATEGORIES

Another interesting breakdown is for the types of criminal cases that are dealt with by the Court. Drug and sexual offences form the largest categories of criminal appeals this year, amounting to almost 45% of the cases before the Court. "Other" covers various offences such as arson, mischief, extradition, and *habeas corpus* cases. Figure 8 shows the top eight categories.

Figure 8

Criminal Categories Appeals 2012



APPEALS ALLOWED/DISMISSED

The rate of civil and criminal appeals allowed over the past six years has varied. In 2012 the proportion of civil appeals allowed was 49% of the total civil appeals heard. For criminal appeals, the figure was 21% allowed of all criminal appeals heard. The “allowed” statistics encompass partial appeals allowed (i.e. any variations in the order) as well as appeals where new trials were ordered.

Figure 9 shows the number of civil appeals allowed and dismissed and Figure 10 shows the number of criminal appeals allowed and dismissed. (Appendices 1 & 2)

Figure 9

Civil Appeals Allowed/Dismissed 2007 – 2012

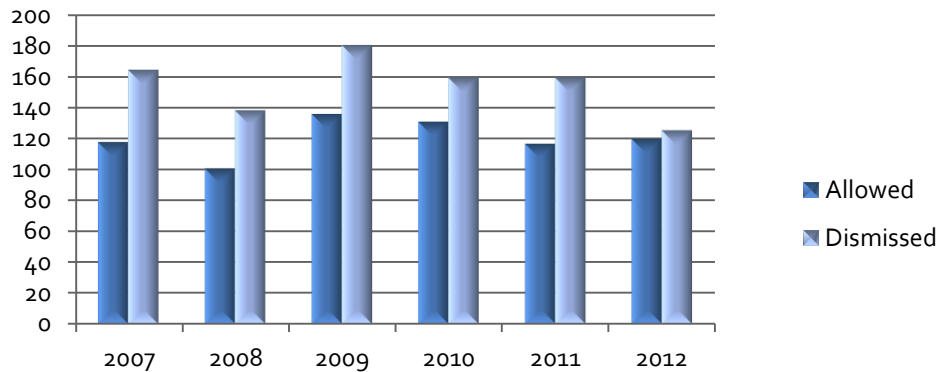
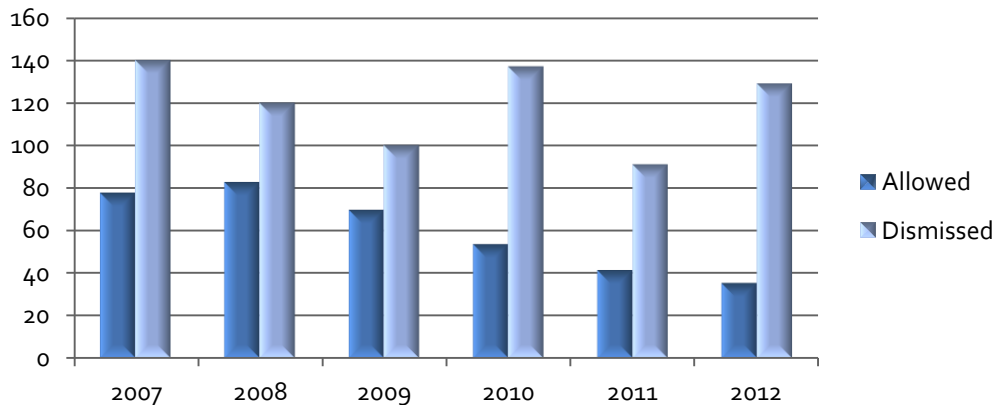


Figure 10

Criminal Appeals Allowed/Dismissed 2007 – 2012



SELF-REPRESENTED LITIGANTS

Figure 11 shows the number of self-represented litigants compared to the number of represented litigants who filed appeals in 2012. This number does not capture those litigants who file their own appeal but subsequently retain counsel; nor does it show the change where counsel ceases to act. In 2012 the percentage of civil filings for self-represented litigants was 27% and the percentage of criminal self-represented litigants amounted to 21% of all the appeals filed.

Figure 11

Appeals Filed – Self-Represented Litigants 2012

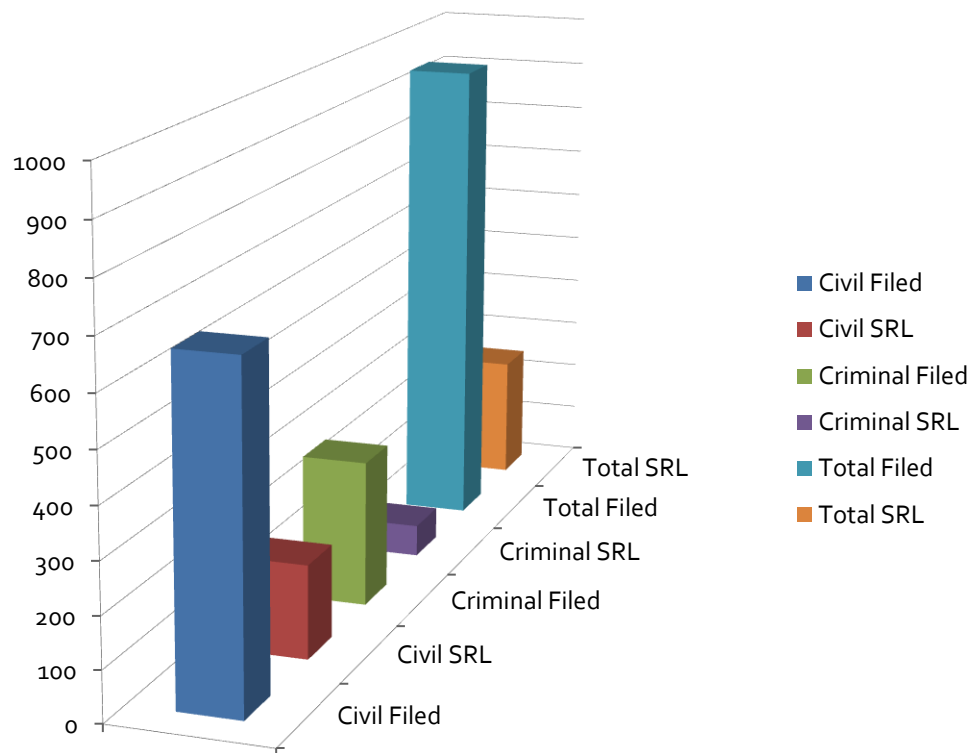
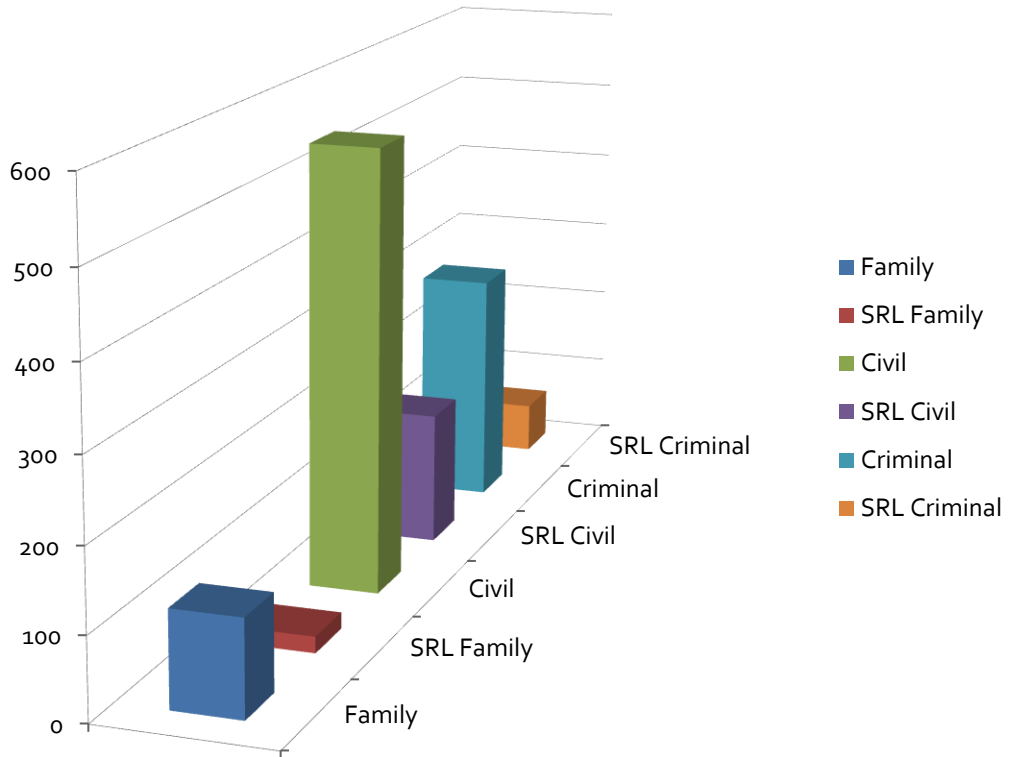


Figure 12 represents the number of self-represented litigants, by category, compared to the represented litigants in that category. It is interesting to note that 43% of family law appeals involve at least one self-represented litigant.

Figure 12

Self-Represented Litigants by Category of Appeal 2012



Appendix 1
Civil Statistics 2001-2012

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
APPEALS FILED:												
Notice of Appeal	660	582	532	468	550	494	498	530	538	519	480	497
Leave to Appeal	258	236	204	171	154	170	144	172	175	131	114	122
Notice of Appeal and Leave				54	69	76	55	59	65	55	55	44
TOTAL FILED	918	818	736	693	773	740	697	761	778	705	649	663
COURT DISPOSITIONS:												
Appeals Allowed	133	137	121	112	137	108	117	100	135	130	116	119
Appeals Allowed %	43%	42%	38%	40%	46%	38%	42%	42%	43%	45%	42%	49%
Appeals Dismissed	177	189	199	168	160	174	164	138	180	159	159	125
Appeals Dismissed %	57%	58%	62%	60%	54%	62%	58%	58%	57%	55%	58%	51%
TOTAL COURT DISPOSITIONS	310	326	320	280	297	282	281	238	315	289	275	244
Appeals Concluded in Chambers or Abandoned	522	492	455	498	492	419	455	449	441	419	436	414
TOTAL DISPOSITIONS	832	818	775	778	789	701	736	687	756	708	711	658
Dispositions as % of Filings	91%	100%	105%	112%	102%	95%	106%	90%	97%	100%	110%	99%
Judgments Reserved (Court)	178	193	181	210	197	221	197	192	245	233	241	176
Judgments Reserved (Cham)	n/a	n/a	n/a	99	66	79	88	87	63	62	83	80
Appeals with 5 Judges	16	10	16	4	1	1	3	2	7	1	3	2
Court Motions: Reviews	7	17	13	15	13	19	13	14	20	25	28	19
Granted	6	2	7	3	5	5	2	2	4	3	8	3
Refused	1	15	6	12	8	14	11	12	16	22	20	16
Chambers Motions	419	427	451	494	435	426	423	423	539	503	537	533
LEAVE TO APPEAL												
Granted	75	65	56	60	62	66	58	66	65	47	51	37
Refused	35	26	30	56	42	38	42	47	51	30	55	34
Total	110	91	86	116	104	104	100	113	116	77	106	71

**Appendix 2
Criminal Statistics 2001-2012**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
APPEALS FILED:												
Sentence	156	133	126	162	176	157	149	163	140	114	109	119
Conviction	177	128	130	137	142	147	116	123	115	99	112	116
Summary Conviction	37	47	33	41	18	15	17	23	12	16	24	14
Acquittal & Other	69	64	57	69	60	50	61	50	44	28	39	40
TOTAL FILED	439	372	346	409	396	369	343	359	311	257	284	289
COURT DISPOSITIONS:												
Appeals Allowed	111	70	72	82	66	76	77	82	69	52	41	35
Appeals Allowed %	37%	31%	27%	40%	33%	37%	35%	41%	41%	28%	31%	21%
Appeals Dismissed	193	159	193	124	132	132	140	120	100	137	91	129
Appeals Dismissed %	63%	69%	73%	60%	67%	63%	65%	59%	59%	72%	69%	79%
TOTAL	304	229	265	206	198	208	217	202	169	189	132	164
Summary Dismissals Abandonments in Court/Chambers	139	137	105	140	161	149	160	139	149	121	99	123
TOTAL DISPOSITIONS	443	366	370	346	359	357	377	341	318	310	231	287
Appeals Disposed % of Filings	101 %	98%	107 %	85%	91%	97%	110 %	95%	102 %	121 %	82%	99%
Appeals Heard by 5 Judges	5	0	1	0	1	0	0	2	0	1	1	2
Judgments Reserved	89	86	109	84	85	85	81	76	88	88	82	102
Judgments Reserved Chambers	n/a	n/a	n/a	21	10	10	28	11	11	13	22	28
Chambers Motions	260	230	219	244	275	298	248	242	265	272	210	295

Appendix 3
Total Appeals Filed and Disposed 2001-2012

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
APPEALS FILED:	1357	1190	1082	1102	1169	1109	1040	1120	1089	962	933	952
COURT DISPOSITIONS:	614	555	585	486	495	490	498	440	484	478	407	408
Appeals Allowed	244	207	179	194	203	184	194	182	204	182	157	154
Appeals Allowed %	40%	37%	32%	40%	41%	38%	39%	41%	42%	38%	39%	38%
Appeals Dismissed	370	348	383	292	292	306	304	258	280	296	250	254
Appeals Dismissed %	60%	63%	68%	60%	59%	62%	61%	59%	58%	62%	61%	62%
TOTAL	614	555	562	486	495	490	498	440	484	478	407	408
Appeals Concluded in Chambers or Abandoned	661	629	560	638	653	568	615	588	590	540	535	537
TOTAL DISPOSITIONS	1275	1184	1145	1124	1148	1058	1113	1028	1074	1018	942	945
Dispositions as % of Filings	94%	99%	106%	102%	98%	95%	107%	92%	99%	106%	101%	99%
Judgments Reserved	267	279	290	414	358	395	394	366	407	396	426	386
Appeals with 5 Judges	21	10	17	4	2	2	3	4	7	2	4	4
Chambers Motions	679	657	670	738	710	724	671	665	804	775	747	828