



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

Justice Delayed: A Report of the Provincial Court of British Columbia Concerning
Judicial Resources

September 14, 2010

I. Executive Summary

The Provincial Court of British Columbia is the only provincial court in Canada with fewer judges today than in 2005. In fact there are 17 fewer judges, and unless further appointments are made, this will result in a loss of over 900 trial days in 2010 and over 1600 trial days in 2011.

To be effective in supporting the rule of law, and to fulfill its legal obligations to the public, the Court must process cases within a reasonable time. For most cases the Court is legally obligated to provide timely access and, as with other courts across Canada, seeks to manage its caseload according to accepted standards which reflect the relative public interest and priority of the different case types.

Given the reduction in the judicial complement [number of judges] the Court is unable to "keep pace" with the new cases being presented to it. The current inventory of uncompleted cases is growing markedly, as is the delay for all case types other than youth court prosecutions. Increasingly the Court is failing to meet its legal obligation to provide timely access to justice.

This has resulted in judicial stays of adult criminal prosecutions due to unreasonable delay. Recently, the Supreme Court of British Columbia emphasized that "a lack of resources [in the Provincial Court] is rendering nugatory the timelines built into the [*Child, Family and Community Service Act*]," as required by law where children are apprehended: *Myles v. British Columbia* BCSC No. 84883 Kelowna Registry, March 22, 2010.

The Court appreciates there are limited public resources and prepared this report to inform decisions regarding: the Court's required judicial complement; the manner of filling judicial vacancies; and enhanced reporting by the Court concerning its use of the judicial resources allocated to it.

The report considers:

- the manner and degree of the reduction in judges and the Court's budget;
- the current level of judicial resources relative to workload;
- those areas of the Province significantly below judicial complement;
- initiatives to increase efficiency and effectiveness; and
- the minimum judicial resources required to fulfil the current mandate with timely access to justice.

Determining the judicial complement necessary for the Court to meet its mandate is assisted by establishing a baseline. The current judicial complement is the equivalent of 126.3 judges. When Chief Judge Metzger wrote his report on the delay and backlog in the Provincial Court in April 1998, the judicial complement was 134. In recognition of the increased workload, and backlog of cases at that time, the complement was gradually increased to 146 by January 2001. Between 2001 and 2005, it eroded

somewhat, but as of December 2005 was reinstated to 143.65. The Court has used this 2005 judicial complement as the baseline for this analysis.

Given the dynamic nature of the Court's workload, it is difficult to arrive at a precise assessment of the judicial resources required to meet the Court's mandate. The report views this issue from a number of perspectives.

The Court has one of the broadest mandates of any provincial court in Canada. Notwithstanding the breadth of its mandate, the ratio of provincial court judges to population in B.C. is one of the lowest in Canada, and is lower than in 1998.

The ranks of the British Columbia police forces and Crown counsel have increased since 2005 reflecting the reality that the population of B.C. is growing, as is both the number and seriousness of adult criminal prosecutions.

The number of new cases per judge has also risen since 2005. As the Court is now completing more cases per judge, for adult criminal prosecutions the inventory of cases older than 180 days has remained relatively constant at 16,000. However, the delay in the time to trial is growing as the cases set for trial are increasing in their length and complexity. While it is not possible to predict the number of cases that will be stayed for unreasonable delay, thousands of cases are at risk. These numbers will increase in accordance with the time it takes to restore the judicial complement to the level where the Court is able to "keep pace" with the volume of cases being presented to it.

With the uncertainty and delay in the filling of judicial vacancies the Court focused a disproportionately high level of judicial resources on adult criminal matters. While this has not stopped the growth in the delay for adult criminal cases, over the last year there has been a dramatic increase in the delay and volume of uncompleted civil, family and child protection cases.

As described in the report, the Court has implemented a number of reforms to increase its efficiency and effectiveness, including the transfer of the equivalent of 5.5 judge years of workload to Judicial Case Managers, lawyers and mediators. However, the added efficiency created through the reform initiatives cannot absorb both the increasing number of longer, more serious adult criminal prosecutions, and the extra judges required to reduce the backlog.

If no additional judges are appointed by the end of 2010, a minimum 5.5 judge-years of work will be added to the existing inventory of cases waiting for hearing, and if no judges are appointed in 2011 a further minimum 10 years of judge time will be added to the backlog. To assist in understanding the magnitude of this problem the report views the growth in the number of uncompleted cases, and the delay for each case type, from both a province-wide perspective, and from the vantage point of those locations in the Province with the longest delay.

In the summer of 2010, the Attorney General publicly committed to making five immediate appointments to the Court and stated that the Court Services Branch would be able to support these appointments. These appointments will be welcomed by the Court. However, they will not remedy the concerns identified in this report. If these appointments occur on October 1, 2010, the net increase for this calendar year would be the equivalent of 1.25 judges. In 2011 the Court anticipates losing a further 5 judges.

Based on the analysis in this report, and an extensive operational review by the Office of the Chief Judge, the Court strongly recommends that the judicial complement be restored to the 2005 level. In order for the Court to make effective use of an increased judicial complement, the Registry and Sheriff's staff will also need to be restored.

If the issues identified in this report are not addressed in the immediate future, the adverse consequences will be magnified given the rate of growth in unresolved cases over the last year. Even if sufficient resources are allocated in the near future to enable the Court to keep pace with in-coming caseloads, gaining control over the backlog will be challenging. For example, in Surrey the current backlog of criminal cases would take an additional 3 full-time judges (hearing exclusively criminal trials) two years to restore wait times for trial to appropriate levels. Any strategy to address the backlog will of necessity require not only sufficient judicial resources, but also additional crown and defense counsel, court clerks, sheriffs and available court space.

For the reasons stated in the report, if the judicial complement is not restored to the 2005 level, the public interest requires the Court to allocate a more proportionate level of judicial resources to civil, family, and child protection cases, with the goal of reducing the delay for these case types over a two-year period. The remaining resources will be allocated to adult criminal cases with priority given to in-custody and more serious prosecutions.

The Court also recommends that a determination be made as to the necessary level of the Court's judicial complement, and that this complement be allocated to the Court. This is on the understanding that the delay and backlog will continue to be monitored, and the future complement adjusted only after sufficient notice to the Court. Any judicial vacancies within this complement, and supportable by the Court's budget, need to be filled on a timely basis. The current uncertainty regarding the size of the complement and the delay in filling positions has undermined the Court's ability to effectively use and allocate its resources throughout the Province.

The Court will issue regular reports to the Attorney General and the public describing its progress in improving its service to the public for most case types within its mandate. These reports will also provide details concerning the growth, or reduction if the 2005 complement is restored, in the inventory of uncompleted adult criminal cases and judicial stays due to unreasonable delay.

The Court's goal is to work toward providing the most effective and accessible justice system possible given limited public resources, and to enhance public understanding of the challenges facing the Court, and the decisions made in response to those challenges.

II. Introduction

British Columbia has the only provincial court in Canada with fewer judges today than in 2005. In fact, there are 17 fewer judges as of August 2010 and, absent new appointments, the number will rise to 22 in 2011. There are also approximately 8 less than in 1998 when Chief Judge Metzger wrote the "Report of the Chief Judge: Delay and Backlog in the Provincial Court". This reduction will result in the loss of over 900 trial days in 2010, and over 1600 more trial days in 2011 unless further appointments are made.

Since 2005, the Court's caseload has increased, with approximately 140,000 new cases commenced during the fiscal year 2009/10. Over three quarters (110,000) of the new cases were adult and youth prosecutions. In excess of 18,000 cases were civil claims. More than 10,000 family court applications were initiated, and greater than 1700 child apprehension files were brought to court in 2009/10.

The Court is unable to "keep pace" with the number of cases being presented to it. This is notwithstanding reform initiatives which have improved the Court's efficiency and effectiveness. As a consequence, the current inventory of uncompleted cases is growing, as is the delay for all case types except youth court prosecutions. This is evidenced in part by criminal cases that have been stayed due to the Court's inability to provide criminal trials within a reasonable time. Additionally, the Supreme Court of British Columbia emphasized recently that "a lack of resources [in the Provincial Court] is rendering nugatory the timelines built into the [*Child, Family and Community Service Act*]," as required by law where children are apprehended [*Myles v. British Columbia* BCSC No. 84883 Kelowna Registry]. Importantly, the Court is now experiencing an alarming increase in the number of uncompleted cases, and the corresponding delay.

To be effective in supporting the rule of law, and to fulfill its legal obligations to the public, the Court must conclude cases within a reasonable time. For most cases, the Court is required to provide timely access.

All persons charged with criminal offences have a constitutional right to be tried within a reasonable time [*Canadian Charter of Rights and Freedoms*, s. 11], as that right is defined by the Supreme Court of Canada [*R. v Askov*, [1990] 2 S.C.R. 1199 and cases following]. Additionally, for youth, Parliament has recognized that "timely intervention...reinforces the link between the offending behavior and its consequences," and further directs that "persons responsible for enforcing [the *Youth Criminal Justice Act*] must act [with] promptness and speed" [s.3].

Similarly, the British Columbia legislature directs in the *Small Claims Act* that the purpose of the Court is to enable claims to be brought before the Court for resolution in a "just, speedy, inexpensive and simple manner" [s.2]. Applications under the *Family Relations Act* are also time sensitive, as they most often concern children of parents in conflict regarding custody, access and child support. Where children are apprehended by the state, once again the British Columbia legislature emphasizes the

importance of a prompt response when it states that "decisions relating to children should be made and implemented in a timely manner" [s.3 *Child, Family and Community Service Act*]. Further, the legislation establishes specific time frames within which the various hearings are to proceed.

The Court has incorporated these legal obligations, and the relative priority and public interest in the different case types into its standards. The standards [timelines] also support the early resolution initiatives the Court has implemented. In criminal matters, lengthy delays reduce the likelihood of conviction which in turn undermines initiatives supporting early resolution. In civil and family cases it is not uncommon for one party to attempt to avoid facing the issues before the Court through delay. These timelines are used to guide the Judicial Case Managers ("JCMs") in scheduling cases. Given the reduction in the judicial complement [number of judges], these standards or timelines are not being met.¹

The Court recognizes the Attorney General's constitutional responsibility for the administration of justice, including providing the resources necessary for the effective operation of the courts. The Court, however, given the constitutionally-entrenched principle of judicial independence, is responsible for judicial administration which includes the assignment of judges and, in accordance with the law, the process for determining how, and when, cases are scheduled by the Court.

The respective areas of responsibility of the Court and the Attorney General significantly impact each other. As emphasized in the 2002 protocol between the Attorney General and the Chief Judge, it is "essential" that there be an effective working relationship "to ensure the system of justice in the province is accessible, efficient and affordable."²

The Court appreciates there are limited public resources. This report was prepared to inform decisions concerning: the number of judges required for the Court to fulfil its mandate; an effective process for timely filling of judicial vacancies within the Court's judicial complement and budget; and enhanced reporting by the Court to the Attorney General and the public regarding the Court's utilization of the judicial resources allocated to it.

¹ See Appendix "A" for a summary of these standards.

² See Appendix "B"

The Report considers:

- the manner and degree of the reduction in judges and the Court's budget;
- the current level of judicial resources relative to workload;
- those areas of the Province significantly below judicial complement;
- initiatives to increase efficiency and effectiveness; and
- the minimum judicial resources required to fulfil the current mandate with timely access to justice.

The Court's goal is to work toward providing the most effective and accessible justice system possible given limited public resources, and to enhance public understanding of the challenges facing the Court, and the decisions made in response to those challenges.

III. Reduction in Judicial Complement and the Court's Budget

The current judicial complement is the equivalent of 126.3 judges. Determining the complement necessary for the Court to meet its mandate is assisted by establishing a baseline. When Chief Judge Metzger wrote his report on the delay and backlog in the Provincial Court in April 1998, the judicial complement was 134. In recognition of the increased workload, and the backlog of cases at that time, the complement was gradually increased to 146 by January 2001. Between 2001 and 2005, the complement eroded to an average of 138.58 for the years 2002-2004 inclusive, but as of December 2005 was reinstated to 143.65. The Court has used 143.65 judges as the baseline for this analysis, as with that number of judges the Court in 2005 was able to keep pace with the volume of new cases.

The reduction in judicial complement from 2005 occurred as judicial appointments failed to follow vacancies. From 2006-2010 the equivalent of 12.75 judges retired, and the equivalent of 18.15 judges elected "senior" or part time status. Five were appointed to the B.C. Supreme Court and the equivalent of 5.45 left office for other reasons, for a total of 41.35 vacancies. Over the same period 24 judges were appointed or returned from long-term disability, resulting in a net reduction of the equivalent of 17.35 judges.

A further loss of the equivalent of 4.95 judges is anticipated in 2011. Without appointments this will reduce the complement to 121.35, or the equivalent of 22.3 judges (19%) below baseline, and 12.65 below the 1998 complement that prompted the report by Chief Judge Metzger [Figure 1]. This loss will be further exacerbated if judges who have currently elected to work part-time in the senior program exercise their option to retire prior to completing their full term as a senior judge³.

Approximately 50% of the reduction to the judicial complement since 2005 is due to

³ See Appendix "C"

judges entering the part-time (senior judge) program. The *Provincial Court Act* allows judges, 55 years or older with a minimum of ten years service, to hold office as senior judges. While judges can fully retire without providing notice to the Court, a minimum of six months notice to the Attorney General and the Chief Judge is required before entering this program. Upon entering the senior program, judges commence collecting their pension. Their salary is at a lower rate of pay than a full-time judge, and senior judges are not entitled to their own office in the courthouse.

While the senior judge program has contributed to the reduction in the judicial complement, it provides judicial resources at a reduced rate of pay to Government. The six months notice provides sufficient time for the Attorney General and the Court to plan for their reduced sitting time. The program enables the Court to retain the services of experienced judges, some of whom would fully retire without this option. Additionally, senior judges have more of their sitting time assigned to the Office of the Chief Judge than full-time judges, which enhances the Court's ability to direct judicial resources to those locations in the province where the need is greatest. A similar program exists in the Supreme Court of British Columbia.

Figure 1: Reduction to Provincial Court Judicial Complement (2006-2011)

	2006	2007	2008	2009	2010	2011 (projected)	TOTAL
Decrease in Complement Due to Retirement/ Transfer to BCSC or other (1)	-7.25	-2.9	-2.8	-5.45	-4.8	-0	-23.2
Decrease in Complement due to Election to Senior judge Program (2)	-0.55	-2.2	-4.4	-5.5	-5.5	-4.95	-23.10
Increase in Complement (3)	3	8	5	5	3	0	+24
Total Loss/Gain (4)	-4.8	+2.9	-2.2	-5.95	-7.3	-4.95	-22.30
Total PCJs (5)	138.85	141.75	139.55	133.60	126.30	121.35	

Notes:

(1) Each decrease in complement due to retirement is factored as a loss of 1 fulltime judge if the judge was a fulltime judge, or factored as a loss of 0.45 if the judge was a current senior judge. "Other" refers to a decrease in complement due to LTD, resignation or death.

(2) Each fulltime judge electing senior status results in a complement loss of 0.55 to bring their sitting time to 0.45.

(3) Increase in complement refers to either a new appointment to the Provincial Court or a return to sitting status from prior LTD.

(4) Calculation: Row 1 + Row 2 + Row 3.

(5) Total PCJ's starting from the 2005 baseline of 143.65 judges. (For example: 143.65 - the 2006 loss of 4.8 = 138.85 judges for 2006). Total PCJ's are as at December 31 of each calendar year.

For the purpose of this report, the judicial complement is calculated on the assumption that all vacancies and appointments occurred on January first of each year. In most instances the vacancies and subsequent appointments, if any, took place later in the year. The full impact of the reductions in complement in terms of sitting days lost was not realized until 2010. In 2010, the Court will conduct at least 920 fewer hearing days than in 2005 unless there are further appointments. The loss in hearing days for 2011 is anticipated to grow by 1684 days if the current complement continues [Figure 2].

Notwithstanding the reduction in complement, up to and including calendar year 2009 the Court was able to maintain more court days than in 2005. This was due to a number of factors, including: that the largest decreases to the Court’s complement were in 2009 and 2010, and many of these judges did not leave the Court or enter the senior program until later in the year; the transfer of the equivalent of 5.5 “judge years”⁴ of workload to JCMs, lawyers, and mediators in the reform initiatives; fewer judge days lost due to illness in 2009; and the Chief Judge’s authorization for senior judges to work extra days.

Figure 2: Reduction in Sitting Days 2005-2011

	2005	2006	2007	2008	2009	2010 (projected)	2011 (projected)
TOTAL PCJ Sitting Days (1)	22,760.5	23,180.5	23,081	23,208.5	22,805	21,840	21,076
TOTAL increase or decrease as compared to 2005 each year (2)		+ 420.0	+ 320.5	+ 448.0	+ 44.5	-920.5	-1684.5

Notes:

(1) Data Source: PCJ Rota 6. Projections based on all known future senior judge elections (as of June 30, 2010), the dates of their future start dates into senior status and the transition within the calendar year from a fulltime judge to senior status sitting at a rate of 0.45.

(2) Calculation: Each calendar year sitting days - 2005 calendar year sitting days.

With the exception of a slight overage in fiscal year 2000/01, the Court has consistently operated within its budget. The delay in the reappointment of judges created surpluses in the Court’s budget over the past few years. These surpluses were absorbed by the Ministry of Attorney General. At no point was there communication from Government to the Court that it intended to reduce the complement of judges. However, this year’s budget allocation makes it clear the Government is not maintaining the Court’s complement, as insufficient monies were allocated to replace the judges lost between 2005 and present. This is the case even with the past practice of delaying judicial appointments to reduce costs during the current fiscal year. The present budget is sufficient to support the appointment of only eight additional judges.

IV. The Current Level of Judicial Resources Relative to Workload

Given the dynamic nature of the Court’s workload, it is difficult to arrive at a precise assessment of the judicial resources required to meet the Court’s mandate. As a

⁴ The average number of days a fulltime judge is in Court in one year.

consequence, this report examines this issue from a number of perspectives recognizing the limitations of each when viewed in isolation.

A. Ratio of Provincial Court Judges to Population

The ratio of judges to population has decreased since 2007 and at present is lower than when Chief Judge Metzger wrote his report in 1998 calling for additional judicial resources [Figure 3].

Figure 3: Ratio of Population (B.C.) to Judges

	1998 (CJ Metzger Report) (3)	2005	2006	2007	2008	2009	2010 Estimate	2011 Estimate	Required to meet 2005's ratio today (4)
Population (1)	3,933,273	4,196,800	4,243,600	4,309,500	4,383,800	4,455,200	4,528,800	4,603,100	
PCJ Complement (2)	134	143.65	138.85	141.75	139.55	133.6	126.30	121.35	157.5
Ratio	1:29,353	1:29,215	1:30,562	1:30,402	1:31,414	1:33,347	1:36,857	1:38,932	

Notes:

- (1) Data Source: Statistics Canada. [<http://www40.statcan.gc.ca/l01/cst01/demo02a-eng.htm>]
- (2) PCJ Complement: as at December 31 of each calendar year. Each senior Judge = 0.45.
- (3) CJ Metzger Report; April 1998: Page 11.
- (4) Calculation: 2010 population estimate / 2005 Ratio.

It is difficult to compare the relative workload of the provincial courts across Canada given their varying mandates. However, the B.C. Provincial Court has one of the broadest mandates in Canada. It closely parallels that of Alberta, and exceeds that of Ontario, where in large urban areas it is primarily a criminal court. The Ontario provincial court is not responsible for civil cases, and in the larger urban areas does not hear family cases. In Ontario, Justices of the Peace conduct all bail hearings. Notwithstanding the breadth of the Court's mandate, the ratio of provincial court judges to population in B.C. is one of the lowest in Canada. If the Court's ratio of judges to population was the same as Alberta, the Court's current complement would be 164, an increase of 37 judges.

Figure 4: Ratio of Provincial Court Judges to Population (Canada)

Province	Population as at July 1, 2009 (1)	Complement as at March 31, 2010 (2)		TOTAL Complement (3)	Ratio (in ranking order) (4)
		Full-Time Judges	Part-Time Judges		
PEI	141,000	3	0	3	1:47,000
Ontario	13,069,200	284	4	286	1:45,697
British Columbia	4,455,200	111	34	126.30	1:35,275
Manitoba	1,222,000	41	0	41	1:29,805
Alberta	3,687,700	120	31	135.5	1:27,216
New Brunswick	749,500	25	7	28.5	1:26,298
Quebec	7,828,900	270	30	300	1:26,096
Nova Scotia	938,200	35	8	39	1:24,056
Newfoundland	508,900	23	0	23	1:22,126
Saskatchewan	1,030,100	48	0	48	1:21,460
Yukon	33,700	3	0	3	1:11,233
NWT	43,400	4	0	4	1:10,850
TOTAL	33,707,800	967	114	1037.3	1:32,496

Notes:

(1) Data Source: Statistics Canada [<http://www40.statcan.gc.ca/l01/cst01/demo02a-eng.htm>] **Nunavut not included.

(2) Judge Complement as reported at the Canadian Council of Chief Judges Meeting - Ottawa - April 2010. BC projections based on end of the calendar year 2010 projections.

(3) Part time Judges in other jurisdictions work 50% and in BC 45% based the Judicial Compensation process.

(4) Calculation: Population / Total Judge Complement.

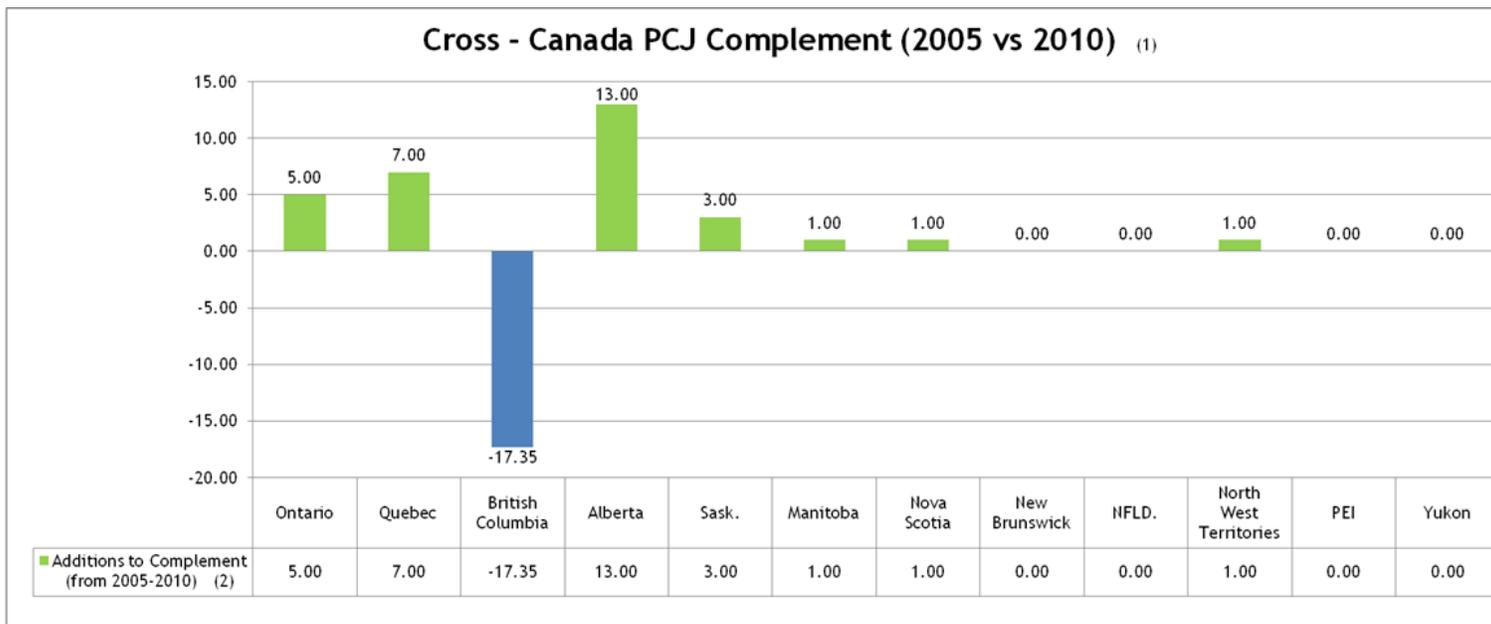
B. Comparative Changes to the Judicial Complements of other Trial Courts

The Provincial Court of B.C. is the only provincial court in Canada to experience a reduction (11%) in its judicial complement from 2005 to 2010. A number of the provincial courts across Canada have realized increases to their judicial complement, most notably Ontario, Québec, and Alberta.

The complement for the British Columbia Supreme Court is established by statute as 86 justices plus the Chief Justice and an Associate Chief Justice. The overall number of judges in the Supreme Court, including supernumerary judges who work a minimum of half time, when comparing 2005 to today is relatively the same. While the profile of cases entering the Supreme Court is different for some types of cases in this Court, their caseload is impacted by the same factors which have increased the length and

complexity of many criminal cases. It also draws its caseload from the same population base. The federal government's approach to maintaining its judicial complement in challenging economic times parallels that of all provincial governments except British Columbia [Figure 5].

Figure 5: Cross-Canada PCJ Complement
2005 vs. 2010



Notes:

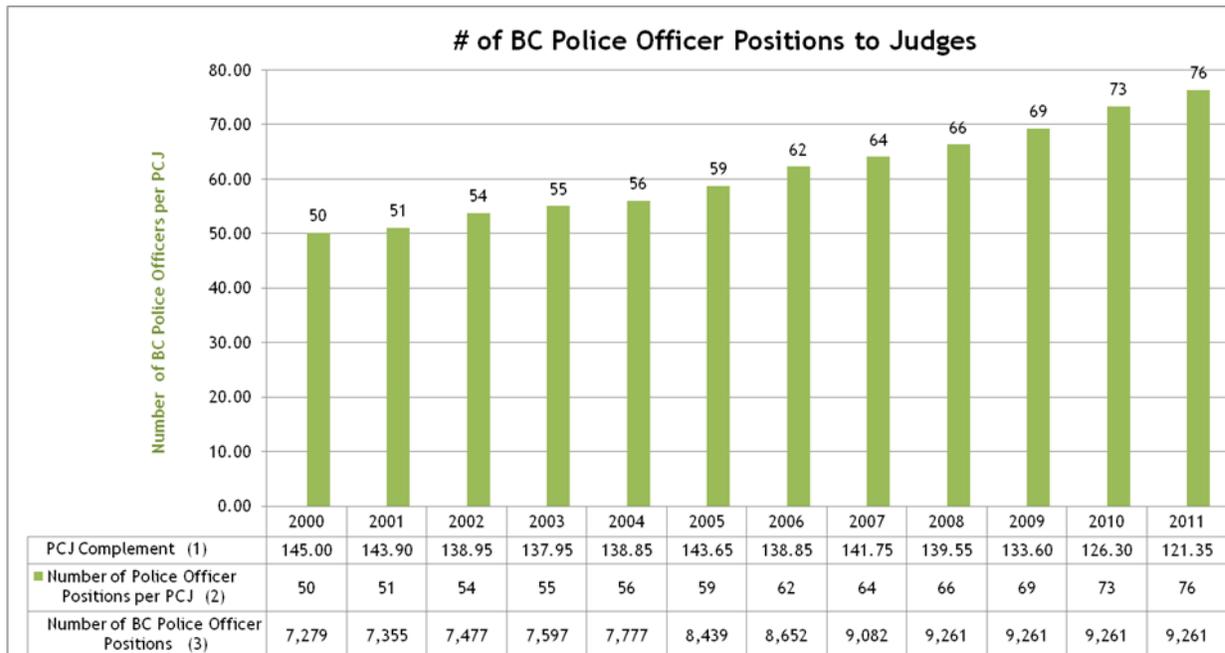
(1) Data Source: 2010 Complement as reported at the Canadian Council of Chief Judges Meeting - Ottawa - April 2010; 2005 Complement provided by CCCJ and collated by the Office of the Chief Judge, June, 2010.

(2) All Part time and Supernumerary Judges calculated at 50% except BC which is calculated at 45%. Per Diem judges not included in complement counts.

C. Ratio of Provincial Court Judges to Police Officers and Crown Counsel

Judicial workload in the criminal area includes responding to the needs of police for judicial authorisations including; search warrants, tracking warrants, D.N.A. warrants, and production orders. Increased police resources have permitted greater focus on longer, more complex investigations and prosecutions, including major drug enforcement initiatives and criminal gang activity. The ratio of police officer positions to judges has increased steadily since 2005 [Figure 6].

Figure 6: Ratio of Police Officer Position to Judges



Notes:

(1) Data Source: Rota6.

Judicial Complement projections into 2011 are based on the Provincial Court Judges who have, as at July 1, 2010, indicated a desire to elect senior status. The complement number may decrease further if more judges elect senior status for 2011.

(2) Formula: BC Police Officer Positions / PCJ Complement. Ratio for 2009 - 2011 is projected based on BC Police Officer positions remaining consistent with 2008 figures.

(3) Data Source: Police Resources in British Columbia, 2008;

http://www.pssg.gov.bc.ca/police_services/publications/statistics/policerresourcesinbc.pdf

2009 - 2011 BC Police Officer positions projected based on the BC Police Force remaining consistent with 2008 figures.

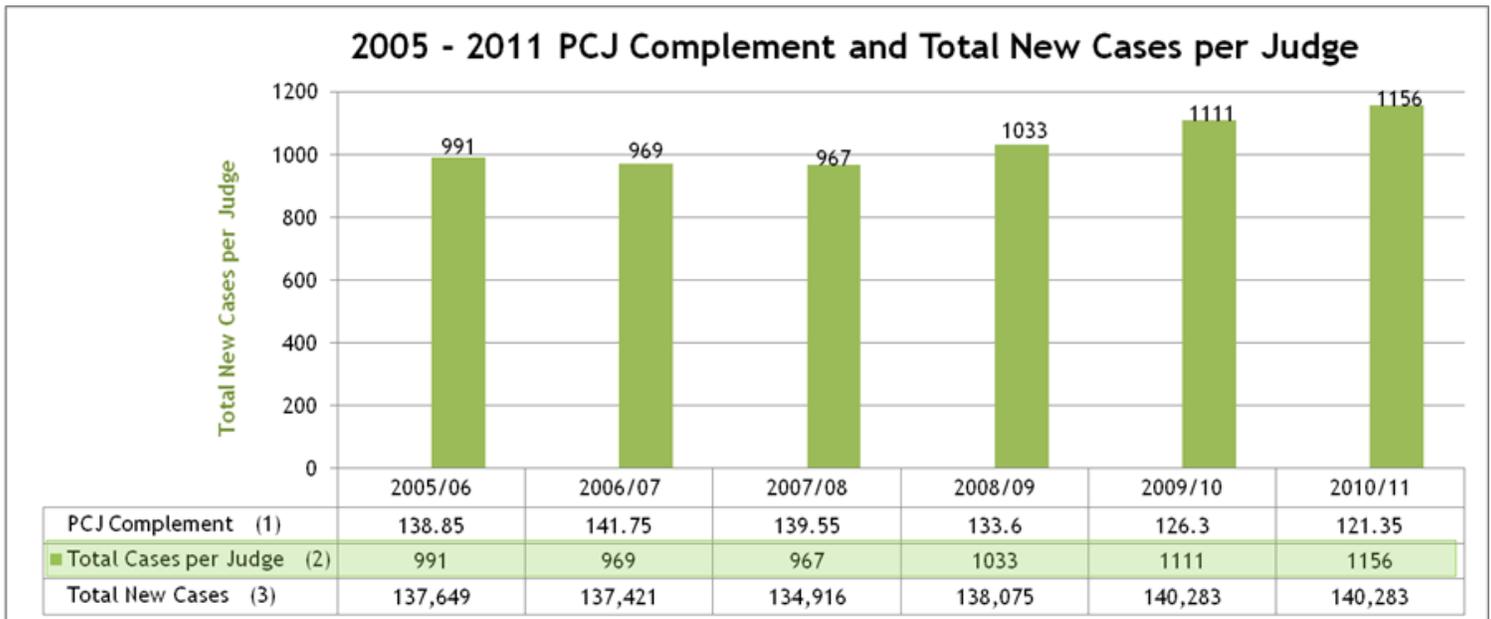
The number of Crown Counsel in British Columbia has also increased from 408 FTE's in 2005 to 459 in 2010.⁵ This increase is in recognition of the number of serious cases requiring more than one prosecutor. The Provincial Court hears a number of these cases. The corresponding ratio of judges to Crown counsel has also decreased.

D. Ratio of Judges to Total New Cases

The growth in population, police officers, and Crown Counsel is reflected to some degree in the total number of new cases entering the Court each year. The number of new cases per judge has risen from 991 in 2005, to 1111 in 2010 with the ratio projected to increase further in 2011 [Figures 7 and 8]. As demonstrated below [Figure 9] there has also been an increase in the seriousness and complexity of criminal prosecutions.

⁵ Source: Criminal Justice Branch, Ministry of Attorney General

Figure 7: Ratio of Judges to Total New Cases



Notes:

(1) Data Source: Rota6.

PCJ Complement as at the end of each calendar year for latter fiscal reporting period.

2010/11 PCJ Complement projected to include those judges who are slated to retire or have elected senior status in the future and have been removed from the sitting schedule (Rota) in the future thereby reducing our available future court days.

(2) Data Source: CORIN Data base.

Total Cases per Judge = Total new cases / PCJ Complement.

(3) Data Source: CORIN Data base.

Total New Cases: the total of all new adult criminal, youth, small claims, Family FRA and Family CFCSA cases for each fiscal year. 2010/11 new cases are projected based on the number of new cases being consistent with 2009/10 fiscal year.

Figure 8: New Cases by Category

	2005/06	2006/07	2007/08	2008/09	2009/10
Adult Criminal (1)	99,480	100,567	98,223	99,974	101,865
Youth (1)	8993	8691	8977	8595	8097
Small Claims (2)	17,116	16,758	16,234	17,891	18,064
Child Protection (3)	2020	1908	1861	1772	1738
Family (3)	10,040	9497	9621	9843	10,519
TOTAL	137,649	137,421	134,916	138,075	140,283

Notes:

Data Source: CORIN Database

(1) Provincial Court Criminal New Case: One accused person with one or more charges on information or initiating document that as resulted in a first appearance in Provincial Court. These charges can be *Criminal Code*, *Young Criminal Justice Act*, other federal statutes or provincial statutes. This does not include traffic or municipal bylaw cases.

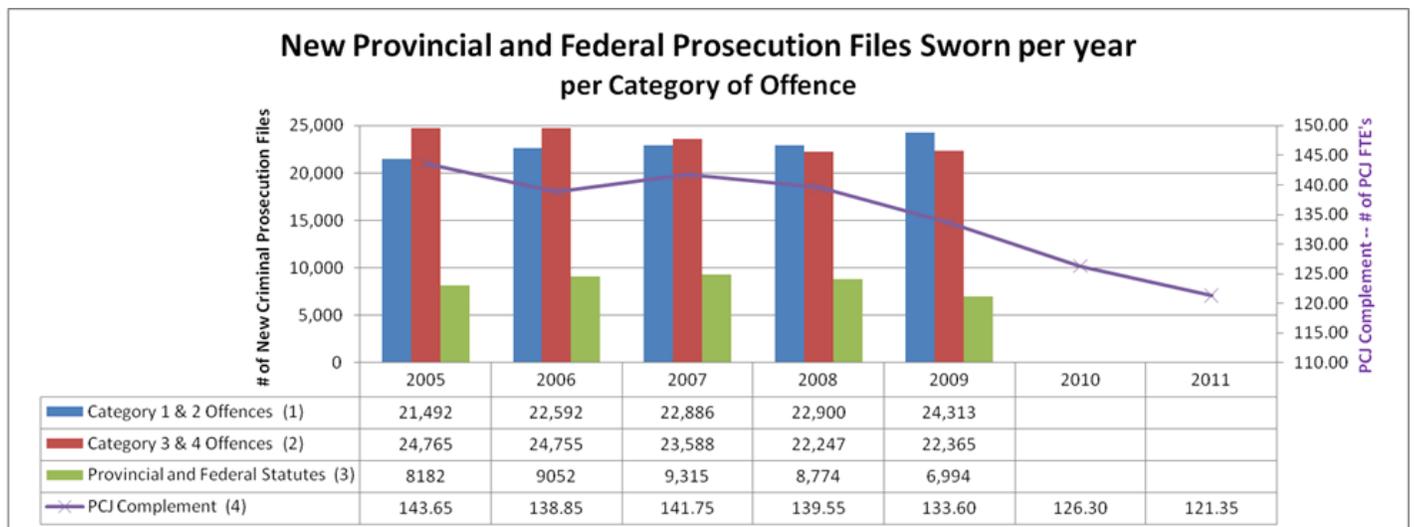
(2) Provincial Court Small Claims New Case: the number of Notices of Claim filed in the Court registry.

(3) Provincial Court Child Protection and Family New Cases: A Provincial Court *Family Relations Act* (FRA), *Family Maintenance Enforcement Act* (FMEA), *Family and Child Services Act* (FCSA), and *Child, Family and Community Services Act* (CFCSA) registry filing. Prior to August 1994, new cases included an initial filing and any subsequent applications requiring an appearance. Since August 1994, new cases only include initial filings.

E. Increased Seriousness and Complexity of New Criminal Cases

While the total number of new adult criminal cases increased somewhat from 2005-06 to 2009-10, it is important to note that as the less serious criminal matters gradually decreased, they were more than offset by the increase in serious offences [Figure 9]. Categories 1 and 2 are the most serious and complex charges, including the offences of aggravated and sexual assault, break and enter and dangerous driving. Typically, these offences are scheduled for longer trial time due to their complexity. The Court hears over 90% of all the criminal prosecutions in British Columbia. Amendments to the *Criminal Code* and the *Youth Criminal Justice Act* have resulted in more serious, complex cases proceeding in this Court. Recent examples are a lengthy youth murder trial in Victoria where the youth was ultimately sentenced as an adult, and the high profile criminal gang prosecutions in the Lower Mainland.⁶

Figure 9: Ratio of Judges to Criminal Cases by Category of Offence



Notes:

Data Source: Criminal Justice Branch and Federal Crown Counsel - JUSTIN.

A Criminal Justice Branch (CJB) new file is counted once in the court location and by the date that the first information was sworn. A CJB new file is not counted a second time if it is re-sworn (C Information, waived, transferred or Ordered to Stand Trial) or if it has a second or more accused persons. Note: the discrepancy with Criminal Justice Branch file numbers and earlier Court file numbers in this report is due to the fact CJB equates/counts one file per named accused and the Court counts each sworn Information as a file.

⁶ See Appendix “D” for further details of changes to criminal law.

- (1) Category 1 Offences include case types such as Arson, Aggravated Assault, Sexual Assault, Break and Enter, Bribery, Confinement, Conspiracy to Commit Murder, Impaired Driving, Extortion, Criminal Harassment, Hate Propaganda, Kidnapping, Murder, Manslaughter and Robbery.
Category 2 Offences include case types such as Arson, Assault Causing Bodily Harm, Spousal Assault, Assault with Weapon, Breach, Child Abuse, Criminal Contempt, Dangerous Driving, FTA, Firearms, Uttering Threats and Possession of a weapon.
- (2) Category 3 Offences include case types such as Break and Enter (not a dwelling house), Forgery, Indecent Act, Mischief over \$5000, Prostitution, Theft over \$5000 and Trespass at night.
Category 4 Offences include case types such as Causing a Disturbance, Mischief Under \$5000, and Theft Under \$5000.
- (3) Provincial and Federal Statutes include drug related offences.
- (4) Data Source: Rota 6.
PCJ Complement projections into 2011 are based on the Provincial Court Judges who are slated to retire or have elected senior status in the future and have been removed from the sitting schedule (Rota) in the future thereby reducing our available future court days. The complement number may decrease further if more judges elect senior status for 2011.

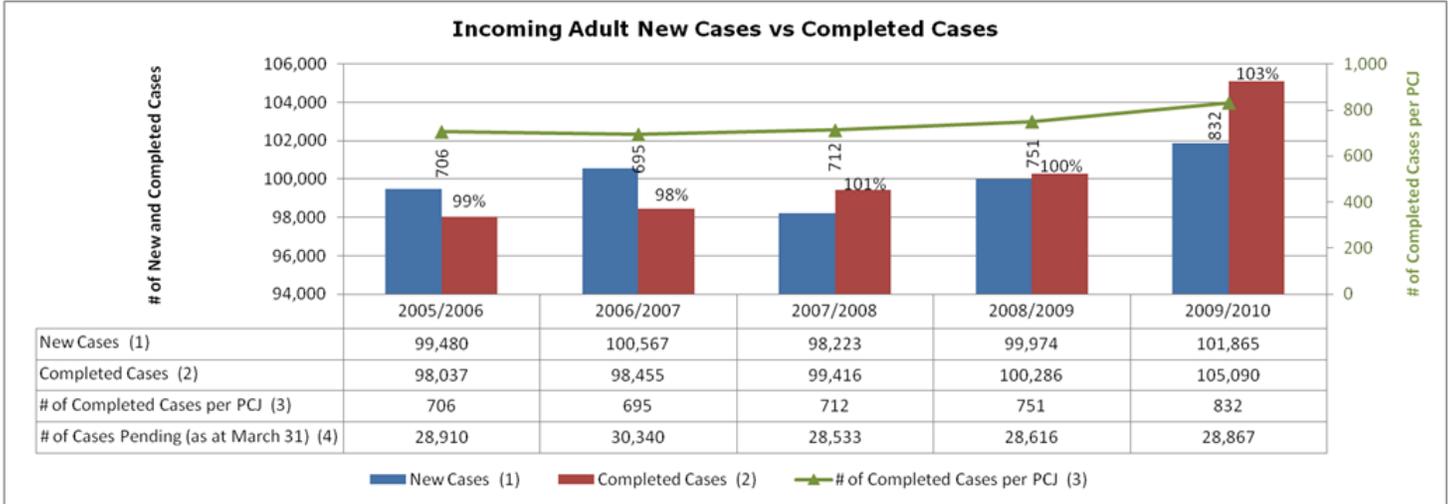
F. Incoming vs. Completed Cases

Due to the lack of judges the Court is unable to “keep pace” with the volume of new cases, and as a result the inventory of uncompleted cases is growing for all case types other than youth and adult criminal prosecutions. Unfortunately, given the limitations of the Court’s management information system, there are no statistics available for the number of uncompleted family, civil, or child protection cases. This is due in part to the fact these cases do not reach final conclusion in the same manner as prosecutions. The Court’s ability to resolve child protection cases has been enhanced by the Ministry’s successful Child Protection Mediation Program. Nonetheless, based on the growing wait times for family, civil and child protection cases, it is clear that the number of uncompleted cases in these areas is increasing rapidly.

For adult criminal matters, notwithstanding the increase in the seriousness and complexity of these cases, the Court has improved its ability to annually resolve more cases per judge [Figure 10]. This is partly as a result of the reforms implemented in the front end criminal courts in a number of locations which included the transfer of the workload of 3.5 judge years⁷ to JCMs. The Court also authorized approximately twenty-five extra sitting weeks to “senior” judges in 2009/10 or the equivalent of .74 of a full-time judge. Additionally, in a number of locations throughout the province the Court did not proportionately reduce the amount of adult criminal sitting time with the reduction in the judicial complement. However, while these initiatives, until the end of the 2009/10 fiscal year, delayed the growth in the total number of adult criminal cases pending for over 180 days, the length and complexity of the cases scheduled for trial is increasing the delays in the time to trial, and adding to the number of trial days in the backlog.

⁷ The figure of 3.5 judge years does not include the saving of 2 judge years gained in the Civil Reform Initiatives as referenced in footnote 4.

Figure 10: Incoming New Adult Criminal Cases vs. Completed Cases

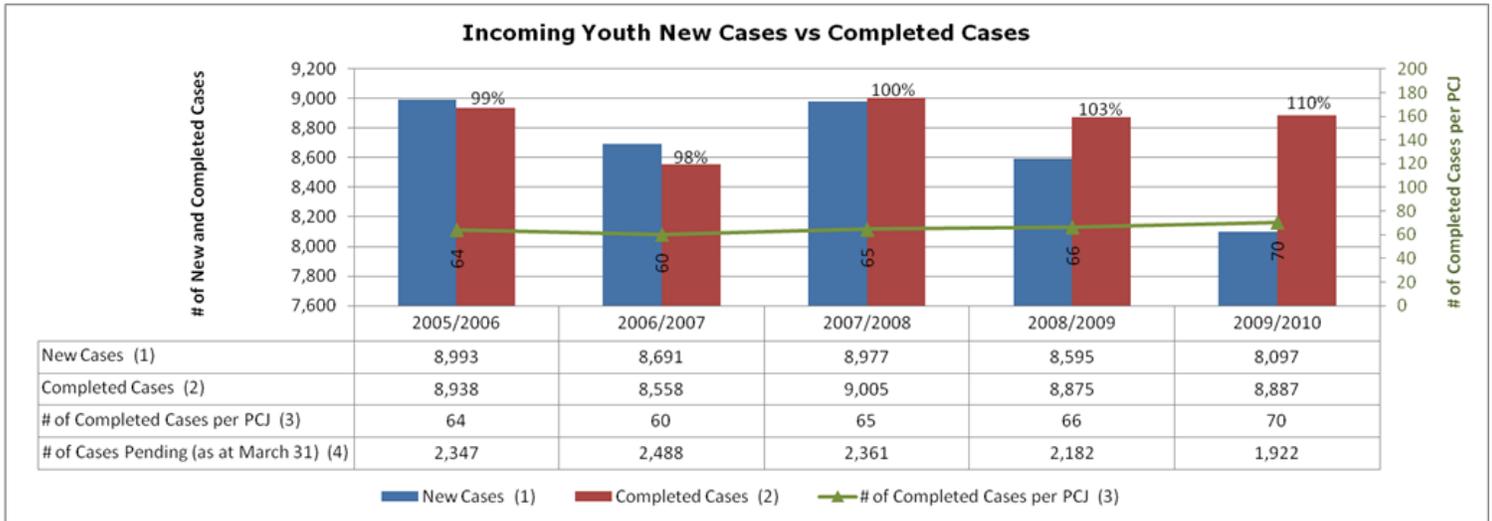


Notes:

- (1) Data Source: CORIN Data base
Total New Cases: the total of all new adult criminal cases for each fiscal year.
- (2) Completed Cases: the total number of all adult criminal cases which were concluded within each fiscal year.
- (3) # of Completed Cases per PCJ: Adult Criminal completed cases/PCJ Complement at the end of each calendar year. (Data Source: Rota 6 for PCJ Complement)
- (4) # of Cases Pending: As at March 31, 2010, a case that has not completed and for which a future appearance is scheduled.

For youth cases, in part due to the Crown’s increasing reliance on alternative measures for less serious cases, the number of new cases entering the Court decreased. The Court’s completion rate rose as the Court maintained its previous level of service for these cases, which are few in number and infrequently proceed to trial [Figure 11].

Figure 11: Incoming New Youth Cases vs. Completed Cases



Notes:

- (1) Data Source: CORIN Data base
Total New Cases: the total of all new Youth cases for each fiscal year.
- (2) Completed Cases: the total number of all Youth cases which were concluded within each fiscal year.
- (3) Data Source: Rota 6 for PCJ Complement.
Number of Completed Cases per PCJ: Youth completed cases/PCJ Complement at the end of each calendar year.
- (4) Number of Cases Pending: As at March 31 each year, a case that has not completed and for which a future appearance is scheduled.

G. The Court's Inventory of Pending or Uncompleted Cases

If no additional judges are appointed by the end of 2010, a minimum 5.5 judge-years of work will be added to the existing inventory of cases waiting for hearing, and if no judges are appointed in 2011 a further minimum 10 years of judge time will be added to this inventory. The following data compares the wait times for trial dates for all case types between 2005 and 2008-2010. For some non-criminal matters the delay was greater in 2005 than in 2008-2009, as the court in 2005 had just experienced a three year period where the judicial complement averaged 138.58. As well, the following data demonstrates that for all case types other than youth prosecutions, the length of delay for trial dates grew from 18% to 46% (depending on the case type) between June 2009 and June 2010.

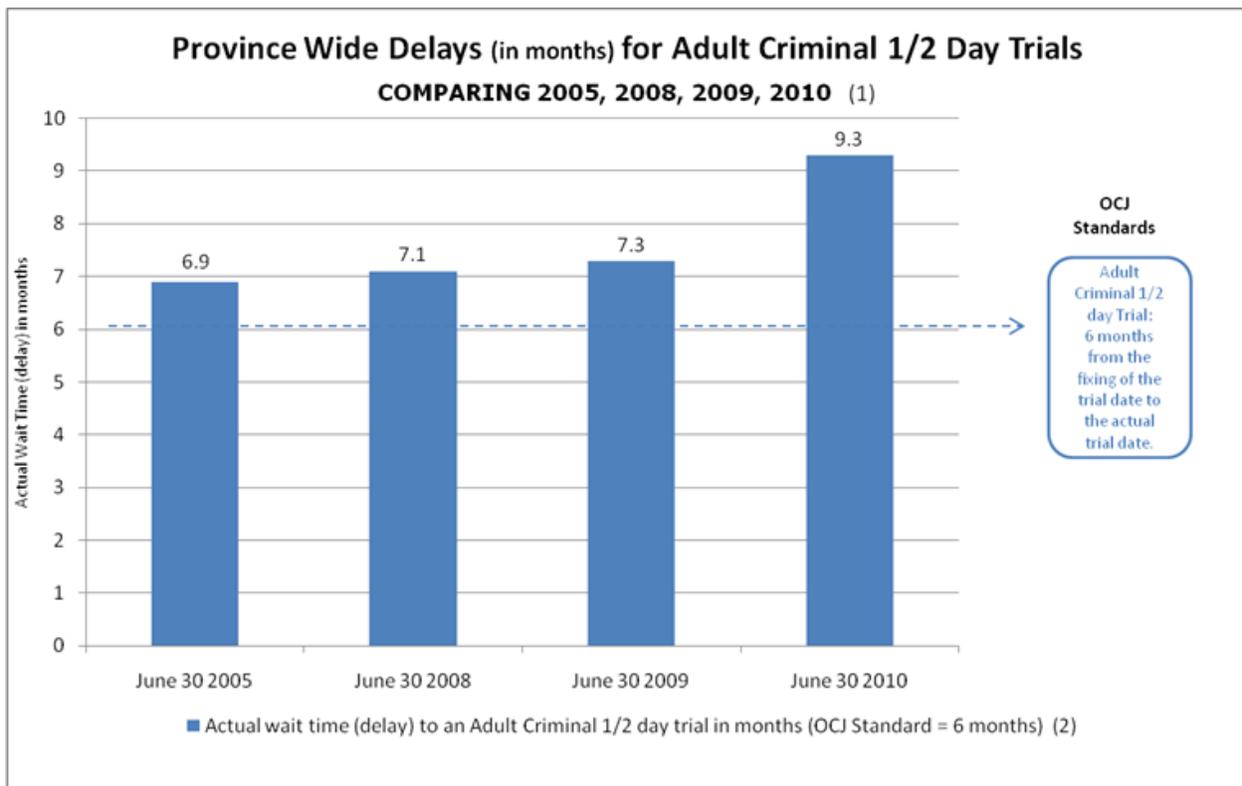
In the summer of 2010, the Attorney General publicly committed to making five immediate appointments to the Court and stated that the Court Services Branch would be able to support these appointments. These appointments will be welcomed by the Court. However, they will not remedy the concerns identified in this report. If these appointments occur on October 1, 2010, the net increase for this calendar

year would be the equivalent of 1.25 judges. In 2011 the Court anticipates losing a further 5 judges.

i. Adult criminal cases pending

The Court maintained a consistent inventory of approximately 16,000 adult criminal cases that are older than 180 days up to the end of 2009/10. However, given the increasing complexity and length of cases set for trial, the overall average wait time for half day trials increased by 27%, and two day trials by 18%, from June 30, 2009 to June 30, 2010 [Figures 12 and 13]. While the total number of cases in the backlog for adult criminal cases remained approximately the same, the increased length of many of the cases added to the number of days of trial time in the adult criminal backlog.

Figure 12: Province Wide Delays for Adult Criminal Half Day Trials



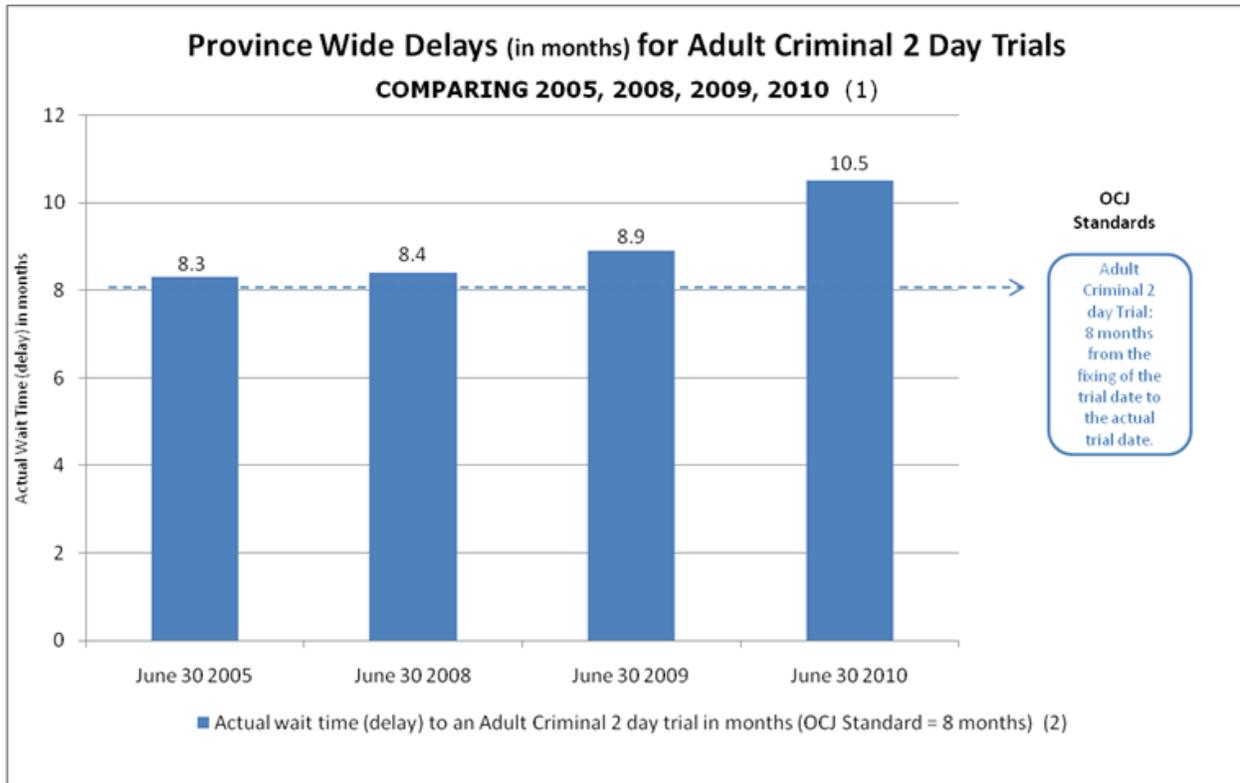
Notes:

(1) Data Source: Judicial (Quarterly) Next Available Date Surveys.

All locations in the province were weighted based on 2005/06 new caseloads (for the June 30, 2005 delays) and 2009/10 new caseloads (for June 30, 2008, 2009, and 2010 delays) as a percentage of the provincial total.

(2) For Adult Criminal Trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical ½ day Adult Criminal trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Figure 13: Province Wide Delays for Adult Criminal Two Day Trials



Notes:

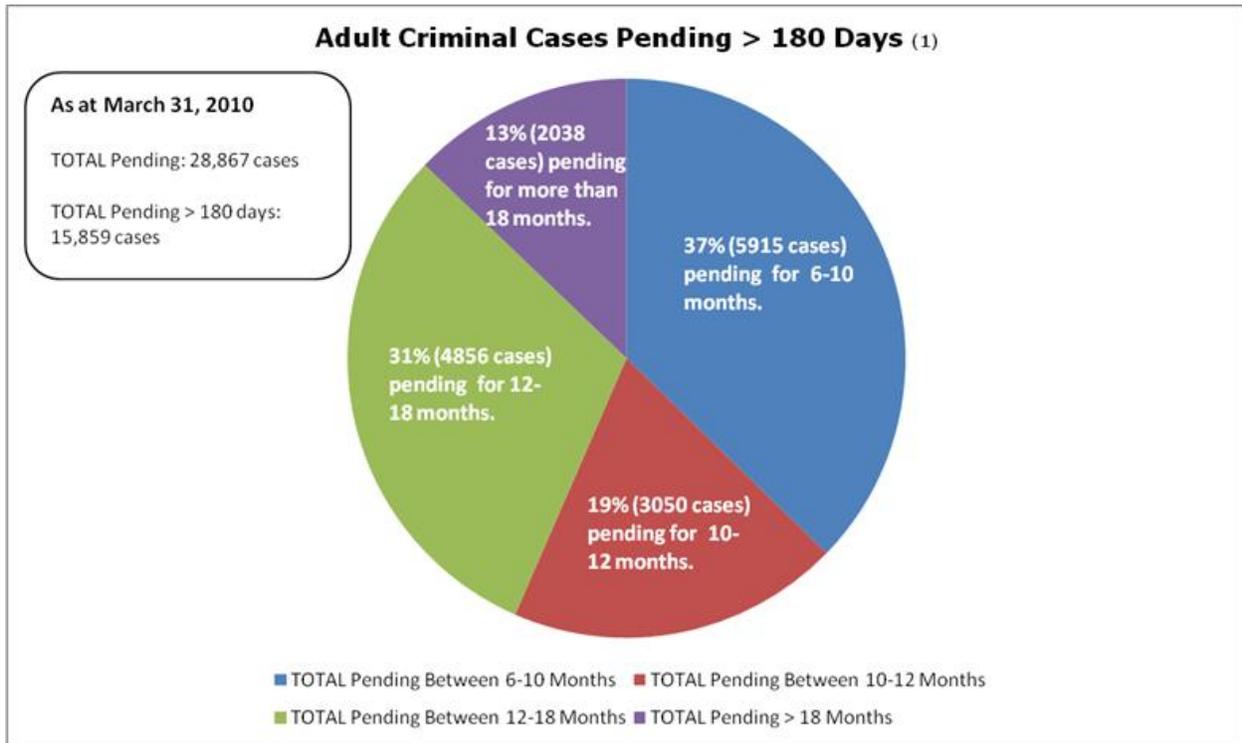
(1) Data Source: Judicial (Quarterly) Next Available Date Surveys. All locations in the province were weighted based on 2005/06 new caseloads (for the June 30, 2005 delays) and 2009/10 new caseloads (for June 30, 2008, 2009, and 2010 delays) as a percentage of the provincial total.

(2) For Adult Criminal Trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical 2 day Adult Criminal trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

As of March 31, 2010, approximately 16,000 adult criminal cases were pending for more than six months, and of those 7000 were over a year old, and 2000 over 18 months.

Judges will be required to consider and weigh a number of factors in considering applications by accused persons for judicial stays of proceedings due to unreasonable delay in having their trials heard. As a consequence, it is not possible to predict the number of adult criminal cases where a judicial stay of proceedings will be entered. However, it is reasonable to conclude that many of the 2000 cases that will be over 18 months old at the time of trial are at risk of being stayed. The numbers of judicial stays of proceeding will only be known once the applications are considered [Figure 14].

Figure 14: Adult Criminal Cases Exceeding the Court’s Standard



Notes:

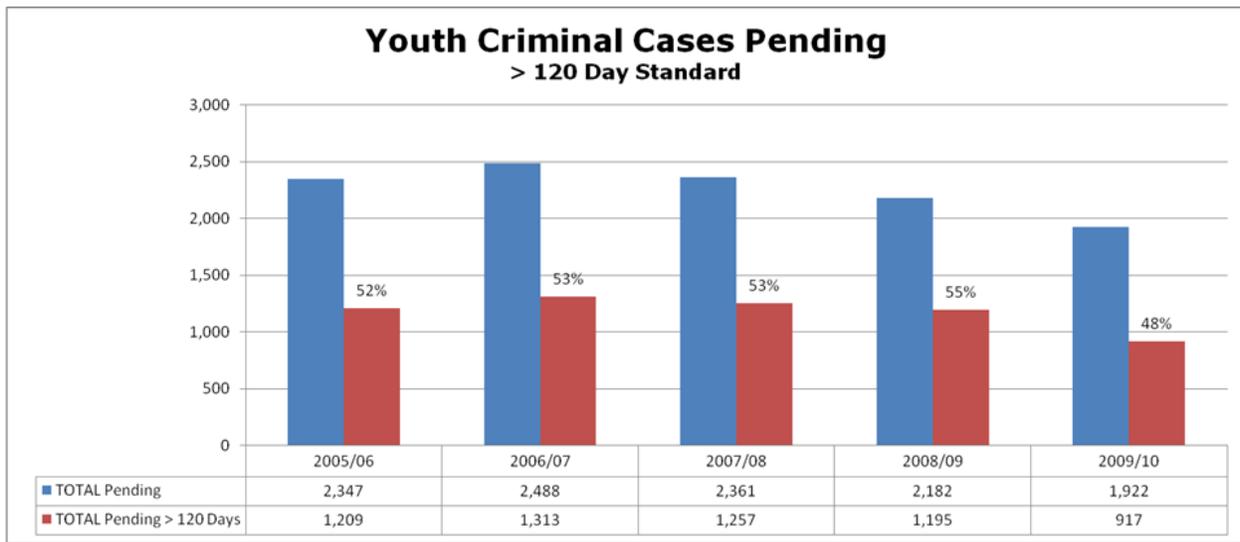
Data Source: CORIN Database

(1) Provincial Court Pending Case: A case that has not completed and for which a future appearance is scheduled. Provincial Court Pending Case over 180 days: A pending case where the number of days between the first appearance and the next scheduled appearance is over 180 days. Pending cases are snapshots of current pending case inventory. This report is as at March 31 2010 and represents a snapshot of the pending case inventory for all cases over 180 days. This report breaks these >180 day cases into 4 different timelines.

ii. Youth cases pending

As mentioned earlier, the Court’s performance in completing youth cases is improving as the Court maintained its previous level of judicial resources assigned to youth cases. The Court’s higher completion rate lowered the total youth cases awaiting completion [Figure 15].

Figure 15: Youth Criminal Cases Pending >120 days



Notes:

Data Source: CORIN Database

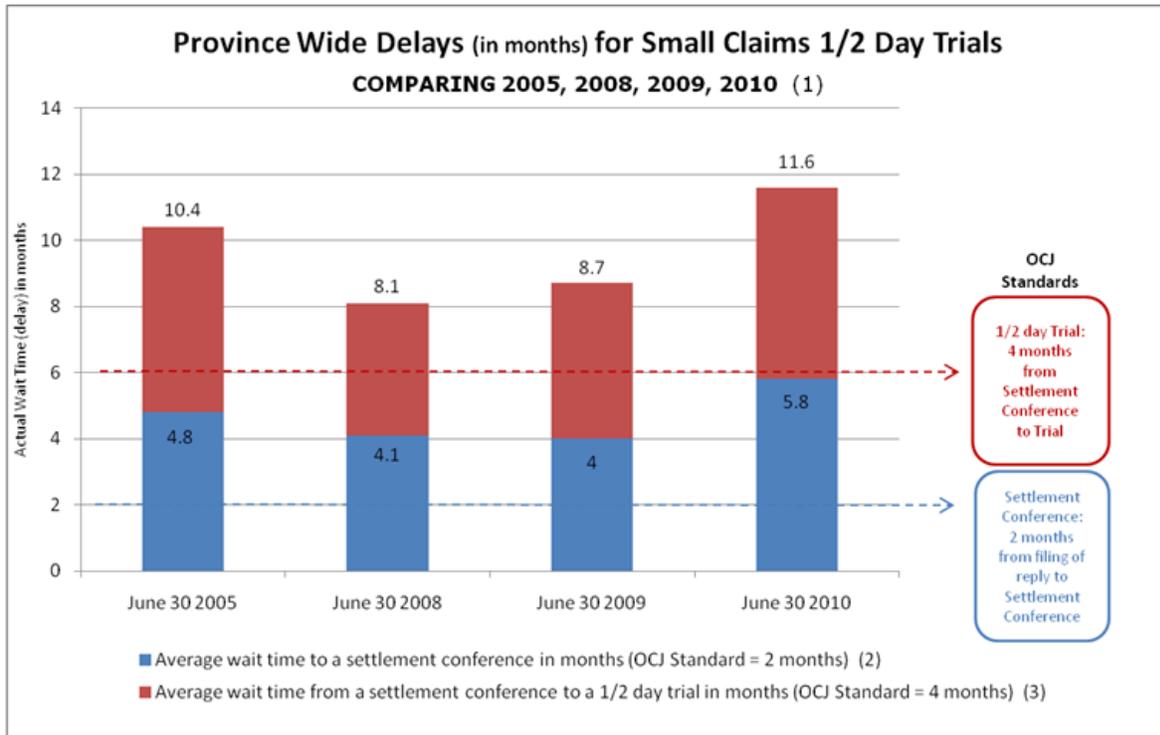
(1) Provincial Court Pending Case: A case that has not completed and for which a future appearance is scheduled. Provincial Court Pending Case over 120 days: A pending case where the number of days between the first appearance and the next scheduled appearance is over 120 days. Pending cases are snapshots of current pending case inventory. This report is as at March 31 2010 and represents a snapshot of the pending case inventory for all cases over 120 days.

iii. Civil cases pending

The Court’s standard for scheduling settlement conferences is two months once the case is ready to proceed, and if necessary, a trial within 4 months of that date for most cases. This standard is exceeded in the majority of Court locations. Fifty-five out of 88 locations currently exceed the Court’s standard for scheduling settlement conferences and 53 locations exceed the standard for scheduling civil trials. There has been 33% growth in the time to trial over the last year for all civil cases and the number of unconcluded civil cases is increasing quickly [Figure 16]. For 2 day civil trials the wait time to trial is now approaching 15 months.

Importantly, there are also an additional 800 settlement conferences waiting to be scheduled beyond the existing ROTA (calendar) which will not be scheduled into the Court’s calendar until well into 2011.

Figure 16: Province Wide Delays for Small Claims Half-Day Cases



Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) All locations in the province were weighted based on 2005/06 new caseloads (for the June 30, 2005 delays) and 2009/10 new caseloads (for June 30, 2008, 2009, and 2010 delays) as a percentage of the provincial total.

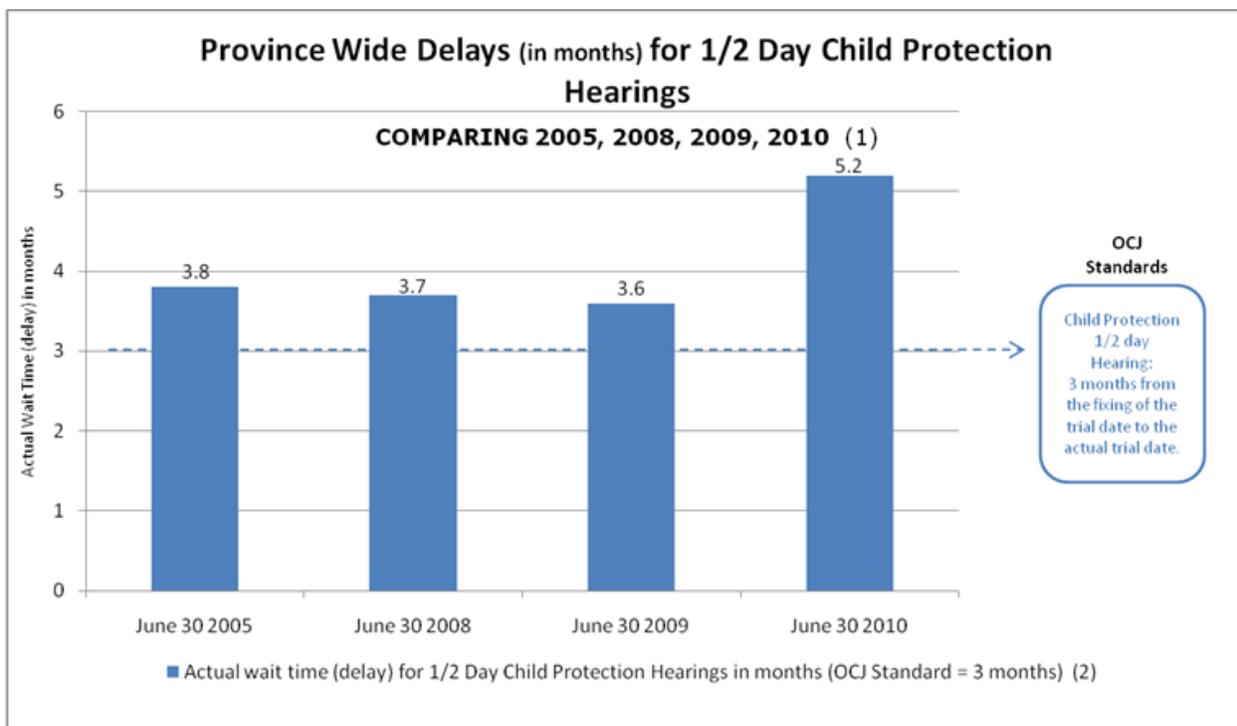
(2) For Small Claims Settlement Conferences, this number represents the number of months between the filing of the reply to the first available court date that a typical settlement conference can be scheduled into.

(3) For Small Claims 1/2 Day Trials, this number represents the number of months between a Settlement Conference and the first available court date that a typical 1/2 day trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

iv. Child Protection / Family Cases Pending

The Court’s standards, or timelines, in child protection cases are defined in legislation. There are now 47 court locations currently scheduling child protection cases beyond 3 months, and family hearings beyond 4 months. The time to trial dates indicate that in a number of court locations hearings are being set well beyond the Court’s established timelines. The 44% increase in the length of time to trial over the last year for half day child protection cases, and the 46% increase for half day family cases demonstrates that the Court’s inventory of these unconcluded cases is growing rapidly [Figure 17].

Figure 17: Province Wide Delays for Child Protection Hearings



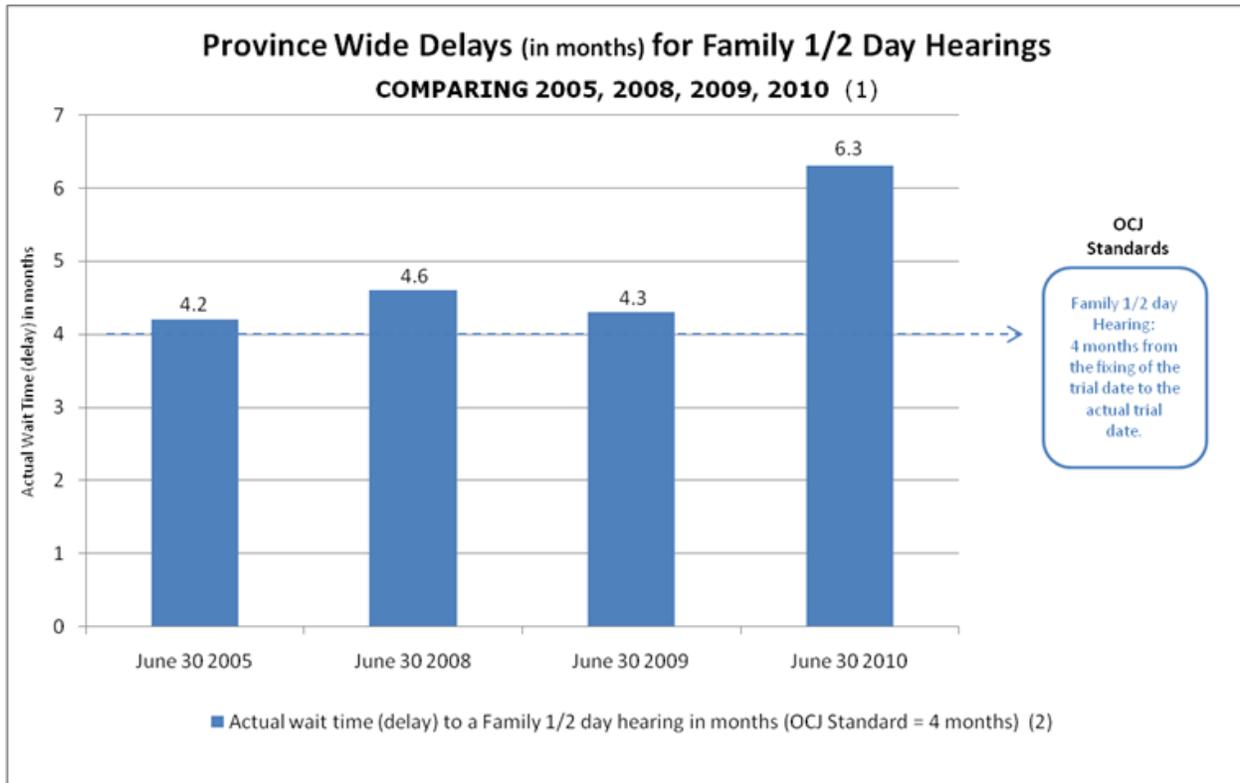
Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) All locations in the province were weighted based on 2005/06 new caseloads (for the June 30, 2005 delays) and 2009/10 new caseloads (for June 30, 2008, 2009, and 2010 delays) as a percentage of the provincial total.

(2) For Child Protection Hearings, this number represents the number of months between a Case Conference/Fix Date and the first available court date that a typical ½ day Child Protection case can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a hearing date to be scheduled and factors those matters into any delay estimates.

Figure 18: Province Wide Delays for Family Hearings



Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) All locations in the province were weighted based on 2005/06 new caseloads (for the June 30, 2005 delays) and 2009/10 new caseloads (for June 30, 2008, 2009, and 2010 delays) as a percentage of the provincial total.

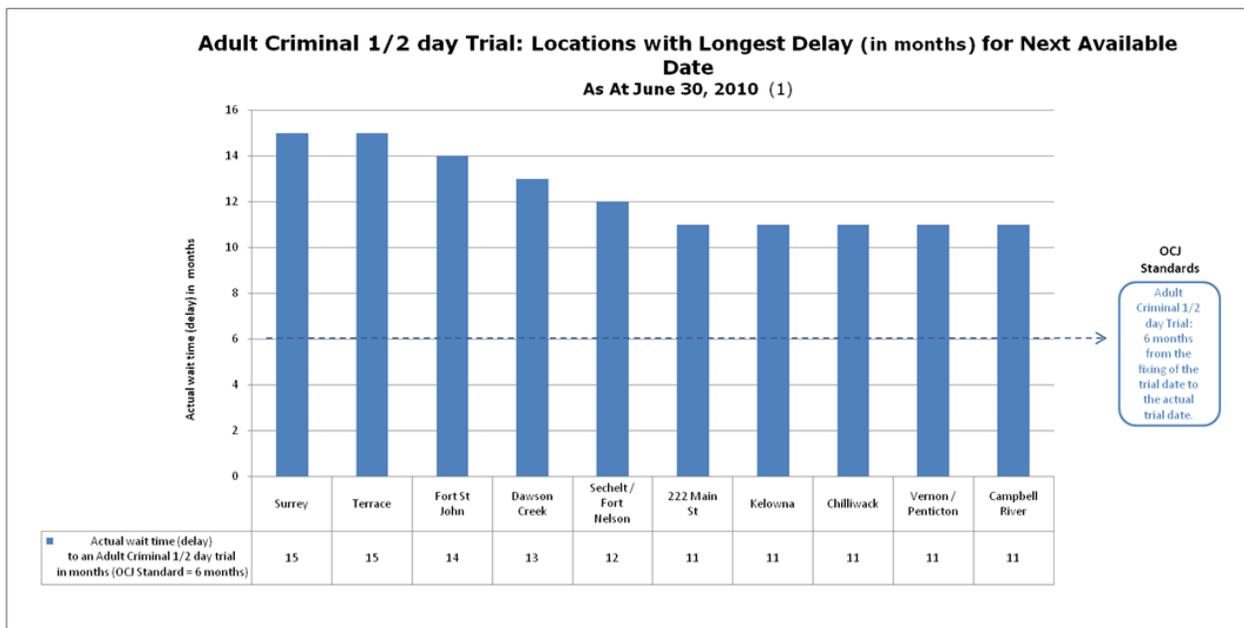
(2) For Family Hearings, this number represents the number of months between a Case Conference or Fix Date and the first available court date that a typical 1/2 day Family hearing can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a hearing date to be scheduled and factors those matters into any delay estimates.

V. Areas of the Province Significantly Below Judicial Complement and the Impact

In preparing this report, the Court identified the locations in the Province significantly below complement using a number of criteria, including: current backlog and time to trial data; the percentage reduction in the judicial complement; and the number and size of Court locations and associated travel time. Examples of the data used to identify these Court locations are set out below [Figures 19 (a & b), 20, 21, 22, and 23].

Despite the Court’s focusing disproportionate resources on adult criminal cases, there are a number of locations where the delay for criminal cases awaiting trial significantly exceeds the Court’s standards for scheduling. The most impacted locations are Surrey and Terrace where the delay for a half-day adult criminal trial is 15 months [Figure 19(a)]. In Vernon the delay is 25 months from the time a civil case is ready to proceed, through to the conclusion of the case conference and the date set for hearing [Figure 20]. In Prince George and Sechelt the delay for scheduling family hearings is 11 months [Figure 21], and for child protection cases the delay in Prince George and Vanderhoof is also 11 months [Figure 22]. The wide variation in the time to hearing dates is due largely to the uncertainty created when judicial vacancies are not filled, and there is a sizable percentage reduction to the judicial complement for those locations.

Figure 19 (a): Locations with the Longest Delay for Adult Half Day Criminal Trials

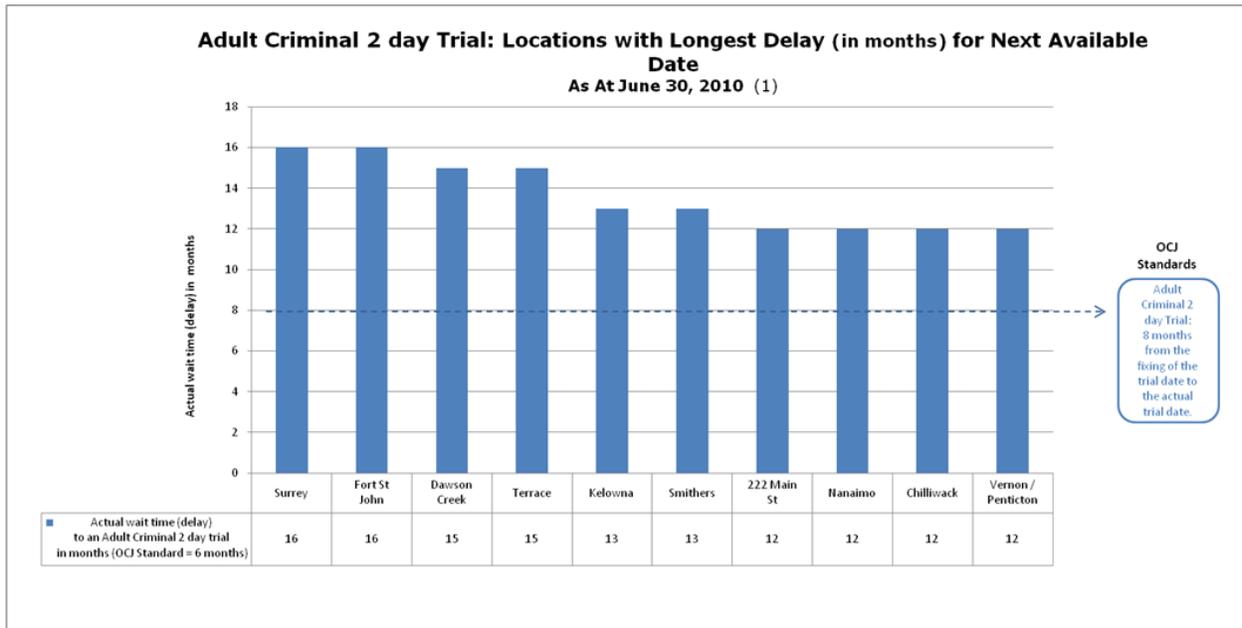


Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Adult Criminal Trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical ½ day Adult Criminal trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Figure 19 (b): Locations with the Longest Delay for Adult Two Day Criminal Trials

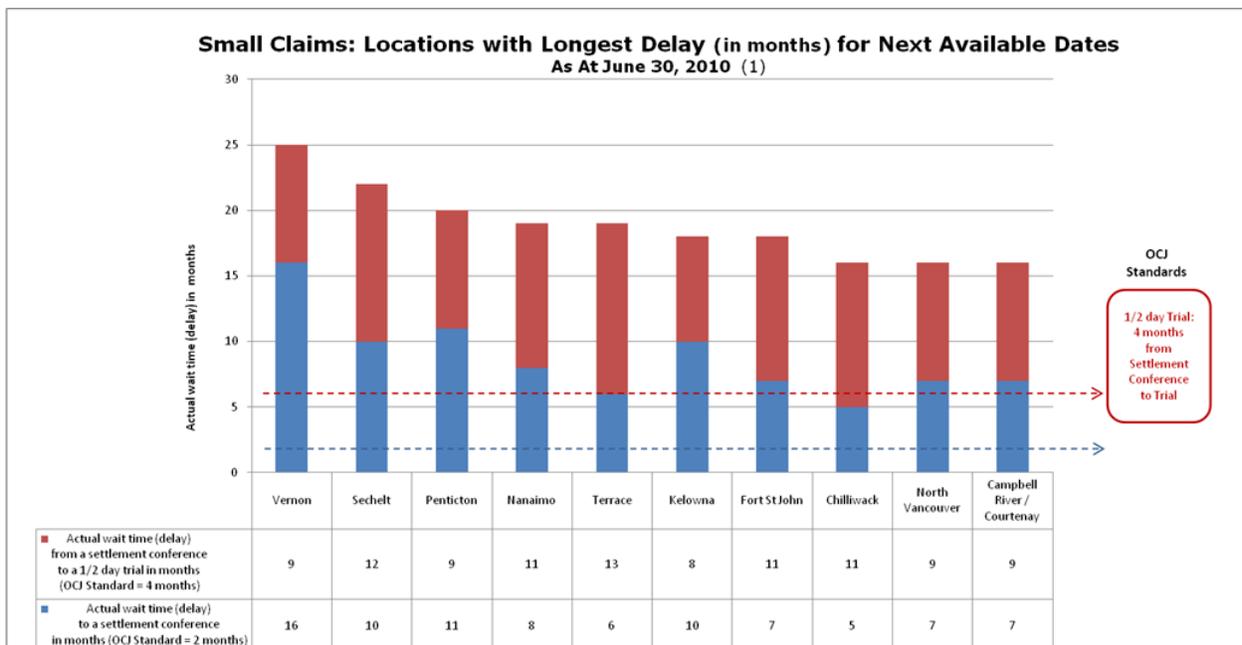


Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Adult Criminal Trials, this number represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical 2 day Adult Criminal trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Figure 20: Locations with the Longest Delay for Settlement Conferences and Civil Trials

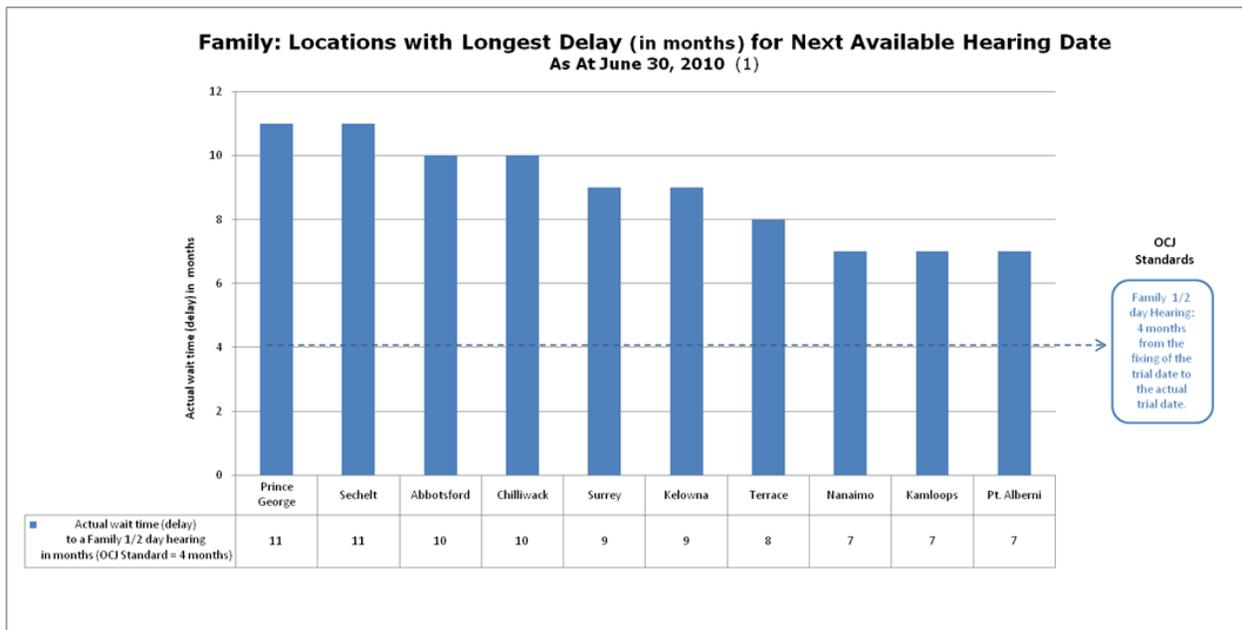


Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Small Claims Settlement Conferences, this number represents the number of months between the filing of the reply to the first available court date that a typical settlement conference can be scheduled into. For Small Claims ½ Day Trials, this number represents the number of months between a Settlement Conference and the first available court date that a typical ½ day trial can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a trial date to be scheduled and factors those matters into any delay estimates.

Figure 21: Locations with the Longest Delay for Family Hearings

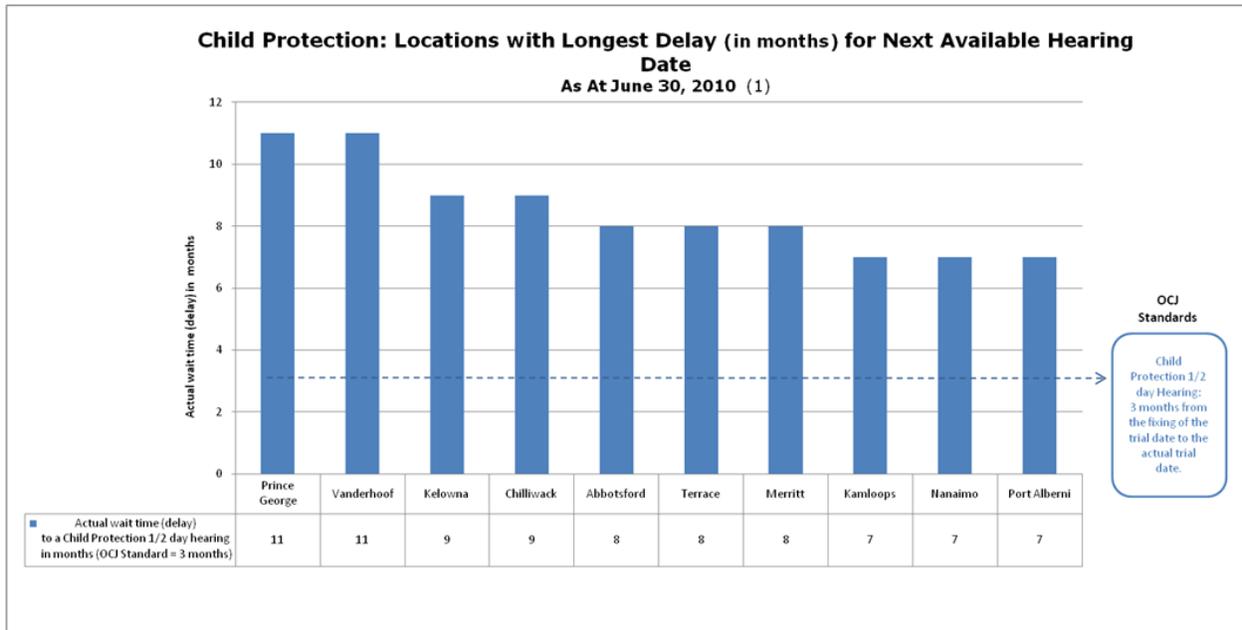


Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Family Hearings, this number represents the number of months between a Case Conference or Fix Date and the first available court date that a typical ½ day Family hearing can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a date to be scheduled and factors those matters into any delay estimates.

Figure 22: Locations with the Longest Delay for Child Protection Hearings



Notes:

Data Source: Judicial (Quarterly) Next Available Date Surveys.

(1) For Child Protection Hearings, this number represents the number of months between a Case Conference/Fix Date and the first available court date that a typical ½ day Child Protection hearing can be scheduled into. The “first available date” does not include court dates that have opened up due to cancellations, since that is not when the Court would “normally” be scheduling matters in the future. This wait time also takes into account any cases awaiting a hearing date to be scheduled and factors those matters into any delay estimates.

The following chart sets out the percentage reduction in the judicial complement of the locations noted if no appointments are made prior to the end of 2011.

**Figure 23: Change in Percentage of Complement (2005 - 2011)
By Judicial District**

	% Change from 2005 Complement (1)
Coast	-44.50%
North Van. Island	-35.40%
Robson/ Richmond	-33.20%
Kamloops	-32.50%
South Van. Island	-24.70%
Okanagan	-19.00%
South Fraser	-18.60%
Vancouver Criminal	-13.30%
North Fraser	-4.60%
Kootenays	-2.50%

Notes:

(1) Data Source: Judicial Resource Analysis report (2006). Judicial Complement per District (2005) compared to projected Judicial Complement per District (2011).

Based on this examination, the Court’s view is that the 8 most pressing judicial vacancies, all of which could be supported within the Court's existing budget, are located at: Surrey; Okanagan District (Kelowna/Vernon/Penticton); Chilliwack/Abbotsford; Kamloops; Cariboo Northeast District (Prince George/Fort St. John/Dawson Creek); North Vancouver Island District; Northwest District (Terrace/Smithers); and Coast District (Sechelt).

VI. Initiatives undertaken to Increase Efficiency and Effectiveness

Since 2005 the Court initiated or supported a number of reforms intended to increase efficiency and effectiveness⁸.

⁸ See Appendix “E” for further details.

A. Criminal Reform Initiatives for Sentencing/Bail Courts

Commencing in 2007, the Court implemented significant changes to the operation of designated sentencing/bail courts. This reform established: timelines and a maximum number of appearances before plea; increased court scrutiny of applications for trial time; trials within 30 days for breaches of court orders; scheduled events with time estimates for sentencing proceedings and bail hearings; and, the transfer of all regular appearances except bail hearings, preliminary inquiries, trials and sentencing from judges to JCMs.

To date, in the 16 locations where the reform initiative has been implemented, the equivalent of 3.5 judge-years of work has been transferred to JCMs with a corresponding increase in the Court's ability to handle more cases.

In one of these locations, the Court is also piloting procedures where lawyers and accused persons may make all their appearances before the JCM electronically.

However, the delay in appointing judges, and the resulting increase in backlog of cases is undermining the criminal reform initiatives as defense counsel are increasingly motivated to set matters for trial. Their reasons for doing so include the reality that the long passage of time before trial may lead to unavailability of witnesses, fading memories for witnesses who do appear, or a successful application for a judicial stay of proceedings due to unreasonable delay.

B. Civil Reform Initiatives

The civil reform pilot supported by the Ministry was implemented by the Court and transferred some duties previously performed by judges to senior lawyers and mediators. At Robson Square and Richmond, senior lawyers are appointed to sit as Justices of the Peace to resolve most small claims matters up to \$5000. Mediators are assigned to resolve claims of \$5000 to \$25,000 at Robson Square. Further, a 30-minute trial preparation conference is now used at Robson Square for claims not settled by mediation, to further narrow the issues in order to expedite the trial.

This has transferred the equivalent of 2 judge-years of workload to lawyers and mediators, freeing up this judge time for other assignments.

C. Video Bail / Use of Polycom Units

Expansion in the use of technology continues to be a priority for the Court. The use of Polycom units which are one way video machines, internet or IP based, was initiated and implemented by the Court to allow JCMs to hear preliminary matters remotely, while a judge is using the local courtroom in more isolated locations of the Province.

The Court has also worked toward the goal of increasing its use of video in the bail

context to increase the number of bail hearings that are being conducted remotely from the Justice Centre by lawyer Judicial Justices (see Bail Reform below). In addition, increasingly video is used in courts presided over by judges, so that the accused can appear by video from a correctional facility, for initial appearances, bail hearings and sentencing. As a result of this initiative, it is now common practice when proceedings resolve early in one location to offer that judge to another location by video to assist with overload.

Both of these initiatives have dramatically reduced the number of prisoner transports, and the travel time for judicial officers.

D. Bail Reform

The Bail Reform Project, initiated in May 2007, is co-sponsored by the Court, the Ministries of the Attorney General and Public Safety and Solicitor General. Bail hearings are scheduled before a Judicial Justice at the Justice Centre in the Lower Mainland with the accused in custody in police cells or at a Correctional facility. The police officer, and occasionally Crown Counsel and defense, also appear by videoconference from their respective locations.

E. Problem-Solving Courts

Since 2005, the Court initiated, or supported, “problem-solving courts” that coordinate with the community and other agencies to more effectively address the underlying causes of criminal activity. These initiatives were in addition to the Drug Treatment Court which had already been implemented in Vancouver.

The Downtown Community Court in Vancouver was implemented with the Court’s involvement and support. The Court on its own initiative implemented the First Nations Court in New Westminister, the Victoria Integrated Court and the Domestic Violence Court in Duncan.

F. Strengthening Judicial Case Management

Scheduling cases for hearing is a complex process. The JCMs overbook each hearing day and then monitor all court lists, recognizing that regardless of the level of judicial case management, a number of the cases scheduled for hearing are unlikely to proceed on the day of trial. This is due to a variety of reasons, including primarily, late resolution of the outstanding issues between the parties.

The Court, over the past four years, has increased the use of assizes (sittings where cases of the same type are set for the same week(s) with the expectation that when one case concludes the next begins) especially for family and child protection hearings. These initiatives, along with increased use of judicial pre-trial conferences, have increased trial certainty and allowed for more effective use of court time.

The Court has added flexibility into the trial scheduling process by holding back from the local assignment of judges, one week of judge time per year for all full-time judges and two weeks per year for each senior judge. This enables the Court to redirect resources to locations where they are most needed on reasonably short notice.

Given the inherent delay in the scheduling of cases for trial, the JCMs are projecting many months into the future based on the number of judges anticipated to be available. When judicial vacancies are routinely filled in a timely way, JCMs are able to book cases effectively knowing that judges will be available to hear the work scheduled. However, when there is uncertainty surrounding the filling of judicial vacancies the JCMs must schedule cases without knowing how many judges will be available to hear court work on the trial date. This manner of scheduling significantly undermines the Court's ability to carry out effective case management. The lack of predictability results not only in lost scheduling efficiency, it also creates significant inconvenience and disruption to litigants and witnesses when cases do not proceed as expected.

G. Other Measures the Court Has Taken to Mitigate the Loss of Judicial Resources

To lessen the impact of the reduction in judicial resources, in 2009/2010, the Office of the Chief Judge:

- temporarily authorized approximately twenty-five (25) "extra" sitting weeks for Senior Judges in emergency situations created by the lack of judges, pending possible legislative reform through the Judicial Compensation Commission;
- devoted an increasing amount of JCM and Administrative JCM time to prioritizing needs and coordinating judicial coverage throughout the Province; and
- assumed the burden of significant travel costs for coverage to locations outside the Lower Mainland in an effort to fulfill some of the more pressing needs in communities where a vacant judicial position was not filled.

VII. Minimum Resources Required for the Court to Fulfill its Mandate

The nature of the cases entering the Court is constantly changing. For example, the Court's civil jurisdiction increased from \$10,000 to \$25,000 in 2005. There are pending changes to the *Strata Property Act* which could significantly add to the Court's workload, as have amendments to the *Criminal Code*. New provincial legislation regarding impaired driving cases may, over time, reduce the Court's caseload.

It is not possible to accurately predict how these and other changes will impact the Court. As a consequence, the assessment of the minimum judicial resources required is based upon the Court's present capacity to complete the number and types of cases currently being filed for resolution before the Court, the growth in delay, and the backlog of uncompleted cases.

In arriving at this assessment, the Court has relied, in part, on the District Reviews that have been undertaken by the Court over the last four years. The Court is divided into 12 administrative districts and in all but 3 there is a completed extensive operational review by the Office of the Chief Judge. The Court in conducting the reviews examined: delays in completing cases in that district; the case flow administration practices; opportunities for reform and improvement; and the resources, including the number of judges, required for the Court to meet its mandate in the district.

Based to a large degree on these reviews, the Court is confident that with the complement of judges it had in 2005, it could "keep pace" with the new cases being filed. The improvements to the Court's efficiency would enable it to process the incoming inventory of new cases, including adult criminal matters that are increasing in seriousness and complexity. However, should Ministry support for any of the Court's reform initiatives be reduced or withdrawn, the 2005 complement level would be insufficient to cope with the volume of new cases.

The judicial resources required to reduce the backlog of uncompleted cases, and the corresponding delay, is more difficult to determine. It will turn primarily on when the judicial complement is restored to the level where the Court can "keep pace" with the incoming cases. As referred to earlier, if no additional judges are appointed by the end of 2010, a minimum of 5.5 judge-years of work will be added to the existing backlog, and if no judges are appointed in 2011, a further increase of at least 10 judge-years of work will be added. These are minimum numbers as delay encourages more criminal cases to be set for trial given the increased difficulty in proving older allegations.

As three quarters of the Court's cases are adult criminal, the greatest volume of delayed uncompleted cases is where there is a backlog for adult criminal cases in a large court location. For example, in Surrey the current 15 month delay in time to trial (for a half day criminal case) exceeds the Court's standard by 9 months and there are approximately 1000 days of backlogged trial time. It would take an

additional 3 judges (exclusively hearing criminal trials full-time) 2 years to reduce wait times to the Court's standard. This assumes that sufficient staff (Crown counsel, defense counsel, sheriffs and court clerks) will be available to support the judges. This staffing requirement to reduce the delay is over and above what is required to "keep pace" with the new cases.

What is certain is that even with the immediate restoration of the judicial complement to the 2005 level, adult criminal prosecutions will be lost due to unreasonable delay and the numbers will increase in accordance with the time it takes to restore the judicial complement.

Additionally, the Court's ability to provide its services to the public in an efficient manner depends to a considerable degree on the Court Registry and Sheriff's staff that support it. The Court gratefully acknowledges the hard work and dedication of the staff that currently support the Court under stressful circumstances. However, increasingly, the work of the Court, including its reform initiatives, is frustrated by the lack of Registry and Sheriff's staff and, in some locations, insufficient numbers of courtrooms to hear matters. The Court Registry and Sheriff's staff available to the Court have been significantly reduced, and the effect on the Court includes:

- insufficient Registry or Sheriff's staff to open a court and move a judge for more effective case management;
- delay in starting court while waiting for prisoners to arrive from institutions;
- inordinate delay in maintaining court files, leaving the Court with an incomplete record on the day of hearing;
- failure to add or take matters off the Court list prior to the scheduled date; and
- delays in processing Court orders, including entering and vacating arrest warrants.

Another example of the impact of these staff reductions is the growing backlog of traffic ticket cases which have not been scheduled for hearing, even though there is Judicial Justice time available. As of November 2009, there were 37,000 traffic tickets waiting for hearing dates to be set as there are not enough staff to support the data entry required and to schedule hearings.

It appears further staff reductions through attrition are continuing.

VIII. Conclusions and Recommendations

Until the Court received its 2010/11 budget, it was not informed that the judicial complement would be reduced. The volume of incoming cases has not decreased, and the seriousness of the Court's work is increasing for adult criminal cases. As the current budget will only support 8 additional judges, it reflects a decision to reduce

the complement of judges, at least in the short term. The Court cannot presently fulfill its mandate with fewer judges than in 2005, as the added efficiency created through the reform initiatives cannot absorb both the increasing number of longer, more serious adult criminal prosecutions, and the extra judges required to reduce the backlog. Additionally, the uncertainty regarding the replacement of judges has reduced the effectiveness of the Court's trial scheduling function, including its ability to allocate proportionate amounts of trial time to the different case types.

The Court is falling behind on the incoming adult criminal, family, civil, and child protection cases. With the reduction in trial days in 2010 and 2011, the Court is now experiencing a significant increase in the length of time to trial in all areas except youth prosecutions.

Consequently, the Court strongly recommends that the complement of judges be restored to the 2005 level. This would be more consistent with the approach taken to the maintenance of judicial resources in the Supreme Court of British Columbia, and all other provincial courts across Canada; four of which received significant percentage increases to their complement. The Court believes that with these resources it could “keep pace” with the new cases.

Early restoration of the judicial complement is necessary to prevent further deterioration of the Court's service to the public. While an increase of the complement to the 2005 level would stop the growth in delay and backlog, further criminal cases will be lost due to unreasonable delay, as it will take the Court a minimum of two years, and perhaps additional judges, to reduce the delay to an acceptable level. A further important proviso is that the staff in the Court Registry and Sheriff's Services will also need replenishment for the Court to make effective use of an increased judicial complement.

If the Court's complement is not restored to the 2005 level, it is the Court's responsibility to allocate its remaining resources in a manner which best meets the needs of the public and supports the rule of law. Approximately three quarters of the Court's work involves adult criminal prosecutions. Even with a reduced complement of judges the Court has the ability to provide timely access to justice for all civil, family, child protection, and youth cases, as well as for the more serious adult criminal prosecutions. In doing so, the Court would demonstrate to these litigants, and the public at large, that even in difficult economic times with reduced judicial resources, the Court is capable of efficiently providing timely access to justice for many of the case types before it.

The Court is mindful that when members of the public, or businesses, pay court filing fees in civil cases anticipating a “speedy” response, or require a full court hearing when their children have been apprehended, they have no means of compelling their case to proceed in a timely way. They also have no recourse if the Court fails to do so. However, failure to provide a timely hearing undermines public confidence in the Court and the rule of law. Persons appearing in family and civil cases also often appear without counsel and are entirely dependent upon the Court to ensure access.

By contrast, in criminal matters, the accused may be entitled to the constitutional remedy of a judicial stay of proceedings where the trial is not concluded before a lengthy delay. Agents of the Attorney General are responsible for bringing the vast majority of these cases before the Court.

For these reasons, the Court has determined that if it is expected to operate for the foreseeable future with a judicial complement below that in 2005, the public interest requires the current imbalance in scheduling, which allocates a disproportionately high amount of court time to criminal matters, be rectified. Accordingly, while recognizing and making all reasonable efforts to protect the constitutional right of accused persons to a trial within a reasonable time, and the interests of the victims and the public in having their cases heard, the Court intends to allocate a more proportionate level of resources to non-criminal matters. The goal is to ensure that within 24 months the majority of youth, civil, family, and child protection cases are scheduled within the Court's established guidelines, guidelines which reflect the Court's legal obligations to the public, and support the early resolution of cases. The remaining judicial time will be allocated to adult criminal cases, with priority given to in-custody and more serious prosecutions.

In addition to the ongoing communication from the Court to the Ministry of Attorney General regarding the consequences of failing to maintain an appropriate judicial complement, the Court will issue regular enhanced reports for the Attorney General and the public. These reports will demonstrate the Court's progress in improving its service to the public in most areas of its mandate. The reports will also provide details concerning the growth, or reduction if the 2005 complement is restored, in the inventory of uncompleted adult criminal cases and judicial stays due to unreasonable delay. The Court recognizes there are competing public interests for the limited financial resources of Government, and believes this approach will provide the Attorney General and the public with the best information available for an ongoing assessment of: the Court's performance relative to its guidelines; any necessary adjustments to the level of the Court's judicial complement; and the relative Governmental priority of the less serious criminal prosecutions at risk due to delay.

Finally, the Court recommends that a determination be made as to the necessary level of the Court's judicial complement and that this complement be allocated to the Court. In the Court's view, this should be on the understanding that the delay and backlog will continue to be monitored with this complement adjusted only after sufficient notice to the Court. The Court recommends that this allocation be on the understanding that any judicial vacancies falling within this complement, and supportable by the Court's budget, be filled on a timely basis. The current uncertainty regarding the size of the complement and the delay in filling vacant positions has undermined the Court's ability to effectively use, and fairly allocate in each community, the resources provided to it.

The Court looks forward to a prompt response to this report given the uncertainty regarding the judicial complement, the urgent need for action, and the importance of communicating to the public regarding the initiatives undertaken. Even in these tough

economic times the Court remains confident that the Attorney General fully supports a justice system which is "accessible, efficient, and affordable."

Appendix “A”

The Court’s Standards for Hearing Cases

Division of Work	Type of case	Time Frame
Adult Criminal	From Arraignment Hearing to the date that a typical ½ day trial or hearing can be scheduled into a future court list.	90% of cases scheduled within 6 months
Adult Criminal	From Arraignment Hearing to the date that a typical 2 day or longer trial or hearing can be scheduled into a future court list.	90% of cases scheduled within 8 months
Youth	From Arraignment Hearing to the date that a typical ½ day trial or hearing can be scheduled into a future court list.	90% of cases scheduled within 4 months
Civil	From the time a case is ready to proceed to the date that a typical settlement conference can be scheduled into a future court list.	90% of cases scheduled within 2 months
Civil	From the time a case is ready to proceed to trial (after settlement conference) to the date that a typical ½ day trial can be scheduled into a future court list.	90% of cases scheduled within 4 months
Civil	From the time a case is ready to proceed to trial (after settlement conference) to the date that a typical 2 day or longer trial can be scheduled into a future court list.	6 months
Family FRA	From the time a case is ready to proceed to trial (after case conference) to the date that a typical ½ day trial can be scheduled into a future court list.	90% of cases scheduled within 4 months
Family CFCSA	From the time a case is ready to proceed to trial (after case conference) to the date that a typical ½ day trial can be scheduled into a future court list.	3 months

Appendix “B”

PROTOCOL

BETWEEN:

MINISTRY OF ATTORNEY GENERAL AND PROVINCIAL COURT JUDICIARY

A. PURPOSE

The purpose of this document is to set out a framework within which the Ministry of Attorney General and the Provincial Court Judiciary will work together to fulfill their respective roles and responsibilities for the administration of justice in British Columbia.

B. ROLES AND RESPONSIBILITIES

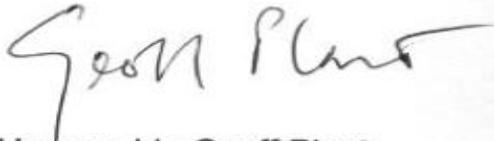
1. The Attorney General has the constitutional responsibility for the administration of justice in the Province. This responsibility is codified in the Attorney General Act.
2. Section 41 of the Provincial Court Act specifies that “[t]he Attorney General is responsible for the provision, operation and maintenance of court facilities and services”.
3. Under the principle of judicial independence, the Provincial Court Judiciary have responsibility for matters of judicial administration.
4. Judicial administration as defined in the case law requires, at a minimum, control by the judiciary over matters which directly affect the exercise of judicial functions. This includes the assignment of judges, sittings of the court, court lists, allocation of court rooms and direction of administrative staff engaged in carrying out these functions.
5. The Chief Administrator of Court Services has the statutory responsibility under section 41(2) of the Provincial Court Act to “direct and supervise facilities, registries and administrative services for the court”.
6. Section 41(2) states that the Chief Administrator performs these duties and responsibilities “subject to the direction of the Attorney General, and to the direction of the chief judge in matters of judicial administration”.
7. The Assistant Deputy Minister, Court Services Branch is the Chief Administrator of Court Services.

8. The Attorney General and the Provincial Court Judiciary recognize that decisions made by the Attorney General may affect matters of judicial administration and that decisions of the Provincial Court Judiciary relating to judicial administration may affect the administration of justice in the province.
9. Because of the potential impact that decisions of the Attorney General and the Provincial Court Judiciary have on their respective roles and responsibilities, both recognize that it is essential that they work cooperatively to ensure that the justice system serves the interests and needs of the people of the Province.
10. In particular, the Attorney General and the Provincial Court Judiciary recognize that that they must work together to ensure that the system of justice in the province is accessible, efficient and affordable.

C. FRAMEWORK

1. Regular meetings will be held between the Ministry of Attorney General and the Provincial Court Judiciary to discuss matters of court administration.
2. Issues to be discussed at these meetings will include, but are not limited to:
 - a. facilities and staff planning
 - b. budget planning
 - c. technology
 - d. management of court records.
3. These meetings will initially be held quarterly and, at a minimum, will be held twice a year. The frequency of the meetings will be a matter for mutual agreement between the Ministry and the Chief Judge.
4. Minutes will be kept of the meetings.
5. If, between meetings, a matter arises that will have a significant impact on court administration and, in particular, if judicial administration will be affected by this matter, an extraordinary meeting between the Ministry and the Provincial Court Judiciary will be held to discuss this matter.
6. Nothing in this document is intended to interfere with the normal communication that takes place between the Ministry and the Office of the Chief Judge on a regular basis with respect to routine matters, including existing ad hoc and standing committees.

7. It is recognized that if confidential matters are being discussed between the Ministry and the Provincial Court Judiciary, confidentiality requirements will be respected and it may be necessary to restrict the officials or judges who have access to this information.
8. This protocol agreement is intended to be a high level document governing the way in which the Ministry and the Provincial Court Judiciary will exchange information and co-operate in exercising their respective responsibilities in relation to the administration of justice in the Province. It will be revisited by the Ministry and the Provincial Court Judiciary from time to time with reference to the prevailing case law relating to judicial administration and judicial independence and the responsibility of the Attorney General for the administration of justice in the Province.



Honourable Geoff Plant
Attorney General



The Honourable Chief Judge
Carol Baird Ellan

Signed this 19th day of April 2002

**Appendix "C" Changes to PCJ FTE Complement by Judicial District
2006-2010**

Judicial District	2006					2007				
	Decrease in Complement				Increase in Complement	Decrease in Complement				Increase in Complement
	Retired	Senior	Appoint to Supreme	Other	Appointment	Retired	Senior	Appoint to Supreme	Other	Appointment
Cariboo Northeast										Morgan
Coast		Auxier (0.55)		Moon (LTD)						
Kamloops	Gordon (0.45)				Frame	Sather (0.45)			Sundhu	Harrison
Kootenays										
North Fraser										Woods
North Island						Libby (0.45)				
Northwest										Birnie
Okanagan	Brecknell									Betton Cartwright (returned from LTD)
Robson / Richmond	Mondin						Tweeddale (0.55)			
South Fraser	Thomas (0.45) Devitt						Hyde (0.55)			
South Island	Filmer (0.45) Maughan (0.45)							Bracken		Wood
Vancouver	Smith (0.45)		Bruce		Giardini McMillan		Godfrey (0.55) Bastin (0.55)			Burgess
Headquarters										
SUB-TOTAL	5.25	0.55	1	1	3	0.9	2.2	1	1	8
TOTAL Loss	7.8					5.1				
TOTAL Gain					3					8

Judicial District	2008					2009				
	Decrease in Complement				Increase in Complement	Decrease in Complement				Increase in Complement
	Retired	Senior	Appoint to Supreme	Other	Appointment	Retired	Senior	Appoint to Supreme	Other	Appointment
Cariboo Northeast	McFarlane (0.45)	Dollis (0.55)			Bowry					
Coast							Gedye (0.55)			
Kamloops	Blair (0.45)	Rohrmoser (0.55)			Dley					
Kootenays							Sperry (0.55)			Mrozinski
North Fraser						Antifaev	Spence (0.55)			St. Pierre
North Island	Lazar (0.45)					Jack	Iverson (0.55) Joe (0.55)			
Northwest					Struyk					
Okanagan				Burdett (sick/ LTD)			Klinger (0.55)			Burdett (returned from LTD)
Robson / Richmond		Ferbey (0.55)				Tweedale (0.45)	Schmidt (0.55)			
South Fraser		Lytwyn (0.55) Maltby (0.55)			Mackay Arthur-Leung		MacDonald (0.55)			
South Island		Kay (0.55) Palmer (0.55)					Smith (0.55) Hubbard (0.55)	Mackenzie		Wishart Brooks
Vancouver	McGivern (0.45)	Weitzel (0.55)							Warren (LTD)	
Headquarters									Stansfield	
SUB-TOTAL	1.8	4.4		1	5	2.45	5.5	1	2	5
TOTAL Loss	7.2					10.95				
TOTAL Gain						5				

Judicial District	2010					2011 (projected)				
	Decrease in Complement				Increase in Complement	Decrease in Complement				Increase in Complement
	Retired	Senior	Appoint to Supreme	Other	Appointment	Retired	Senior	Appoint to Supreme	Other	Appointment
Cariboo Northeast					Findale					
Coast		Rounthwaite (0.55)								
Kamloops			Dley							
Kootenays	Carlgren	Fabbro (0.55)			Sheard					
North Fraser										
North Island		Klaver (0.55) Gould (0.55)								
Northwest										
Okanagan		Hogan (0.55)					De Walle (0.55) Sinclair (0.55)			
Robson / Richmond							Ehrcke (0.55) Fratkin (0.55)			
South Fraser	Stewart (0.45) Lemiski (0.45)	Jardine (0.55) Lenaghan (0.55) MacGregor (0.55)			Harris		Field (0.55) Miller (0.55) MacArthur (0.55)			
South Island		Neal (0.55) Harvey (0.55)					Quantz (0.55)			
Vancouver	Godfrey (0.45)		Bowden	Smyth (0.45)						
Headquarters							Pendleton (0.55)			
SUB-TOTAL	2.35	5.5	2	0.45	3	0	4.95	0	0	0
TOTAL Loss	10.3					4.95				
TOTAL Gain						3				
						0				

Appendix “D”

Changes to Court’s Mandate

Numerous new offences and powers have been created in the last decade which have and continue to significantly impact the Court’s mandate including the following:

- Exploitation of individuals for profit - human trafficking
- Use of firearms by criminal organizations
- Intentionally discharging a firearm while being reckless about endangering life or safety of another
- Assaulting with a weapon or causing bodily harm or aggravated assault of a peace officer
- Internet luring
- Accessing child pornography
- Possession of child pornography
- New procedural provisions for dealing with vulnerable witnesses under the *Code*
- Disarming a peace officer
- Possession of explosive substance by criminal organization
- Breach of prohibition order forbidding association with children
- Interception of cell phone communication
- Disclosure of information from intercepted cell phone communication
- Living on the avails of prostitution of a person under eighteen
- Criminal harassment
- Removal of child from Canada
- Joyriding - liability for occupants
- Possession of fake credit cards
- Possession of data from fraudulent use of credit card
- Possession of instruments to make fake credit cards
- Possession of incendiary material
- Participation in criminal organization
- Failure to comply with restraint orders
- Breach of order of long-term supervision
- Criminal organization offence peace bond
- Amendments to the impaired driving provisions of the *Code*
- New offences for officers of organizations regarding activities that cause injury or death to workers
- Sexual offence peace bond
- Serious personal injury peace bond
- Breach of peace bond or sexual offence peace bond

In addition to adding new offences and new peace bond powers to the Provincial Court’s trial jurisdiction, Parliament has also added significant new procedural duties that had previously not existed in the Provincial Court. These new duties can be divided into categories as follows:

1. Jurisdiction to protect various privacy and fair trial interests:
 - Power to order opening and editing of wiretap sealed packet
 - Power to order production of complainant's private records
 - Power to protect child and other "vulnerable" witnesses in a variety of ways
 - Power to provide access to things seized and detained by search warrant

2. Jurisdiction to issue various warrants in aid of police investigations:
 - Authorization for consent wiretap interception
 - General warrant
 - DNA warrant
 - Assistance order
 - Transfer of prisoner to custody of peace officer to assist that officer

3. Jurisdiction to impose new types of sentences and alteration of the nature of sentencing hearings:
 - Prohibition order upon conviction of offence against child
 - Reasons for Sentence required
 - Conditional sentences
 - Hearing to consider changes of conditions
 - Breach of condition proceedings
 - Parole delay order
 - Remand for assessment in dangerous and long term offender cases
 - Application for a finding of long term offender status
 - Required longer minimum terms of imprisonment for certain firearm-related offences committed in association with a criminal organization
 - Orders that offenders comply with the sex offender registry legislation, and
 - Extension of the maximum duration of a recognizance to 2yrs for a person who has been previously convicted of a criminal organization offence, terrorism offence or an offence of intimidating a justice system participant

4. Jurisdiction with respect to bail hearings:
 - For certain firearm related offences, an accused *must* be detained at a bail hearing unless he or she can show cause why the detention is not justified - i.e. these offences are now reverse onus provisions

5. Jurisdiction to supervise young offender sentences in new ways:
 - Application to change presumed place of detention after transfer
 - Review of place of detention
 - Hearing to determine place of custody after conviction of transferee
 - Review of place of custody
 - Application to continue custody of young person convicted of murder
 - Hearing to determine conditions for conditional supervision of young persons convicted of murder
 - Review of suspension of conditional supervision

APPENDIX “E”

Current Reform Initiatives

Civil Projects

On November 26, 2007 the Court launched a small claims pilot project at the Robson Square and Richmond courthouses designed to provide new processes for early resolution of civil cases. The Pilot Project included: 30 minute summary trials for financial institution debt claims; 1 hour simplified trials before a Justice of the Peace (senior lawyers appointed in this capacity) for claims up to \$5000 other than debt and personal injury claims; 2 hour mediation sessions conducted by mediators provided by the Dispute Resolution Practicum Society for claims more than \$5000 and all personal injury claims; and 30 minute trial conferences, followed by a trial, for claims not settled by mediation

Criminal Process Reforms

The projects included in the Court’s Criminal Process Reforms began in 2007 at the Victoria courthouse designed to reduce backlogs, create more meaningful appearances before judicial officers and increase respect for the Court in the discharge of its criminal jurisdiction. The criminal process reform projects include the creation of:

- Judicial Case Manager’s (JCM) Court - JCMs preside over all initial appearances of accused persons and conduct consensual matters preliminary to the trial of a matter thereby ensuring that judges are freed up to hear substantive matters which require judicial intervention;
- Compliance Court - breaches of Court orders are brought before this Court on an expedited basis;
- Administrative Court - all matters which are not proceeding in a timely fashion in compliance with the CCFM Rules are referred to the Administrative judge, or designate, for an explanation as to the reason for the delay.

Problem-Solving Courts

The Court is piloting a number of specialized courts to provide a mechanism to address issues requiring a more integrated or holistic approach than the “regular” court process.

- **First Nations Court** - implemented in November 2006 and sitting in New Westminster, provides a holistic and restorative approach to criminal matters at the judicial interim release and sentencing stages. Offenders self-identify as aboriginal and indicate their willingness to accept responsibility for the charges against them. If there are related Family Court or Youth Court matters, those are dealt with at the same time.

The Court hears about an offender's education, employment history and past criminal history as in the traditional court process but also hears of the extended family, the current needs for housing and health services, the availability of community-based resources and other relevant information. The sentence is referred to as a Healing Plan as it is designed to assist the offender in reintegrating into the community as a productive member.

- **Downtown Community Court** - implemented in September 2008 this Court is designed to test new ways of reducing crime and improving public safety by dealing with offenders on an expedited basis with a coordinated and informed response. The Court takes a problem-solving approach to the needs of offenders in a specific geographical area whose criminal behaviour may be fueled by issues of substance abuse or mental illness, lack of housing or poverty.

The Court brings offenders together with Community outreach teams, mental health professionals and addiction resources and provides a connection to persons who assist in the search for stable housing. Offenders who agree to work with a team and are willing to accept responsibility could receive sentences of community service, restitution for harm done or, in some instances, jail time. Community service usually begins immediately following the Court's decision.

- **Victoria Integrated Court** - this is not a new or separate court and no new resources are assigned to this Court. It is an integral part of the existing sentencing and bail court dedicated to hearing cases involving a restricted group of offenders, (individuals who are chronic offenders, homeless and are battling issues of substance abuse and/or mental illness) who must apply to the Court and must qualify for community dispositions with intensive supervision provided by a Team. The Court wanted to ensure that it was providing an avenue to support the Assertive Community Teams ("ACT") and Victoria's Integrated Community Outreach Team ("VICOT") and to dedicate time for these offenders so that the teams were not waiting in Court or preparing written reports for the Court when they could be interacting on the street and elsewhere with these clients who are high users of emergency services.

The Court brings together a team of dedicated professionals including: Crown counsel; a probation officer; Victoria police officers and members of an ACT or VICOT, working with defence counsel for the accused, to assist the Court in formulating plans for an offender. Accused persons may be brought before this Court at the judicial interim release, sentencing or post-disposition stage of the criminal process. Community work service ordered as part of a disposition may involve Community Corrections or projects coordinated by the Downtown Business Association.

- **Duncan Domestic Violence Court** - implemented in 2009, this Court is presided

over by the resident judge in Duncan and provides for an expedited hearing of domestic violence matters. All accused persons are required to appear before the Court, in person, throughout the criminal process.

Local RCMP, crown counsel and dedicated volunteers from the Cowichan Women Against Violence work closely with the Court to ensure that offenders are brought before the Court in a timely fashion and that victims are supported throughout the process.

Video Bail/Video Hearings - the Court has made the expansion of the use of videos in court a priority to accommodate remote bail hearings and to allow Judicial Case Managers to hear preliminary matters from a remote location while allowing a judge to use the local courtroom in smaller and more isolated parts of the Province. It is apparent that video technology is essential to the work of the Court throughout the Province.

The use of video technology for bail hearings has resulted in thousands of saved prisoner transports in 2009, alone.

Bail Reform Project - the Court initiated this project in May 2007 in cooperation with the ministries of Attorney General and Public Safety and Solicitor General and the Criminal Justice Reform Secretariat. The Project has resulted in judicial interim release (bail) hearings being scheduled before a Judicial Justice at the Justice Centre in the Lower Mainland with an accused person appearing in custody from police cells or a Correctional facility and with a police officer (or Crown counsel and defence counsel) appearing by video conference from their respective locations. Pilot projects are currently established in the Peace Region as well as in Surrey and Delta.

The project was designed to improve the efficiency and effectiveness of the bail process by allowing for more timely access to better information, decisions and results through the use of technology; reducing the number of adjourned bail hearings and disrupted proceedings in Courthouses due to unscheduled bail events; scheduling of hearings to accommodate all participants; reduced prisoner transports; improved access for defence counsel to accused persons; reducing unnecessary incarceration time; and allowing judges to hear more trials, hearings and sentencings thereby expediting other court processes and reducing inconvenience to counsel, police officers, witnesses and accused persons.

Canadian Council of Chief Judges Virtual Office Project

This project was implemented in BC's Provincial Court in 2009 following meetings of the Canadian Council of Chief Judges (CCCJ) wherein the need was identified for a central repository for critical information that could be shared by the various Provincial and Territorial courts - through the offices of each jurisdiction's Chief Judge/Justice. British Columbia proposed a "virtual office" or collaborative website rather than the previously discussed central, physical office.

Proof of this concept was created at the Office of the Chief Judge (OCJ) in British Columbia and is now hosted on Provincial Court servers. The website now has a repository of documents from all jurisdictions (catalogued and uploaded by the OCJ in BC) that are available for sharing and includes reports, policies, opinions, speeches, committee listings, key contacts, a calendar and links to other sites. The site has the potential to be further developed to meet the needs of the CCCJ over time.

Use of Assizes

The Court over the past four years significantly increased the use of assizes, (sittings where cases are set for the same week(s) with the expectation that when one case concludes the next begins) especially for family and CFCSA hearings. These initiatives along with strengthened use of judicial pre-trial conferences, has increased trial certainty and better use of court time.

Special assizes are used by the Court to ensure that priority is given to child protection or other family matters that require the attention of the Court. The Court's ability to resolve CFCSA (child protection) cases has been enhanced by the Ministry's Child Protection Mediation Program. Special assizes are also used in some areas of the Province where need dictates a focus on bringing certain criminal matters, such as drug trafficking charges, before the Court on an expedited basis.