



What widely used legal resources did BC Provincial Court Judges create?

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BC Provincial Court judges have a history of producing and sharing practical resources to help trial judges achieve the excellence that is one of the Court's core values. Under the auspices of the BC Provincial Court Judges Association, volunteer judges have created and maintained two aids that proved so valuable they are being used by judges and others across Canada. What are these resources and how were they developed?

For many years, impaired driving and breathalyzer cases constituted a significant part of the Provincial Court's criminal law work. Those cases could be extremely challenging for a trial judge. The law had become highly technical and convoluted, with new issues being raised frequently in courts around the province. With such a large volume of case law at the trial level, and with such difficult issues being argued, there was great potential for the law to become inconsistent, tangled and unmanageable.

To add to the problem, the standard reference works on drinking/driving law were often not helpful to judges. They might contain layers and layers of dated and unreliable case law. It often appeared as if creative lawyers could find support in the reference books for just about any proposition of law, and whether that law had been considered by an appeal court was not always clear.

So in the early 2000s Judge Tony Palmer argued that it was time for our judges to create a single reference work on drinking/driving law, specifically designed for trial judges. He was not interested in an exhaustive summary of the law across the country. Instead, he wanted to focus on essential issues and the guidance offered by the British Columbia Court of Appeal and the Supreme Court of Canada. This would give BC trial judges a concise resource they could rely on to illuminate the most frequently argued issues in a logical, organized way. Of course the work would have to be updated on an ongoing basis.

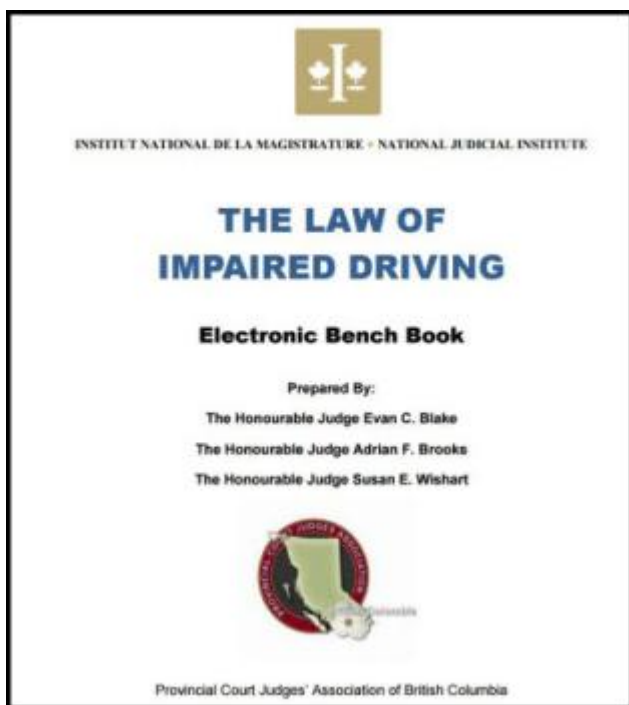
A decade before, Judge Tom Smith had led the preparation of a more general judges' handbook containing practical information and quick answers to legal questions that might arise in criminal, youth, family and small claims matters. After he retired Judge Smith was often consulted by the Provincial Court Judges Association's Education Committee because of his abiding interest in legal education and legal research. Retired Judge Smith agreed to compile a handbook of the sort envisaged by Judge Palmer.

He enlisted a number of sitting judges to prepare summaries of the law on the common issues in drinking/driving cases, from the roadside stop at the outset of an investigation to the possibility of sentencing at the trial's end. Judges Evan Blake and Elizabeth Bayliff agreed to co-edit the book with Judge Smith and help with writing – at the time they all lived in the Cariboo region of the province and their proximity was an advantage.

Judge Smith has a voracious curiosity about everything that contributes to excellence in judicial work – from the best diet to keep you alert to the best way to take notes to the best way to format a page for easy reading. He involved a graphics designer who contributed to the project enormously by suggesting that statements of law be “chunked” into short, visually attractive paragraphs to help the reader find and process information quickly. The “chunked” appearance of the **Impaired Driving Handbook** became one of the most important features setting it apart from other standard works on the subject.

Because contributing judges were all volunteering their time to work on the handbook when their daily casework allowed, the first edition was a long time coming. Work began in early 2005 and was not completed until late 2007. The first edition was produced in hard copy, complete with puce green cover and spiral binding, with printing costs borne by the Office of the Chief Judge.

Of course, publication did not end the process of monitoring changing statute and case law, a responsibility Judges Blake and Bayliff assumed. The provincial administrative process to deal with drinking drivers was introduced. There was new federal legislation on drug impairment. And the Supreme Court of Canada issued a number of relevant constitutional decisions. Eventually the changes in the law became so vast that it was necessary to produce an entirely revised second edition.



The [National Judicial Institute \(NJI\)](#) had become interested in the project as judges in other provinces had found the handbook a useful tool and provided enthusiastic feedback. NJI lent its

ample administrative and financial resources to the completion of the second edition, published online in 2010. Judges Susan Wishart and Adrian Brooks then replaced Judge Bayliff to work with Judge Blake on updating. NJI reported that it was their most widely used electronic benchbook.

Early in 2014 NJI published a third edition in its online judges' library, after expanding the index and improving links to statutes and case law. Judge Blake says, "By then, the number of drinking/driving cases in BC courts had decreased dramatically as a result of the administrative driving prohibition scheme. We decided it would be more appropriate for on-going revision to be done outside BC through the NJI. Besides, eight years of that work had proved quite exhausting!"

Another invaluable BC Provincial Court Judges Association initiative is the **Offence Grid**, conceived by Judge Smith as part of the earlier general judges' handbook. It is a chart showing all the offences in the Canadian Criminal Code and indicating for each offence whether they are summary conviction or indictable offences, the sentences available, and any orders that may (or must) accompany the sentence. Judge Smith and a group of volunteer judges worked with a lawyer, graphic designer, and data entry assistant to create and maintain the chart.

The Offence Grid proved so useful that it has been added to many of Canada's annotated Criminal Codes (including Martin's, Gold's, Treemear's, and some French publications) with the permission of the BC Provincial Court Judges Association. Publishing staff of Martin's Annual Criminal Code have told Judge Smith it is the most popular resource they have added to their volume. The Provincial Court of BC Judges Association's Offence Grid now tells self represented litigants across Canada potential sentences, assists lawyers in making sentencing submissions, and helps judges in all Canadian courts avoid sentencing errors.

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