



**JUDICIAL COUNCIL
OF THE PROVINCIAL COURT
OF BRITISH COLUMBIA
ANNUAL REPORT
2009 / 2010**



Judicial Council of British Columbia

December 30, 2011

The Honourable Shirley Bond
Attorney General
Parliament Buildings
P.O. Box 9044, Stn Prov Govt.
Victoria, BC V8W 9E2

Dear Ms. Attorney:

I present herewith the Annual Report of the Judicial Council of British Columbia for the years 2009 and 2010. The activities of the Judicial Council during this period include the review of 134 applications for appointment as Provincial Court Judge. Of those applications, the Council interviewed 49 applicants for the position of Provincial Court Judge (21 in 2009 and 28 in 2010).

The Judicial Council continues to fulfill its statutory object of improving the quality of judicial service in the Provincial Court of British Columbia to a standard of judicial excellence to ensure that members of the judiciary are provided with ongoing access to the highest quality of education, and in promoting strict adherence to accepted judicial ethical guidelines.

This report is published in keeping with the Council's tradition of accountability, transparency and public access to information. It is accessible on the Provincial Court website, at <http://www.provincialcourt.bc.ca/judicialcouncil/index.html>.

Sincerely,

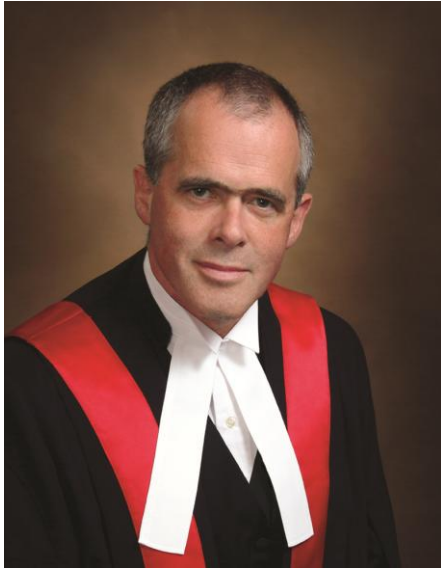
The Honourable Thomas J. Crabtree
Chief Judge
Presiding Member, Judicial Council of British Columbia

JUDICIAL COUNCIL OF BRITISH COLUMBIA FOURTEENTH ANNUAL REPORT

2009 / 2010

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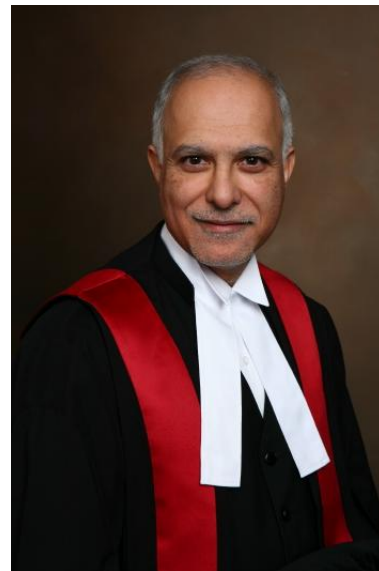
The Honourable Hugh C. Stansfield
Chief Judge of the Provincial Court of British Columbia
and Presiding Member, Judicial Council of British Columbia
July 1, 2005 – May 7, 2009



The Honourable Thomas J. Crabtree
Chief Judge of the Provincial Court of British Columbia
and Presiding Member, Judicial Council of British Columbia
Appointed April 8, 2010



The Honourable James J. Threlfall
Associate Chief Judge, Alternate Presiding Member
July 29, 2005 – June 30, 2010
Acting Chief Judge and Presiding Member
May 7, 2009 – April 7, 2010



The Honourable Gurmail S. Gill
Associate Chief Judge, Alternate Presiding Member
Appointed July 1, 2010

1. Introduction

The Judicial Council of British Columbia is a statutory body created by the *Provincial Court Act*, R.S.B.C. 1996, c. 379, s.21. The stated object of the Council is to “improve the quality of judicial service.” Judicial Council’s functions include:

1. considering proposed Lieutenant Governor in Council appointments of Judges, Justices (including Judicial Justices of the Peace and Justices of the Peace);
2. conducting inquiries respecting Judges, Judicial Justices of the Peace and Justices of the Peace;
3. considering proposals for improving the judicial services of the Court;
4. continuing the education of Judges and organizing educational conferences for Judges;
5. preparing and revising, in consultation with the Judges, a code of ethics for the judiciary; and
6. reporting to the Attorney General on the matters the Attorney General considers necessary.

The members of the Judicial Council as prescribed by the *Act* are the Chief Judge as Presiding Member; an Associate Chief Judge as Alternate Presiding Member; the President of the Law Society of British Columbia or her/his designate; the President of the British Columbia Branch of the Canadian Bar Association or her/his designate; and, by appointment of the Lieutenant Governor in Council for a term of not longer than 3 years, a Judge (who, by convention, is the President of the Provincial Court Judges’ Association, and appointed for a term of 1 year); and not more than 4 other persons (by convention, this has included a Judicial Justice of the Peace, and at least 2 lay persons).

In 2009, the Provincial Court of British Columbia suffered the unexpected loss of former Chief Judge Hugh C. Stanfield, who died on May 7, 2009. Chief Judge Stansfield’s contributions to the Court, and to Council, were innumerable, and his legacy will live on.



Left to right; front row: Associate Chief Judge Threlfall, Judge Challenger; back row: Mr. Vertlieb, Q.C., Ms. Gibbons, Mr. Jawl, Q.C., JJP Arntsen, Mr. Walker. In absentia: Chief Judge Hugh Stansfield, Ms. Maisonville

The members of Judicial Council for 2009, and the dates of their appointments, were as follows:

1. The Honourable Hugh C. Stansfield, Chief Judge, Presiding Member
July 1, 2005; deceased May 7, 2009
2. The Honourable James J. Threlfall, Associate Chief Judge, Alternate Presiding Member
July 29, 2005; presided over Council as Acting Chief Judge & Presiding Member as of May 7, 2009
3. The Honourable Judge Joanne Challenger President, BC Provincial Court Judges' Association
December 31, 2008
4. Judicial Justice of the Peace Joanne Arntsen
December 12, 2007
5. Mr. Kenneth Walker, The Law Society of BC nominee
January 14, 2009
6. Ms. Miriam Maisonville, President, Canadian Bar Association, BC Branch
January 1, 2009
7. Ms. Elizabeth Gibbons
December 18, 2002
8. Mr. Art Vertlieb, Q.C.
March 9, 2006
9. Mr. Mohan Jawl, Q.C.
December 31, 2008



Left to right; front row: Associate Chief Judge Gill, Chief Judge Crabtree, Associate Chief Judge Threlfall, Judge Milne; back row: Mr. Vertlieb, Q.C., Ms. Gibbons, Mr. Bond, JJP Arntsen, Mr. Walker

The members of Judicial Council for 2010, and the dates of their appointments, were as follows:

1. The Honourable Thomas J. Crabtree, Chief Judge Presiding Member
April 8, 2010
2. The Honourable James J. Threlfall, Associate Chief Judge, Alternate Presiding Member
July 29, 2005 to June 30, 2010; presided over Council as Acting Chief Judge & Presiding Member until April 7, 2010
3. The Honourable Gurmail Gill, Associate Chief Judge, Alternate Presiding Member
July 1, 2010
4. The Honourable Judge John Milne, President, BC Provincial Court Judges' Association
December 31, 2009
5. Judicial Justice of the Peace Joanne Arntsen
December 12, 2007
6. Mr. Kenneth Walker, The Law Society of BC nominee
January 14, 2009
7. Mr. James M. Bond, President, Canadian Bar Association, BC Branch
January 1, 2010
8. Ms. Elizabeth Gibbons
December 18, 2002
9. Mr. Art Vertlieb, Q.C.
March 9, 2006
10. Mr. Mohan Jawl, Q.C.
December 31, 2008; resigned January 11, 2010

2. Meeting Schedule & Business Conducted

Judicial Council meets approximately once monthly in the Judicial Council Boardroom at the Office of the Chief Judge, Provincial Court of British Columbia, 602 - 700 West Georgia Street, Vancouver, BC V7Y 1E8. At most meetings, Council reviews applications for appointment of Provincial Court Judges and Justices of the Peace, and conducts interviews of at least two candidates for the position of Provincial Court Judge.

The 2009 meeting schedule was as follows: January 16, February 6, March 13, April 17, May 15, June 19, July 10, September 18, October 16, November 20, and December 18.

The 2010 meeting schedule was as follows: January 8, February 26, March 26, April 16, May 21, June 18, July 23, September 10, October 8, November 12, and December 17.

The number of applications for recommendation for appointment as a Provincial Court Judge, Judicial Justice of the Peace and Justice of the Peace per year are shown in the following charts. The figures reflect the Council's activities in the specified year, and therefore may include reviews, interviews, or appointments of candidates who applied in a previous year.

Applicants for Recommendation for Appointment as a Provincial Court Judge

Year	Applications Received			Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Approved		
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2010	46	30	16	48	31	17	15	13	2	28	19	9	17	13	4
2009	59	39	20	86	52	34	27	16	11	21	13	8	7	5	2

Applicants for Recommendation for Appointment as a Judicial Justice of the Peace

Year	Applications Received	Applicants Interviewed	Applicants Approved
2010	1	0	0
2009	10	0	0

Applicants for Recommendation for Appointment as a Justice of the Peace

Year	Applications Reviewed	Applicants Approved
2010	19	19
2009	20	20 (1 failed the exam)

In addition to interviews and the review of applications, Council attends to ongoing business at its meetings. Topics in the past two years have included updates to both the Provincial Court Judges' and the Judicial Justices of the Peace application packages, submissions from Council to the 2010 Judicial Compensation Commission and the Judicial Justices of the Peace Compensation Commissions, and updates to the criteria and competencies for judicial applicants. Members of Judicial Council, including the Chief Judge, also met with the Canadian Bar Association Judicial Advisory Committee to review their role in the appointment process.

Reappointment of Retired Judges

As a result of the May 28, 2008 passing of Bill 43-2008, *Miscellaneous Statutes Amendment Act* and the consequent changes to s.6 of the *Provincial Court Act*, Council undertook a comprehensive review of the process for the reappointment of retired Judges. This process, including the development of a new application package for retired Judges, continued into 2010, and resulted in the formation of the "Judicial Reappointment Advisory Committee" (JRAC). This Committee is responsible for providing input to assist Council with determining whether the candidate be recommended for reappointment. The members of the JRAC are appointed by the Chief Judge and comprised of a former Associate Chief Judge, an Administrative Judge or former Administrative Judge and a member of the Provincial Court Judges' Association Executive nominated by the President.

Criteria and Competencies

In 2009, Judicial Council completed an exhaustive 18-month review of the criteria and competencies for applicants for appointment as a Provincial Court Judge, which included consultation with all Judges of the Provincial Court, as well as the Executive of the Provincial Court Judges' Association. The criteria and competencies are:

Criteria:

1. At least ten years in the practice of law. Those with less legal practise experience are considered if they have a range of related experience.
2. Superb legal reputation and a professional record review from the Law Society of British Columbia.
3. Experience in mediation or alternative dispute resolution.
4. Respect in the community.
5. Good health.
6. Appreciation of and experience with diversity.
7. Willingness to travel and to sit in all subject areas.

Competencies:

- A. Knowledge and technical skills:
Conscientiousness; commitment to high standards.
- B. Decision making:
Decisiveness; confidence; courage; independence; impartiality
- C. Communication and authority:
Firmness without arrogance; courtesy; patience; tolerance; fairness; sensitivity; compassion; self-discipline.
- D. Professionalism and temperament:
Capacity to handle stress and isolation of judicial role; sense of ethics; patience; honesty; tolerance; consideration of others; personal responsibility.
- E. Effectiveness:
Commitment to public service; commitment to efficient administration; self-discipline.
- F. Leadership and management for Judges holding administrative positions:
Responsibility; imagination; commitment to efficient administration.

3. Appointment Process for Judges

Pursuant to s.6 of the *Provincial Court Act*, Judges are appointed by the Lieutenant Governor in Council, on the recommendation of the Judicial Council. The process of receiving a recommendation commences with an application to Judicial Council.

Application and Approval Process

Applications for judicial appointment are submitted on a “Judicial Candidate Application” form, which may be acquired on-line from the Provincial Court [website](#). Also available on-line is a “Judicial Candidate Process Summary,” outlining the entire process from application, through interview, to appointment. Council strives to ensure that applicants understand and consent to the extensive investigation that will be initiated following an application.

Upon receipt of an application, the Chief Judge requests a “CBA Report” on the applicant from the Judicial Advisory Committee of the Canadian Bar Association. Committee members make inquiries of members of the profession, and others, regarding an applicant’s reputation and suitability for judicial office, a process which may take several months. Council is indebted to the CBA Committee for the diligence it brings to this task.

In addition to the CBA report, the Chief Judge requests reports from the Law Society of BC, detailing any history of complaints against the applicant; and CFSEU-BC PRIME Records, listing the applicant’s criminal record, if any. The Chief Judge may also solicit comments from Judges and Judicial Justices of the Peace who may be familiar with the applicant. Persons identified as references by the applicant, and others not so identified including current colleagues, may be contacted, unless the applicant specifically requests that they not be contacted, and provides reasons for that request. Inquiries are conducted discreetly, but strict confidentiality cannot be guaranteed.

Once the inquiries are complete and the above reports are all received, Judicial Council reviews all the information and determines whether to interview the applicant. If at least three members vote in favour, the applicant is approved for an interview. The timing of the interview depends on the backlog of approved applicants but it generally occurs within a year following the date of application. Applicants not approved for an interview are not notified.

Interviews are conducted at the Office of the Chief Judge. At least five members of Judicial Council must be present, although all nine members usually participate. Applicants are asked a series of questions designed to assess their suitability for judicial appointment, and to address any issues raised as a result of the inquiries made concerning the application. Following the interview, Council decides whether to approve the candidate. If at least two members vote against an applicant, the application is not approved. Reasons are not provided, nor are applicants notified of the outcome of their applications.

Approved applicants are added to a roster where they remain for a period of up to three years from the date of their interview. When a vacancy arises, the Chief Judge, as Presiding Member of Judicial Council, provides the Attorney General with the names of recommended candidates who are eligible to sit in the region or district where the appointment will be made. The Attorney General may select candidates from the roster and submit their names to the Lieutenant Governor of British Columbia for appointment.

In 2009 and 2010, 12 recommended candidates were appointed by the Lieutenant Governor in Council (4 in 2009; 8 in 2010).

An approved candidate who is not appointed within three years of the date of interview is removed from the roster and must reapply. Interviewed applicants need to advise Council if at any time they wish to remove themselves from consideration for appointment.

Many applicants reapply at least once before being appointed by the Lieutenant Governor in Council. Given the Council's statutorily prescribed object of improving the quality of judicial service, the approval process must ensure that only exceptional applicants who are unquestionably capable of meeting these increasing demands be recommended as being eligible for appointment.

The following chart shows the history of applications, interviews and approvals over a 10-year period, providing an indication of trends in application rates and a comparison of candidate approval rates before and after the change in the approval process. These figures reflect the Council's activities in the year specified, which include reviews and interviews of applicants from the prior year, and are not reflective of the results of applications made in a particular year.

**Applications for Recommendation for
Appointment as a Provincial Court Judge
2001 - 2010**

Year	Applications Received			Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Approved		
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2010	46	30	16	48	31	17	15	13	2	28	19	9	17	13	4
2009	59	39	20	86	52	34	27	16	11	21	13	8	7	5	2
2008	54	31	23	67	39	28	28	14	14	21	13	8	13	8	5
2007	89	57	32	81	48	32	27	19	8	25	16	9	11	8	3
2006	55	35	20	47	34	13	19	16	3	15	12	3	7	5	2
2005	41	29	12	41	30	11	20	13	7	28	17	11	16	10	6
2004	47	29	18	58	39	19	34	24	10	29	22	7	10	10	0
2003	51	39	12	53	36	17	29	20	9	33	23	10	19	12	7
2002	43	27	16	56	39	17	34	25	9	37	28	9	17	15	2
2001	76	57	19	54	43	11	39	31	8	38	27	11	12	10	2

The average number of applications received per year for the 10 years prior to 2010 was 56. The 3 years with the highest number of applications received were 2001, with 76 applications; 2007 with an all-time high of 89 applications; and 2009, at 59. It is important to note that 2007 was the year in which a significant salary increase was recommended for 2009, and 2009 was when that salary was implemented.

The average number of applications reviewed for interview over the last 10 years was 59, but on average, only 46%, or 26 applicants per year, were approved for an interview. The average number of applicants interviewed each year was 28, of which, on average, 13 were approved, resulting in a 10-year average approval rate of about 47% of those interviewed and about 22% of total reviewed applications.

The average number of Judges appointed per year for the two years from 2009 to 2010 was 6, or about 10% of total applicants, and about 46% of annual approvals.

Demographics

Throughout the years 2009-2010, Judicial Council had an average “pool” of 24 applicants approved as being eligible for appointment. As of December 31, 2010, this pool consisted of 25 candidates, of which 18 were men and 7 were women. Thirteen of the approved candidates came from the Lower Mainland, 12 from other parts of the province.

While 9 of the 12 administrative districts of the Court were represented in the pool, and some of the applicants were willing to relocate, many Court locations were not represented by resident candidates, or candidates willing to relocate to that location. Candidates who were willing to relocate were more often male than female (9-1).

It is the policy of the Council to assess all applicants equally in relation to the appointment criteria, and not to allow the decision to interview or approve an applicant to be affected by a candidate's willingness to relocate to a hard-to-fill area. However, the application process may be expedited for a candidate in a hard-to-fill area where there is an upcoming vacancy.

Applicants to Judicial Council by Age and Gender (2001 – 2010)

As indicated in the following chart of applicants by age and gender, the average age of applicants to the Court in the last 2 years was 49, with an average of 20 years in practice. The average age of male applicants has remained consistent at 51 years for the past several years, while the average age of women seems to be rising, though is still lower than men, at 47 years.

Year	Total	Male	%	Average Age	Female	%	Average Age
2010	46	30	65%	52	16	35%	50
2009	59	39	66%	51	20	34%	47
2008	54	31	57%	51	23	43%	52
2007	89	57	64%	51	32	36%	48
2006	55	35	64%	52	20	36%	45
2005	41	29	71%	54	12	29%	47
2004	47	29	62%	50	18	38%	45
2003	51	39	76%	51	12	24%	47
2002	43	27	63%	49	16	37%	46
2001	76	57	75%	49	19	25%	46

Female applicants have on average about two years less practise experience than male applicants. According to The Law Society of British Columbia's 2009 [Annual Report](#), the profession is comprised of 35% women; however, women continue to leave the profession in larger numbers than men.

Of the 24 applicants who were approved for appointed in 2009 and 2010, 17 were male and 7 were female; of those, 12 were appointed to the following districts: 1 to North Vancouver Island; 2 to South Vancouver Island; 1 to the Coast; 2 to South Fraser; 1 to North Fraser; 1 to Okanagan; 1 to Kamloops; 2 to the Kootenays; and 1 to Cariboo/Northeast.

Applicants by Gender and Area of Practice (2006 – 2010)

Type of Practice	Private	Crown Counsel	Other Areas	
2010	Total	29	10	7
	M	21	5	4
	F	8	5	3
2009	Total	32	10	17
	M	24	6	9
	F	8	4	8
2008	Total	34	14	6
	M	21	8	2
	F	13	6	4
2007	Total	61	18	10
	M	41	13	3
	F	20	5	7
2006	Total	32	15	8
	M	18	11	6
	F	14	4	2

Diversity

Judicial Council is committed to recommending applicants for appointment to the Provincial Court who are representative of the general population in the province. Council is actively seeking means to promote a more diverse Court and to encourage applicants from all walks of life. Applicants are asked to share information regarding their experiences with diversity in the hope that they will assist the Court in learning and more appropriately addressing issues of difference.

Comparison of New and Renewed Applications

As stated above, applicants who are not appointed may reapply after three years and often do. The breakdown of applications based upon the number of new and renewed applicants is shown in the following chart. The figures shown in each column reflect the outcome of applications considered by Judicial Council in the specified year.

New and Renewed Applications by Year and Sector (2003 – 2010)

	NEW APPLICATIONS:					RENEWED APPLICATIONS:				
	Total	Private Practice	Approved After Interview	Public Sector & Other Areas	Approved After Interview	Total	Private Practice	Approved After Interview	Public Sector & Other Areas	Approved After Interview
2010	29	21	5	8	4	18	9	6	9	2
2009	35	19	6	16	0	24	13	1	11	0
2008	33	25	8	8	2	21	9	2	12	1
2007	59	41	3	18	5	30	20	3	10	0
2006	43	24	6	19	0	12	8	1	4	0
2005	34	22	9	12	3	9	5	2	4	2
2004	33	20	3	13	3	14	7	2	7	2
2003	35	24	7	11	6	16	14	6	2	0

Note: The above figures are incomplete, since not all persons applying in 2009 and 2010 had been interviewed by the end of 2010.

Though it may be difficult to identify a trend in light of the low overall numbers, the annual number of new applicants is relatively stable with the exception of a significant spike in 2007, followed by a significant decline. As previously stated, this may be due to the fact that Provincial Court Judges received a significant salary and benefit increase from the Judicial Compensation Commission at this time, sparking interest by applicants for a period. Applications from individuals in both private practice and the public sector have declined significantly. New applications approved by Judicial Council from applicants in private practice rose slightly from 29% in 2003, to 31% in 2010.

There has been a steady decline over the last several years in the number of applicants renewing their applications to Judicial Council after previously being unsuccessful. However, while the number of renewed applications from applicants in private practice has decreased, those who have been approved after an interview increased. Similarly, while the number of renewed applications from those in the public sector (and other areas) has decreased, the number of approved applicants (again, from the public sector) after an interview has increased slightly.

4. Appointment Process for Judicial Justices of the Peace

Judicial Justices of the Peace (JJPs) are appointed by the Lieutenant Governor in Council on the recommendation of the Judicial Council, as are Judges. They are assigned by the Chief Judge to preside over matters within their statutory jurisdiction, including traffic and other ticket offences, some municipal bylaw matters, payment hearings in Small Claims Court, applications for bail and search warrants and calling the list in Victoria's Integrated Court.

Role of Judicial Council in the appointment of Judicial Justices of the Peace

The Judicial Council reviews applications, conducts interviews, and approves JJP candidates for appointment and the Chief Judge sends to the Attorney General the names of approved candidates recommended for appointment to available vacancies, in a process similar to that for Judges outlined above. Applications for JJP positions may be submitted at any time or may be solicited by a recruitment campaign for a specific vacancy.

When received, applications are initially reviewed by Judicial Council, or a Select Committee of the Council, to decide whether the applicant will be interviewed. Candidates are not advised of that decision except through receipt of an invitation to attend for interview. Candidates who are interviewed are not advised whether they have been approved as eligible for appointment. Approvals remain valid for three years. Applicants are eligible to reapply after three years from the date of their previous application, or the date of their interview, if any.

In 2007 the Council began considering applications by lawyers for appointment as JJP to serve on a part-time, per diem basis. In 2007, seven lawyers were appointed as JJP by the Lieutenant Governor in Council, on the recommendation of Judicial Council, to serve on a part-time, per diem basis. In 2008, a further, 10 lawyers were appointed to serve as JJP on a part-time, per diem basis, and 5 ad hoc JJPs were appointed to meet the needs of the Court. Due to the large number of appointments in 2007 and 2008, no interviews were conducted in 2009 and 2010. Currently, there is a “pool” of one approved candidate for the position of JJP. It is anticipated that as JJPs retire, or find shift work challenging, more will have to be recruited and the pool expanded.

Appointment Criteria

Applicants for appointment as a JJP must meet the following criteria:

1. At least five years of practice with the BC Bar. Those with less legal practise experience, or those from a bar outside BC are considered if they have a range of related experience.
2. Superb legal reputation in the legal community, and a professional record review from the Law Society of British Columbia.
3. Demonstrated excellence in area of the law.
4. Experience in mediation or alternative dispute resolution.
5. Willingness and ability to learn and demonstrated commitment to continuing professional education.
6. Knowledge of current issues facing the courts, the judiciary, and the justice system, and awareness of the social context within which the Court operates.
7. Ability to listen and communicate effectively.
8. Personal characteristics such as decisiveness, evenness of temperament, fairness, open mindedness, common sense and courage.
9. Demonstrated compassion for those coming before the Court and an understanding of their circumstances.
10. Respect in the community.
11. Good health.

12. Passion and enthusiasm.
13. Balanced relationships with peers and subordinates.
14. Demonstrated adaptability and flexibility with respect to job changes.
15. Demonstrated balance of confidence and humility.
16. Appreciation of and experience with diversity.
17. Demonstrated dedication to public service.
18. Ability to cooperate and work with others.
19. Understanding of the role of the Court in society and respective roles of the judiciary and other participants in the justice system.
20. Willingness to travel and to sit in all subject areas.

Applications for appointment as a JJP are submitted on a “Judicial Candidate Information Summary,” which may be acquired on-line from the Provincial Court [website](#).

5. Appointment Process for Court Services Justices of the Peace

Court Services Justices of the Peace (JPs) work in Court registries throughout the province. In addition to their JP duties, which are assigned by the Chief Judge, they hold various administrative positions in the Court Services Branch of the Ministry of the Attorney General, including court manager, administrator and court clerk.

Court Services JPs perform such functions as:

1. Swearing Informations and arranging for the process to bring accused persons to court to answer new charges;
2. Attending to the execution of Court orders made by Judges and JJPs;
3. Determining whether persons qualify to be a “surety” or to guarantee an accused’s bail; and
4. Generally, performing other duties required of a “justice” in the *Criminal Code*, but being primarily administrative in nature, and not requiring the exercise of material judicial discretion.

The applicable process for a JP appointment is as follows:

1. A Court Manager (or their designate) in the relevant Court location will contact the JP Administrator at the Office of the Chief Judge (preferably in writing) when they require a JP appointment (e.g., a successful applicant for a position that performs JP duties; the position is usually posted as a government posting, and a competition is held at the local level).
2. The successful candidate will submit an application to Judicial Council for appointment as a JP.
3. When the application is received, it is reviewed by the JP Administrator at the Office of the Chief Judge to ensure it is properly completed and to identify any potential problems with the application (e.g., conflicts of interest). A background check is performed, including a police record check, a credit history and driving record. Prior work history and education confirmation is also provided.

4. The application is forwarded to the Administrative Judge in the relevant district with a request that he or she confirm the need for the appointment and interview the candidate according to the following guidelines:
 - (a) The applicant's existing relationship (if any) with the local police or sheriff which may impede his/her independence (e.g., "Does the candidate know of any potential conflict of interest concerning this position that may impede his/her ability to perform JP duties?").
 - (b) Ability to learn, communicate effectively and make independent decisions.
 - (c) Willingness to attend courses (i.e., four days basic training).
5. Once the interview is complete, the Administrative Judge will submit his/her recommendation to Judicial Council via the JP Administrator.
6. The Administrative JJP performs background checks on character traits of the applicant and submits a summary to Judicial Council via the JP Administrator.
7. The JP applicant is invited to the JP basic training course where upon its conclusion the JP applicant writes an exam to evaluate their understanding of the JP duties.
8. The Administrative Judge's recommendation, court manager's request for the appointment, together with the application and result of the JP examination (and all other documents mentioned above) are submitted to Judicial Council for review and consideration.
9. If Judicial Council approves the application, the applicant's name is forwarded to Victoria for consideration of an Order-in-Council.

6. Appointment Process for Judicial Case Managers

Judicial Case Managers (JCMs) are officers of the judiciary who perform case management or judicial scheduling functions. They are required to hold a JP commission as part of their qualifications for the position. When an applicant becomes a potential candidate for employment as a JCM through a government posting process, the applicant must apply for a JP commission. The application proceeds through the Judicial Council approval process in a fashion similar to that for Court Services JP described above.

7. Judicial Education

Judges' Education

New Judges receive a three to four week orientation program consisting of travel to various districts in the province, mentoring by experienced Judges, and Court observations. In the first two years following their appointment, Judges attend the New Judges Training Program presented by the Canadian Association of Provincial Court Judges and the Newly Appointed Provincial and Territorial Judges Skills Seminar presented by the National Judicial Institute. In addition, new Judges attend, from time to time, additional conferences organized or sponsored by the Office of the Chief Judge.

Judges also regularly attend the semi-annual education conferences organized by the Education Committee of the Provincial Court Judges' Association.

The Education Committee presents education conferences in the spring and fall for a total of four-and-a-half days of education programming. The sessions in the spring and fall of 2009 and 2010 covered a wide range of topics, including:

- | <i>2009</i> | <i>2010</i> |
|--|--|
| 1. Best Interests of the Child | 1. The YCJA: A Seven Year Review |
| 2. Why we do the things we do! | 2. Rethinking Approaches to Youth Justice |
| 3. Education Review | 3. The ABCs of R. v. Grant |
| 4. Criminal Law Update | 4. Katrina and the Courts |
| 5. View from the Top! | 5. Court Emergency Preparedness in Canada |
| 6. Reasons for Judgment | 6. Personal Emergency Preparedness |
| 7. Civil Panel | 7. BC Emergency and Fire Management |
| 8. Judicial Wellness | 8. Judicial Wellness: Addressing the Emotional Challenges of Judging |
| 9. Communication Tools for Cases Involving Self-Represented Litigants | 9. Poverty's Realities and Solutions |
| 10. The Self-Represented Litigant in the Criminal Context , and the Family Context | 10. Publication Ban Practice Manual |
| 11. A Conversation with Justice Abella | 11. Families in Conflict, Families in Need |
| 12. Overworked and Underpowered; Managing Energy vs. Time | 12. Legal Aid Issues |
| 13. Harnessing Technology for the Better Administration of Justice – Emerging Technology and Ethics Issues | 13. Gladue Issues |
| | 14. Domestic Violence Treatment Courts |
| | 15. Sentencing the Drug/Alcohol Addicted |
| | 16. Success Stories from the Stroll |
| | 17. Homelessness |

In addition, Judges of the Court are entitled to five days of education leave to attend education conferences using their professional allowance. In the past two years Judges have attended courses on the following topics:

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| 1. Cambridge Lectures | 15. Child Abuse & Neglect |
| 2. International Organization for Judicial Training (IOJT) | 16. Neuroscience in the Courtroom |
| 3. Family Law & Children's Rights | 17. Sentencing and Corrections: Sentencing Theory Meets Practice |
| 4. National Conference on Juvenile Justice | 18. Exercising Judgment in Criminal Law |
| 5. Hearing & Deciding Charter Issues | 19. Advanced Financial Issues in Family Law |
| 6. Law and Mental Health Conference | 20. National Family Law Program |
| 7. Harmonizing Medicine & the Law | 21. 24th Annual International Conference (Child & Family Maltreatment) |
| 8. Women, Girls and the Justice System | 22. Ethics in Judging: In the Courtroom, In the Community, Throughout your Career |
| 9. Conference – Drug Treatment Court | 23. Mastering the Skill of Judgment Writing |
| 10. Artificial Intelligence & Law Conference | 24. Community Justice and Judicial Independence: Local issues, Commonwealth Standards |
| 11. Dialogues on being a Judge | |
| 12. Drug Court Conference | |
| 13. Managing Energy v. Time for Lawyers | |
| 14. Intersections of Law & Culture | |

The Provincial Court of British Columbia continues to be at the forefront of judicial education for Judges in Canada. The continuing success of the Court's education programs is due to the volunteer efforts of the Provincial Court Judges' Association's Education Committee and the

many Judges who participate on a volunteer basis at the conferences. Judges also participate in educational programs, panels and seminars for continuing legal education to assist in educating Judges from other courts and provinces, members of the bar, and the public, on a regular basis. Details of the Judges' participation in public legal education are contained in the Court's [Annual Reports](#).

Judicial Justice of the Peace Education

Judicial Justices of the Peace are provided with training or orientation specific to their assignments and experience levels upon appointment. Generally, this takes the form of observation and on-the-job training, in relation to bail and search warrants, and courses in law and criminal procedure as well as observation, in relation to traffic and payment hearings. Judicial Justices of the Peace are involved in training to ensure they are prepared to preside over any of the variety of subject areas to which they may be assigned.

Judicial Justices of the Peace also attend semi-annual education seminars presented by the JJP Association Education Committee. The Committee arranges presentations by JJPs, members of the bar, Judges and other expert speakers.

In 2009 and 2010, presentations were made to the JJPs by guest speakers, including Chief Judge Crabtree; Associate Chief Judge Threlfall, Judges Takahashi and Hogan; JJPs Gerry Hayes and Anna-Maya Brown; Drs. Yuille, Cooper, and Herve, Forensic Alliance; Dr. Tanaka, University of Victoria; Justice S.R. Romilly, Supreme Court of British Columbia; Steve Martin, Superintendent of Motor Vehicles, Police Services; Superintendent Norm Gaumont, RCMP; Jan Staples, A/Senior Program Manager, Road Safety Unit; Stephanie Melvin, Director of Hearings and Fair Practices, Public Safety and Solicitor General; Allan Markwart, Regional Director, Chris Zatylny, Community Youth Justice Consultant, Paige Thomas, Community Liaison Worker, and Melissa Campbell, Child Family and Community Consultant, Ministry of Children and Family Development.

Topics covered included:

1. The role of judiciary with unrepresented litigants
2. Breathalysers and roadside demands (equipment demonstration and procedural)
3. How to fill in court record and training in the new DARS system
4. Forensic Alliance - Evaluating Truthfulness/Risk Assessment
5. Facial Recognition
6. Search Warrants and Bail
7. Youth Criminal Justice - Sentencing and the Role of the Provincial Director
8. Sentencing and Guilty Pleas
9. Truth in Sentencing
10. Road Safety Initiative
11. Provincial Services for the Deaf and Hard of Hearing
12. Forensic Alliance/Assessing Risk for Domestic Violence

In addition to the semi-annual conferences, the JJP Education Committee hosts regular "Education Nights" at the Justice Centre. In 2009 and 2010, 16 such sessions were held on various topics relating to bail and search warrants at which various experts in the field made presentations to the JJPs who attended either in person or by telephone.

The JJP Education Committee has been active over the past two years: offering monthly education sessions; sending representatives to an Osgood Hall Symposium on Search Warrants; and attending the BC Counsel of Administrative Tribunals Conference on Decisions.

Court Services Justice of the Peace Education

Court Services JPs receive training through a basic JP course prior to their appointment, and then receive ongoing on-the-job training and experience in the conduct of their duties, as well as support in the form of a JP manual issued by the Office of the Chief Judge and available assistance from the legal officer to the Chief Judge. During the years 2009 and 2010, five JPs basic training programs were held at the Office of the Chief Judge, between March 30 and April 2, 2009 (two males, six females); June 8 and 11, 2009 (one male, four females); October 19 and 22, 2009 (one male, six females; one female unsuccessful at course); April 6 and 9, 2010 (one male, eight females); and October 18 and 21, 2010 (one male, seven females).

Judicial Case Manager Education

The JCMs of the Court generally have an annual conference presented by the Office of the Chief Judge under the supervision of the Administrative JCM. Ongoing, on-the-job training and support is also provided by the Administrative JCM. In 2009-2010, there was a continued focus on education as additional JCMs took on increasing obligations with expanded duties assigned to them by the Chief Judge.

Vancouver (Office of the Chief Judge) - February 25, 2009 (one day)

Seminar on "Criminal Process Front End Reforms" (formerly known as JCM Pilot Projects) designed for Administrative Judges and JCMs in reform districts: South Vancouver Island, Cariboo Northeast, North Fraser, Okanagan, Robson Square, Vancouver/222. Discussion topics included a review of the objectives of criminal case management, effective use of existing technology (video, computers and e-mail) and training issues raised by the expanding role of the JCM.

Whistler JCM Conference - April 30 - May 1, 2009

The focus of this two-day conference, attended by all of the Court's JCMs, was on providing tools to help the JCM's balance their daily roles. Presentation topics included professionalism and ethics, dealing with self-represented litigants; Olympic planning; emergency preparedness; technology (video) demonstrations and updates on the numerous criminal and civil reform projects underway.

Vancouver (Office of the Chief Judge) - September 24, 2010 (one day)

Judicial Case Manager training on "Criminal Front End Case Management" designed for JCM representatives from each of the 12 judicial districts. The day included extensive discussions regarding the relative merits of existing front end models, including the role of CCFM rules and CPR projects. Training issues were discussed in terms of the need to identify common challenges and provide direction in terms of consistent responses.

Burnaby JCM Conference – November 4 - 5, 2010

The focus of this two-day conference, attended by all of the Court's JCMs, was on providing tools to help the JCMs communicate more effectively and professionally in their roles. Presentation topics included verbal and nonverbal communication styles; promoting effective and respectful working relationships; maintaining decorum when dealing with challenging or difficult situations; and project and technology updates.

8. Complaints

Under the *Provincial Court Act*, the Chief Judge has the power and the duty to supervise the Judges, JJPs and JPs (Judicial Officers) of the Court and is required under s.11(2) to examine all complaints respecting Judicial Officers. The Chief Judge must report in writing to the complainant and the Judicial Officer following an examination.

The *Act* also requires, in s.11(3), that the Chief Judge conduct an investigation respecting the fitness of a Judicial Officer to perform his or her duties if the Chief Judge considers that an investigation is required, or if directed to do so by the Attorney General. The result of an investigation may include corrective action or an order for an inquiry respecting the fitness of the Judicial Officer to perform their duties.

The specific role of the Judicial Council in respect of public complaints arises indirectly in reference to the Council's statutory object of improving the quality of judicial service. In the event the Chief Judge or the Attorney General orders an inquiry into the fitness for office of a Judicial Officer, the Judicial Officer may elect to have the Judicial Council act as the tribunal at that inquiry. The alternative tribunal is a judge of the Supreme Court to be designated by the Chief Justice of the Supreme Court.

As Presiding Member of Judicial Council, the Chief Judge reports to the Judicial Council from time to time regarding certain complaints as they bear upon the Council's interest in the overall quality of judicial service.

9. Public Access to the Judicial Council

Any member of the public who has a question that they wish to direct to the Chief Judge as Presiding Member of Judicial Council, or to Judicial Council as a whole, whether arising from this Report or for any other reason, may do so in writing addressed to:

Judicial Council of the Provincial Court of British Columbia,
602, 700 West Georgia Street,
Vancouver, British Columbia V7Y 1E8.



APPENDICES

APPENDIX "A": Procedure Bylaw

In this bylaw:

- (1) "Applicant" means an applicant for appointment as a Provincial Court Judge.
 - (2) "Council" means the Judicial Council of British Columbia.
 - (3) "Chair" means the Chief Judge or the alternate presiding member, appointed under the *Provincial Court Act*, where the Chief Judge does not attend a meeting of the Council.
1. The Council is a continuing body notwithstanding any change in membership. The Council may complete any proceedings commenced before a change in membership.
 2. The majority of the members of the Council are a quorum. A quorum must be present to hold any meeting, or to pass any resolution.
 3. All powers of the Council may be exercised by resolution. An act or proceeding of the Council is valid when authorized or adopted by resolution at a meeting of the Council, provided that:
 - (a) A resolution to approve an applicant for appointment will be defeated if any two members vote against approval. A resolution that an applicant not be approved for appointment will succeed if two or more members vote in favour of the resolution. Members present for such resolutions may not abstain.
 - (b) A resolution to approve an applicant for interview will succeed if any three members vote in favour of the resolution.
 - (c) To pass any other resolution at a meeting of the Council there must be a majority vote of the quorum in favour of the resolution. Each member has one vote but in the event of a tie, the Chair must cast a second and deciding vote.
 4. Where any member has a conflict with respect to an applicant, or where there may be a reasonable apprehension of bias in respect of a member, that member shall be disqualified from participating in the interview of the applicant, and shall not participate in any vote with respect to the applicant. Such member shall refrain from involvement in all proceedings or discussions relating to the applicant. Any question regarding whether a member is in a conflict or whether there is a reasonable apprehension of bias shall be resolved by general resolution. If disqualification of a member through conflict or bias reduces the number of members present below a quorum, the interview or vote in respect of the applicant must be adjourned to a time when a quorum is present.
 5. The Chair will preside at all meetings of the Council, except when the Chair is not available, in which case, the alternate presiding member must preside.

6. The Council will meet approximately 10 times per year, as scheduled from time to time by the members at a meeting. Notice of the time and place of meetings will be given by the Chair to each member. Any member may attend any meeting of the Council.
7. The Council and its committees may meet in person, via telecommunications or a combination of both. All in-person meetings of the Council will be held in Vancouver unless the Council resolves to hold a meeting elsewhere within British Columbia. All in-person meetings of committees of the Council will be held in British Columbia at a place resolved by each committee. Notwithstanding the above, all meetings involving interviews of candidates or matters of discipline of Judges shall be done in-person.
8. Meetings of the Council will be private and confidential, but the Council may invite non-members to attend all or part of a meeting of the Council, except a meeting or a part of a meeting at which candidates are interviewed or votes are taken.
9. The Chair will preserve order at meetings and decide all points of order which may arise, subject to an appeal of any other member present. If an appeal is taken by a member from a decision of the Chair, the question will be decided without debate by a majority vote of the quorum.
10. A bylaw relating to the procedure of the Council may be made or amended by a general resolution passed at a meeting of the Council of which written notice was given in advance to all members.
11. The minutes of all meetings of the Council will be distributed to the members, adopted by resolution at the next meeting of the Council, and then signed by the Chair.
12. Where appropriate, the agenda of meetings of the Council will include:
 - (a) minutes of previous Council meetings or committee meetings;
 - (b) matters arising out of the minutes;
 - (c) communications and inquiries;
 - (d) reports from the Chair, or a committee;
 - (e) applications for appointment;
 - (f) disciplinary matters;
 - (g) new business;
 - (h) approval of expenses; and
 - (i) next meeting.
13. The Council may from time to time by general resolution establish standing committees, as required. The chair of each standing committee will be named by the Chief Judge, and the Chair and the members will be approved by the Council.
14. In addition to the standing committees, the Chair, or Council by general resolution, may establish a select committee to consider any matter. The Chair will name the chair of

such committees and the Council may name its members. A select committee may only consider the matter specifically referred to it by the Council or by the Chair.

15. The proceedings of all committees will be subject to the approval of the Council. The minutes of all committee meetings will be circulated to all members of the Council in advance of the Council meeting next following the meeting of the committee.
16. Minutes of a committee and resolutions set out in a committee's minutes will be deemed approved by the Council as of the date of the next Council meeting following their circulation, unless a Council member requests the Chair to call a vote at such meeting. The effective date of a committee resolution must be no earlier than the date of the next Council meeting following the meeting of the committee.
17. Except for judicial members, a member attending a meeting of the Council, a meeting of a committee or other business on behalf of the Council as authorized by the Chair, is entitled to receive payment of an allowance in such amount the Lieutenant Governor in Council considers appropriate, and any travel or out-of-pocket expenses.
18. This bylaw does not apply to the Council acting as a tribunal of inquiry under the *Provincial Court Act*.
19. With respect to procedural issues not covered by this bylaw, *Roberts Rules of Order* shall govern.

Procedure Bylaw adopted this 23rd day of March, 2001 at a meeting of the Judicial Council of British Columbia.

APPENDIX "B": Excerpt from *Provincial Court Act*

PROVINCIAL COURT ACT

[RSBC 1996] CHAPTER 379

Judicial council

- 21 (1) The judicial council of the court is continued.
- (2) The members of the council are the following:
- a. the Chief Judge as presiding member;
 - b. the Associate Chief Judge as alternate presiding member or, if 2 or more Associate Chief Judges are designated, the Associate Chief Judge designated as alternate presiding member by the Lieutenant Governor in Council;
 - c. the president of the Law Society of British Columbia or a person nominated by the president;
 - d. the president of the British Columbia Branch of the Canadian Bar Association or a person nominated by the president;
 - e. by appointment of the Lieutenant Governor in Council for a term of not longer than 3 years, a Judge and not more than 4 other persons.
- (3) If the Chief Judge does not attend a meeting of the judicial council, the alternate presiding member must preside.
- (4) If in a proceeding before the council there is no majority decision, the presiding member must cast a second and deciding vote.
- (5) The Lieutenant Governor in Council may authorize payment to council members who are not Judges an allowance for their duties on the council in an amount the Lieutenant Governor in Council considers appropriate.

Object of council

22 The object of the council is to improve the quality of judicial service, and its functions include the following:

- a. considering proposed Lieutenant Governor in Council appointments of Judges and justices;
- b. conducting inquiries respecting Judges and justices;
- c. considering proposals for improving the judicial services of the court;
- d. continuing the education of Judges and organizing conferences of Judges;
- e. preparing and revising, in consultation with the Judges, a code of ethics for the judiciary;
- f. reporting to the Attorney General on the matters the Attorney General considers necessary.