



## **ANNUAL REPORT 2011 - 2012**

# **Provincial Court of British Columbia**

# TABLE OF CONTENTS

- Message from the Chief Judge .....4
- Our Mission .....5
- Our Vision .....5
- Core Values.....5
- Goals .....5
- Updates on Key Justice Reform Initiatives .....6
  - Provincial Court Scheduling Project .....6
  - BC Justice Reform Initiative .....7
- Sitting Locations of the provincial Court (By District) .....8
- Jurisdiction of the Provincial Court .....9
- Our Judiciary .....9
  - Judges .....9
    - Judicial Appointments – 2011/12 .....9
    - Judicial Retirements and Senior Judge Program – 2011/12..... 10
    - Gender Distribution of Provincial Court Judges – 2011/12 ..... 10
    - Age Distribution of Provincial Court Judges – 2011/12..... 11
    - Seniority of Provincial Court Judges – 2011/12..... 11
  - Judicial Justices ..... 11
    - Gender Distribution of Judicial Justices..... 11
  - Justice of the Peace Adjudicators..... 12
  - Judicial Case Managers..... 12
- Administration of the Provincial Court..... 12
- The Court’s Website and Judgment Database ..... 13
- Access to Justice in the Provincial Court ..... 13
  - Chart 1 - Total Judge Complement 2008 – 2012 ..... 14
- The Court’s Caseload ..... 15
  - Chart 2 – New Cases by Division (2004/05 – 2010/11) ..... 15
  - Chart 3 – Judge Complement and Total Cases per Judge (2004/05 – 2010/11) ..... 16
- Province-wide delays..... 16
  - Chart 4 – Adult Criminal Caseload Pending Over 180 Days..... 17

Chart 5 – Province-Wide Court Delays .....	18
Locations with the Longest Delays .....	19
Chart 6 – Adult Criminal ½ Day Trial Delays .....	19
Chart 7 – Adult Criminal 2 Day Trial Delays .....	20
Chart 8 – Family Court Delays .....	20
Chart 9 – Child Protection Delays .....	21
Chart 10 – Civil ½ Day Trial Delays.....	21
Chart 11 – Civil 2 Day Trial Delays .....	22
Addressing the Needs of the Citizens of British Columbia .....	22
Vancouver's Downtown Community Court.....	22
Victoria's Integrated Court .....	23
First Nations Court.....	23
First Nations Sentencing Court.....	23
Drug Treatment Court of Vancouver (DTCV).....	24
Cowichan Valley Domestic Violence Court Project .....	24
Kelowna Community Justice Project .....	25
Video Bail and Other Hearings .....	25
Bail Reform Project.....	25
Reforms in the Civil Division .....	25
Public and Media Access to the Court.....	26
The Provincial Court's Committee Work .....	26
Judges' Education Committee .....	26
Judicial Justices' Education Committee.....	27
Judicial Justice Review .....	27
Judicial Education Review Committee .....	28
Emergency Planning Committee .....	28
Senior Judge Program Review Committee .....	28
Financial Report.....	30
Maintaining Confidence in the Justice System.....	31
Appendix 1 Judicial independence .....	33
Appendix 2 Judicial Officers as of March 31, 2012 .....	37
Judges .....	37

Judicial Justices.....	39
Justice of the Peace Adjudicators.....	40
Judicial Case Managers.....	40
Appendix 3 Notes for charts .....	41
Chart 1 – Total Judge Complement (2008 - 2012).....	41
Chart 2 – New Cases by Division (2007/08 – 2011/12) .....	41
Chart 3 - Total Cases per Judge (2007/08 – 2011/12).....	41
Chart 4 – Adult Criminal Caseloads Pending over 180 Days .....	42
Chart 5 – Province-Wide Court Delays and Charts 6 through 11 – Locations with the Longest Delays .....	42
Appendix 4 Complaints.....	44
Complaints against Judges .....	44
Complaints against Judicial Justices .....	47
Complaints against Judicial Case Managers .....	48
Complaints against Courts Services Administrative Justices of the Peace and Justice of the Peace Adjudicators.....	48

## MESSAGE FROM THE CHIEF JUDGE



Throughout 2011 and into 2012, the Provincial Court of British Columbia has continued to build on our commitment to increase access to justice for all British Columbians.

We are moving forward with the Provincial Court Scheduling Project, a key initiative within the Court. This project is aimed at increasing access to timely, effective, and equitable justice for the citizens of this province by making more effective use of Court resources.

I have also met with Geoffrey Cowper, QC, the Chair of the BC Justice Reform Initiative in order to update him on Court-led initiatives that focus on increasing access to justice. We also discussed the challenges within the Court system and what the solutions might be. The Court looks forward to engaging further with Mr. Cowper, QC, while respecting the constitutional framework of an independent judiciary, as

he works towards completing his review in the summer of 2012.

I will continue to press for the appointment of judges to replace those who have retired or elected to participate in the Senior Judge program, as a full complement of judges is necessary for the Court to meet its goal of increased access to justice for the citizens of this province.

In this fiscal year, the Court has made small, but significant, steps to improve access to justice. Our commitment to providing timely, effective and equitable justice to the citizens of British Columbia remains strong. I look forward to the Court building on our achievements this year.

A handwritten signature in black ink, appearing to read 'T. Crabtree'. The signature is stylized and cursive.

Thomas J. Crabtree  
Chief Judge

## OUR MISSION

As an independent judiciary, our mission as the Provincial Court of British Columbia is to impartially and consistently provide a forum for justice that assumes equal access for all, enhances respect for the rule of law and confidence in the administration of justice.

## OUR VISION

To provide an accessible, fair, efficient, and innovative system of justice for the benefit of the public.

## CORE VALUES

Independence  
Fairness  
Integrity  
Excellence

## GOALS

1. Excel in the delivery of justice;
2. Enhance meaningful public access to the Court, its facilities and processes;
3. Anticipate and meet the needs of society through continuing judicial innovations and reform; and
4. Ensure that administration and management of the Court is transparent, fair, effective and efficient, consistent with the principles of judicial independence.

## UPDATES ON KEY JUSTICE REFORM INITIATIVES<sup>1</sup>

A fully functioning justice system is an essential element of a free and democratic society governed by the rule of law. The Provincial Court of British Columbia is committed to continually improving the court system with a focus on providing timely, effective, and equitable justice for the citizens of the province.

In the fiscal year 2011/2012, two key initiatives were launched or moved forward in support of this commitment: The Provincial Court Scheduling Project and the BC Justice Reform Initiative.

### Provincial Court Scheduling Project

In 2010, serious concerns regarding the long-term viability of the Provincial Court's computer program for scheduling judicial resources were identified. The Court realized that the need to develop a new program provided the opportunity for innovation: the development of a related software case scheduling program. This program would be informed and inspired by the successes of similar court scheduling programs being used in other provinces. The judicial and case scheduling reform initiatives are now known as the Provincial Court Scheduling Project. As the Chief Judge has the responsibility for court scheduling, the Court leads this project.

In the early part of January, 2011, the Court's Management Committee began to examine the Court's existing scheduling model, which was assessed against the goals of effective, efficient, and equitable use of resources. It was concluded that the current trial scheduling methods could be improved. Despite the good will and hard work of all involved in the process, the Court's efforts to achieve trial certainty have not improved with the current system.

In the early stages of the scheduling project, a committee made up of representatives of the Court studied innovative scheduling initiatives used in other jurisdictions in Canada and in the United States. A small group of judges and staff traveled to Calgary, Edmonton, and Winnipeg to learn about new scheduling models and Information Management Systems that were in place in other provincial courts and that had been deemed successful. Some of the new scheduling models have re-invented front-end process control by developing a trial coordination model that embraces the uncertainty inherent in scheduling court cases. The Chief Judge also sought the input of the judiciary on the strengths and weaknesses of the existing scheduling model and proposals for reform.

In December 2011, the Court's Executive Committee held a meeting with the Deputy Attorney General, the acting Assistance Deputy Attorney General (Criminal Justice Branch), and the Assistant Deputy Minister for the Court Services Branch to determine their interest in the Provincial Court's Scheduling Project.

In January 2012, members of the Court, representatives from the Court Services Branch and the Criminal Justice Branch travelled to Edmonton to learn about the scheduling changes implemented at that Provincial Court in 2010. The following month, the Court engaged a business analyst to document the existing case flow processes.

---

<sup>1</sup> The information and statements contained in this report reflect only the 2011/2012 fiscal year. Due to production difficulties, this report is being released later than expected.

## BC Justice Reform Initiative

On February 8, 2012, the Premier of British Columbia announced the launch of a reform initiative chaired by Geoffrey Cowper, QC. The purpose of the initiative is “to address BC’s justice system and identify actions that government, the judiciary, the legal profession, police and others can take to provide British Columbians more timely and effective justice services.”

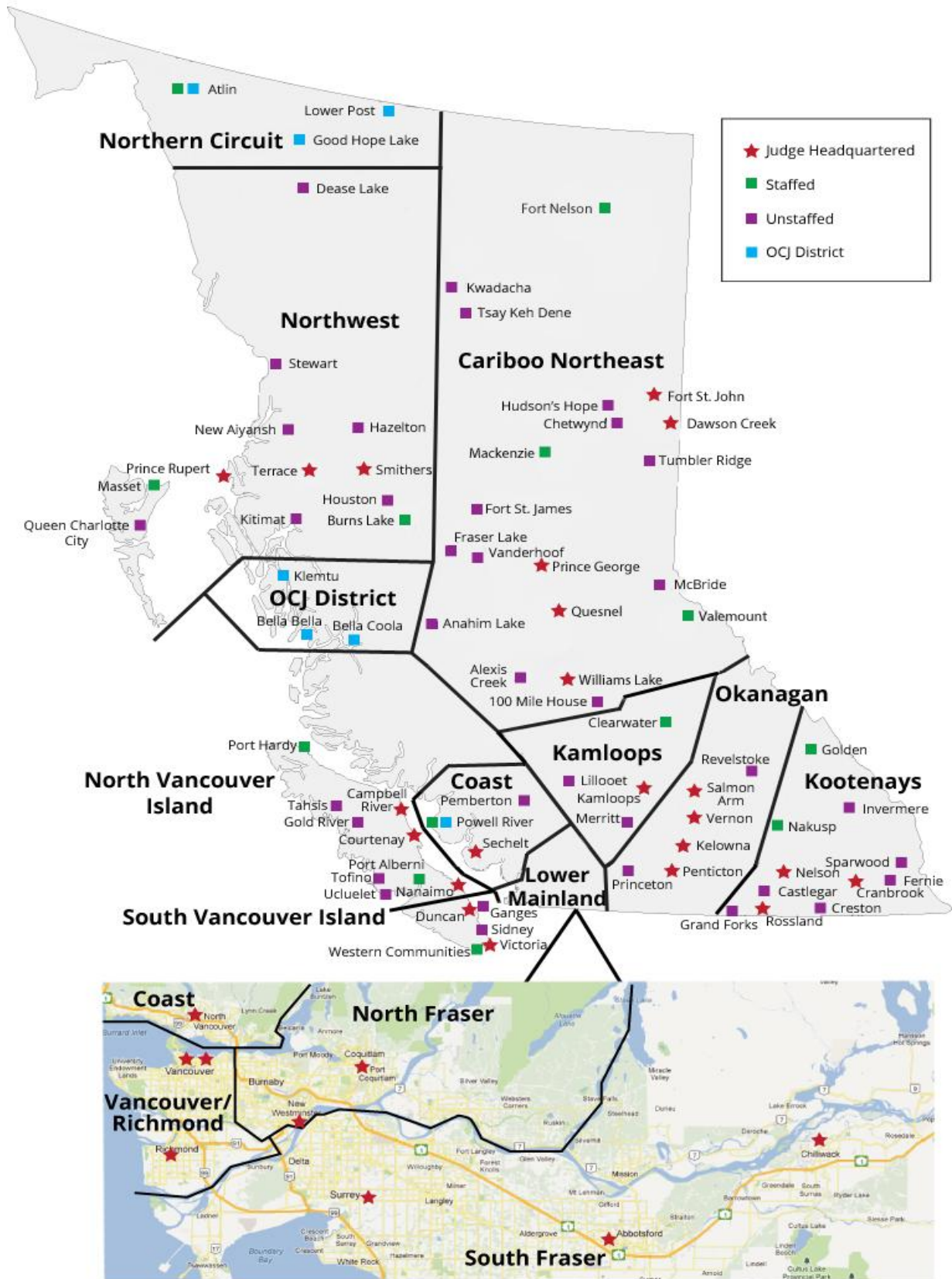
On the same date the Chief Justice of British Columbia, the Chief Justice of the Supreme Court of British Columbia, and the Chief Judge of the Provincial Court of British Columbia issued a press release welcoming the review and the opportunity to engage in a dialogue with government and other justice system participants to address the issues and challenges facing the justice system.

On March 15, 2012, a detailed statement by the three Courts entitled, “Judicial Independence (And What Everyone Should Know About It)” was issued. The purpose was to inform and advise the public about the significance of the principle of judicial independence. This joint statement is set out in [Appendix 1](#).

Following the establishment of the review initiative, Chief Judge Crabtree met with Mr. Cowper, QC on several occasions and provided briefing materials regarding the operation of the Provincial Court. The Provincial Court looks forward to meeting and engaging with Mr. Cowper, QC in the upcoming year as he works towards completing the review in the summer of 2012.



# SITTING LOCATIONS OF THE PROVINCIAL COURT (BY DISTRICT)



## JURISDICTION OF THE PROVINCIAL COURT

The Provincial Court of British Columbia is one of two trial courts in the province; the other is the Supreme Court of British Columbia.

The Provincial Court's jurisdiction encompasses the following primary subject areas: adult criminal, youth, civil, family, child protection, traffic and bylaw matters. The Court's general jurisdiction extends to all matters, except a limited few over which the Supreme Court has exclusive jurisdiction. For some matters, a preliminary inquiry may be held in the Provincial Court, before the Supreme Court trial. The Court has exclusive jurisdiction in all summary conviction trials and hears all indictable matters where the accused does not elect to have their matter heard in the Supreme Court.

Appeals from Provincial Court decisions go to either the Supreme Court of British Columbia or the British Columbia Court of Appeal, depending upon the nature of the case. Appeals of some Provincial Court cases may be taken to the Supreme Court of Canada, following the decision of the Court of Appeal.

## OUR JUDICIARY

### Judges

On March 31, 2011, the complement of sitting Provincial Court Judges totalled 110 full-time judges and 38 Senior judges, which equals 127.1 full-time equivalent judges. One year later March 31, 2012 – the complement is virtually the same. There were 107 full-time judges and 45 Senior judges, making a total of 127.25 full-time equivalent judges. Senior judges are those who have elected to receive a pension and to work a reduced schedule of approximately half-time.

A list of Provincial Court judges can be found in [Appendix 2](#).

During the fiscal year 13 new judges were appointed to the Provincial Court. During the same period, 9 judges retired or were appointed to the Supreme Court, and 12 judges elected to participate in the Senior Judge Program.

The following judges were appointed in this fiscal year:

### JUDICIAL APPOINTMENTS – 2011/12

Judge	Judicial District	Appointment Date
Judge R. Hamilton	North Fraser	August 8, 2011
Judge M. McKimm	Okanagan	August 15, 2011
Judge R. Baird	North Fraser	August 22, 2011
Judge M. Church	Cariboo Northeast	August 29, 2011
Judge R. Sutton	Cariboo Northeast	September 19, 2011
Judge V. Galbraith	Cariboo Northeast	February 13, 2012
Judge G. Koturbash	Okanagan	February 14, 2012

Judge G. Brown	South Fraser	February 16, 2012
Judge M. Gillespie	South Fraser	February 21, 2012
Judge P. Janzen	North Fraser	February 21, 2012
Judge P. Bond	South Fraser	February 27, 2012
Judge T. Gouge	North Island	February 27, 2012
Judge T. Wright	Northwest	March 1, 2012

The following judges retired or elected to participate in the Senior Judge Program:

#### JUDICIAL RETIREMENTS AND SENIOR JUDGE PROGRAM – 2011/12

Judge	Judicial District	Retirement Date	Senior Judge Program Date	Other
Judge A. Betton	Okanagan			Supreme Court – June 24, 2011
Judge B. Davis	Robson/Richmond	June 30, 2011		
Judge E. Quantz	South Island		July 31, 2011	
Judge L. Dollis	Cariboo Northeast	August 16, 2011		
Judge D. Moss	Coast		August 31, 2011	
Judge B. Rodgers	Coast		August 31, 2011	
Judge R. Tindale	Cariboo Northeast			Supreme Court – October 20, 2011
Judge H. Weitzel	Main Street	December 31, 2011		
Judge E. Ferbey	Robson/Richmond	December 31, 2011		
Judge G. Maltby	South Fraser	December 31, 2011		
Judge D. Stone	North Fraser		January 31, 2012	
Judge B. Saunderson	North Island		January 31, 2012	
Judge R. Fratkin	Robson/Richmond		January 31, 2012	
Judge A. Dohm	North Island		January 31, 2012	
Judge P. Doherty	North Island		January 31, 2012	
Judge E. de Walle	Okanagan		January 31, 2012	
Judge M. Rae	OCJ		January 31, 2012	
Judge T.D. McGee	Main Street	January 31, 2012		
Judge T. Shupe	OCJ	March 3, 2012		
Judge G. Sinclair	Okanagan		March 31, 2012	
Judge R. Gallagher	Robson/Richmond		March 31, 2012	

The following charts set out the gender, age, and seniority distribution of Provincial Court Judges this year.

#### GENDER DISTRIBUTION OF PROVINCIAL COURT JUDGES – 2011/12

	Male	%	Female	%	Total
Full Time Judges	65	61	42	39	107
Senior Judges	35	78	10	22	45
<b>TOTALS</b>	<b>100</b>		<b>52</b>		<b>152</b>

### AGE DISTRIBUTION OF PROVINCIAL COURT JUDGES – 2011/12

Age	Male	%	Female	%	Total	%
Under 50	9	5.9	5	3.3	14	9.2
50-59	32	21.1	27	17.7	59	38.8
60-69	54	35.5	20	13.2	74	48.7
70-75	5	3.3	0	0	5	3.3
<b>TOTALS</b>	<b>100</b>	<b>65.8</b>	<b>52</b>	<b>34.2</b>	<b>152</b>	<b>100</b>

### SENIORITY OF PROVINCIAL COURT JUDGES – 2011/12

Seniority	Male	Female	TOTAL	%
0-5 years	23	12	35	23.0
6-10 years	22	7	29	19.1
11-15 years	10	9	19	12.5
16-20 years	8	11	19	12.5
20+ years	2	3	5	3.3
Senior	35	10	45	29.6
<b>TOTALS</b>	<b>100</b>	<b>52</b>	<b>152</b>	<b>100</b>

## Judicial Justices

Judicial Justices (JJs) are appointed under the *Provincial Court Act*. Their duties include:

- presiding over judicial interim release (bail) applications;
- deciding search warrant and other applications;
- hearing bylaw and other provincial ticketable offences; and
- sitting in one of the province's problem-solving courts.

Judicial Justices may be appointed to serve on a full-time or part-time (*per diem*) basis.

At the commencement of the fiscal year, there were 12 full-time, 5 ad hoc, and 17 *per diem* Judicial Justices. The complement was the same on March 31, 2012.

A list of Judicial Justices can be found in [Appendix 2](#).

### GENDER DISTRIBUTION OF JUDICIAL JUSTICES

	Male	Female	TOTAL
Regular	6	5	11
Adhoc	1	4	5
Per Diem	10	7	17
<b>TOTALS</b>	<b>17</b>	<b>16</b>	<b>33</b>

## Justice of the Peace Adjudicators

Justice of the Peace Adjudicators are senior lawyers who are appointed as justices of the peace, on a part-time (*per diem*) basis, to preside over simplified trials of civil matters at the Robson Square and Richmond court locations. There were 13 Justice of the Peace Adjudicators in the fiscal year.

A list of Justice of the Peace Adjudicators can be found in [Appendix 2](#).

## Judicial Case Managers

Under the supervision of the Administrative Judicial Case Manager and local Administrative Judges, Judicial Case Managers are responsible for Court scheduling, coordination of judges' sittings, conducting initial criminal appearances and managing the flow of cases. They are instrumental in ensuring that judicial resources are effectively allocated and utilized in a manner consistent with the rules and policies of the Court. Judicial Case Managers hold a justice of the peace commission and exercise limited judicial functions as part of their duties.

As of March 31, 2012, there were 45 full-time Judicial Case Managers. A list of Judicial Case Managers can be found in [Appendix 2](#).

## ADMINISTRATION OF THE PROVINCIAL COURT

The administrative headquarters for the Provincial Court is The Office of the Chief Judge (OCJ). The OCJ is responsible for the judicial administration of the Court. The primary function of the OCJ is to support the Chief Judge in the assignment of judges and cases, as well as to support judges of the Court in the exercise of their judicial function. It is responsible for engaging with government agencies, individuals, and organizations that wish to communicate with the Court.

The administrative work of the Provincial Court is conducted by the Executive Committee and the Management Committee. The Executive Committee is chaired by Chief Judge Thomas Crabtree and includes the three Associate Chief Judges – the Honourable Nancy Phillips, the Honourable Gurmail Gill, the Honourable Michael Brecknell, and the Executive Director of Judicial Administration. The Executive Committee provides strategic direction and decision-making for the Court on administrative and management matters as well as issues concerning the administrative independence of the Court.

The Management Committee of the Court consists of the Executive Committee and Administrative Judges designated by the Chief Judge. The Management Committee is chaired by the Chief Judge or his designate. This Committee provides advice to the Chief Judge on emerging issues in judicial districts, policy proposals, and administrative matters. During this fiscal year, the Management Committee included the following administrative judges:

Associate Chief Judge Nancy Phillips (Chair)

Administrative Judge W. Rodgers (Coast District to June 30, 2011)

Administrative Judge J. Challenger (Coast District appointed July 1, 2011)

Administrative Judge D. O'Byrne (Cariboo Northeast District to June 30, 2011)

Administrative Judge D. Weatherly (Cariboo Northeast District appointed July 1, 2011)  
Administrative Judge S. Frame (Kamloops District)  
Administrative Judge R.J. Webb (Kootenay District appointed April 1, 2011)  
Administrative Judge M. Buller Bennett (North Fraser District)  
Administrative Judge A. Dohm (North Vancouver Island District to December 4, 2011)  
Acting Administrative Judge D. Cowling (North Vancouver Island District appointed December 5, 2011)  
Administrative Judge H. Seidemann III (Northwest District)  
Administrative Judge A. Betton (Okanagan District to June 24, 2011)  
Administrative Judge R. Smith (Okanagan District appointed September 1, 2011)  
Administrative Judge P. Gulbransen (South Fraser District)  
Administrative Judge E. Quantz (South Vancouver Island District to June 30, 2011)  
Administrative Judge A. Brooks (South Vancouver Island District appointed July 1, 2011)  
Administrative Judge R. Low (Vancouver Criminal District)  
Administrative Judge P. Chen (Robson/Richmond District)

## THE COURT'S WEBSITE AND JUDGMENT DATABASE

The Court's website provides information and announcements regarding the Court and the Judicial Council of British Columbia. The website also hosts the Court's [judgment database](#).

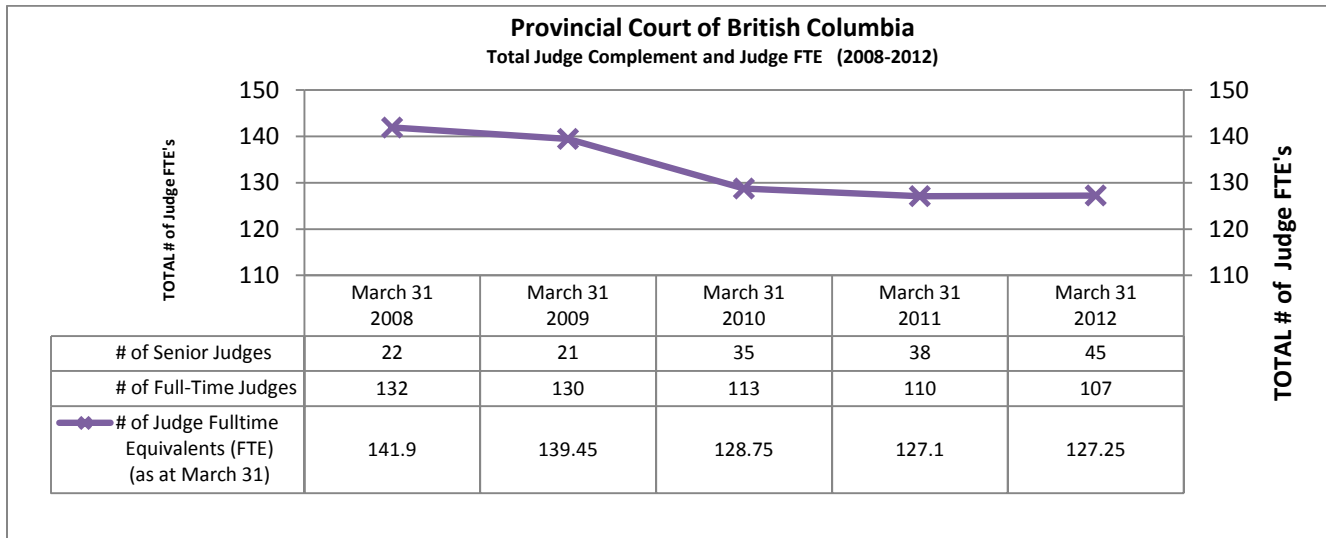
As of March 31, 2012, there were approximately 6,600 written judgments posted to the Court's database. The database also enables users to locate judgments that have been posted in the past seven days. A direct link is available for the decisions of all the courts in British Columbia at [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca).

## ACCESS TO JUSTICE IN THE PROVINCIAL COURT

A study of the judicial resources available to the Provincial Court was undertaken in 2010. That study produced a report entitled *Justice Delayed: A Report of the Provincial Court of British Columbia concerning Judicial Resources*. This report outlined the challenges being faced by the Provincial Court in providing timely, effective, and equitable justices to the citizens of the Province. It identified several key elements relevant to the judicial resources that needed to be addressed in order to improve access to justice and to reduce delays.

This chart illustrates the total number of judges from 2008 to the end of the fiscal year.

**CHART 1 - TOTAL JUDGE COMPLEMENT 2008 – 2012**



See [Appendix 3](#) for data source and notes

The public interest includes access to a court system with sufficient resources to allow all cases to be heard within a reasonable time. Criminal cases must be heard within a reasonable time as directed by the Supreme Court of Canada, thereby ensuring an accused’s *Charter* rights are not infringed upon by the government’s fiscal decisions. Only then can the Court fulfill its mandate to all citizens: the accused, victims, witnesses, police officers, and the broader community.

Delays are also a concern in other areas of the Court’s jurisdiction. There are serious consequences when family matters are delayed. Parents and children may face distress with the uncertainty of where and with whom the children will reside. The question of access often needs to be addressed as well as how the children will be supported financially. In child protection cases, delays may result in children remaining in the care of the government for longer than necessary. Long term planning for these children becomes difficult. In both situations, *any* delay is not in the “best interests of the child”, a principle set out in the family law legislation.

In the interest of fairness and to provide an equitable approach to access to justice for all British Columbians, in August 2010 the Chief Judge directed that in each district of the province, appropriate time be given to non-criminal matters. The decision to assign additional judicial resources from existing resources towards family and child protection cases had a small but positive impact in the reducing trial delay in these areas of the Court’s jurisdiction.

## THE COURT'S CASELOAD

During this fiscal year, 233,599 were initiated in the Provincial Court, including adult criminal, youth, civil, family, child protection, and traffic and bylaw cases.

The total number of new cases in this fiscal year (excluding traffic and bylaw cases) was 144,631, distributed as follows:

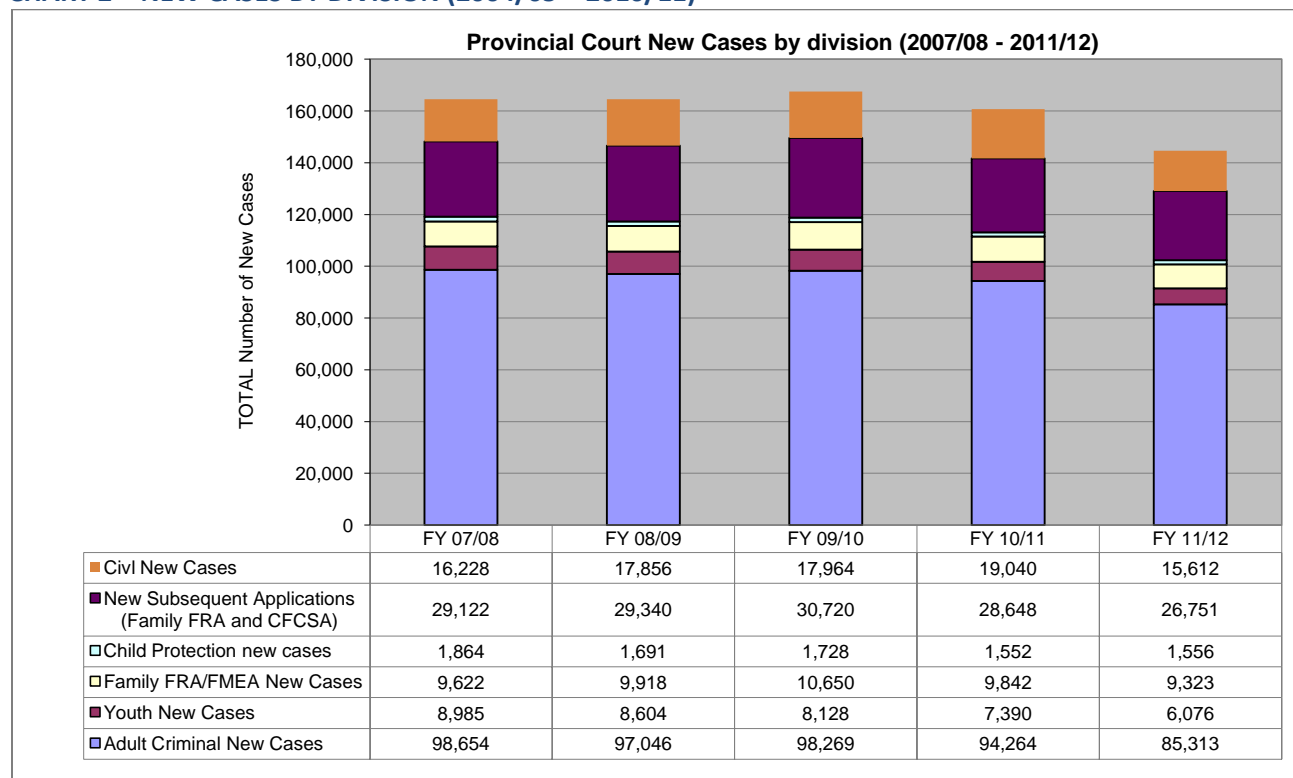
- 63.2% criminal and youth matters;
- 24.9% family matters (new cases and subsequent applications);
- 10.8% civil matters; and
- 1.1% child protection matters.

The total number of new cases is approximately 11.6% less than the previous year.

The Court also received a total of 88,968 new traffic and bylaw cases this fiscal year. While Judicial Justices preside over the majority of these matters, Provincial Court judges occasionally hear traffic and bylaw cases in more remote locations throughout the province. While the Court currently has a large enough Judicial Justice resource pool to keep up with the incoming volume, the challenge continues to be a properly resourced Traffic Court scheduling office. That office is operated by the Court Services Branch and is not under the control of the Chief Judge. This lack of resources has led to a backlog of traffic cases waiting to be scheduled for trial.

The following chart shows comparative caseloads for new cases for the current and the past 4 years by area of the Court's jurisdiction.

**CHART 2 – NEW CASES BY DIVISION (2004/05 – 2010/11)**

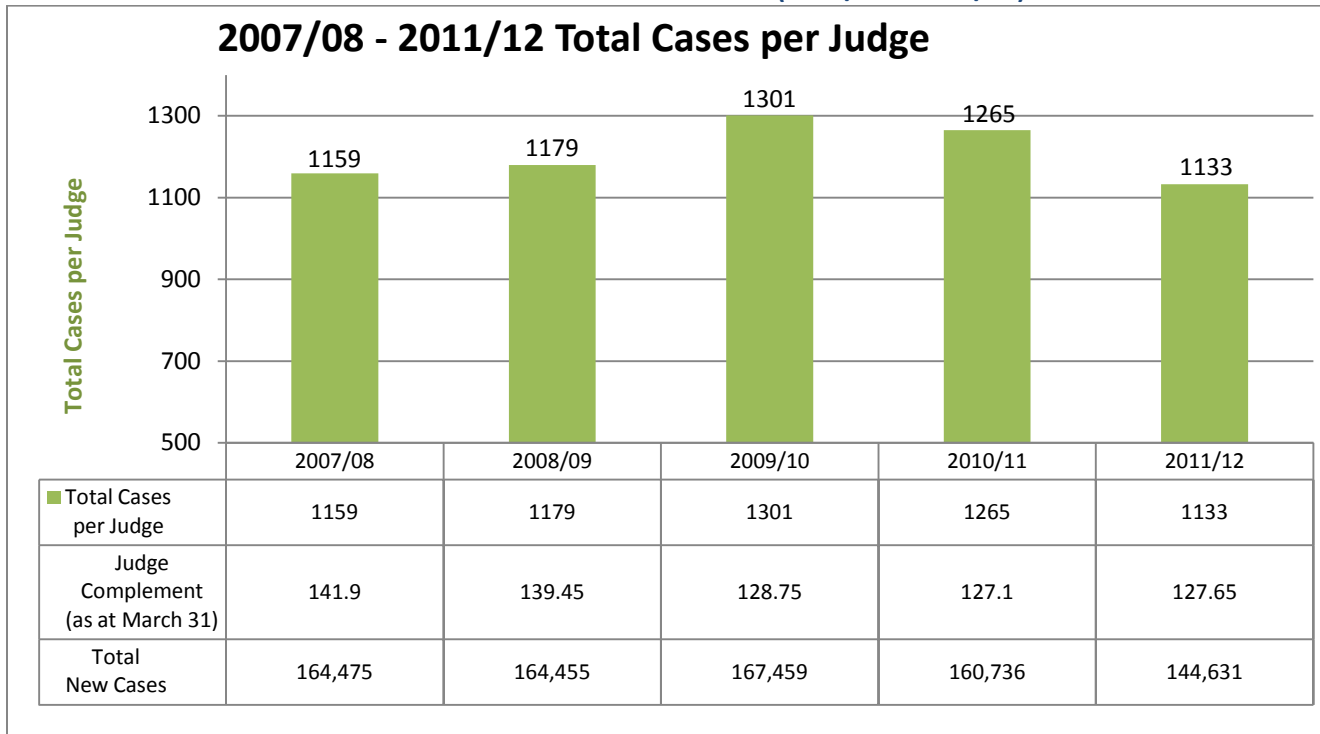


See [Appendix 3](#) for data source and note



The following chart shows the ratio of judges to new cases.

**CHART 3 – JUDGE COMPLEMENT AND TOTAL CASES PER JUDGE (2004/05 – 2010/11)**



See [Appendix 3](#) for data source and notes

## PROVINCE-WIDE DELAYS

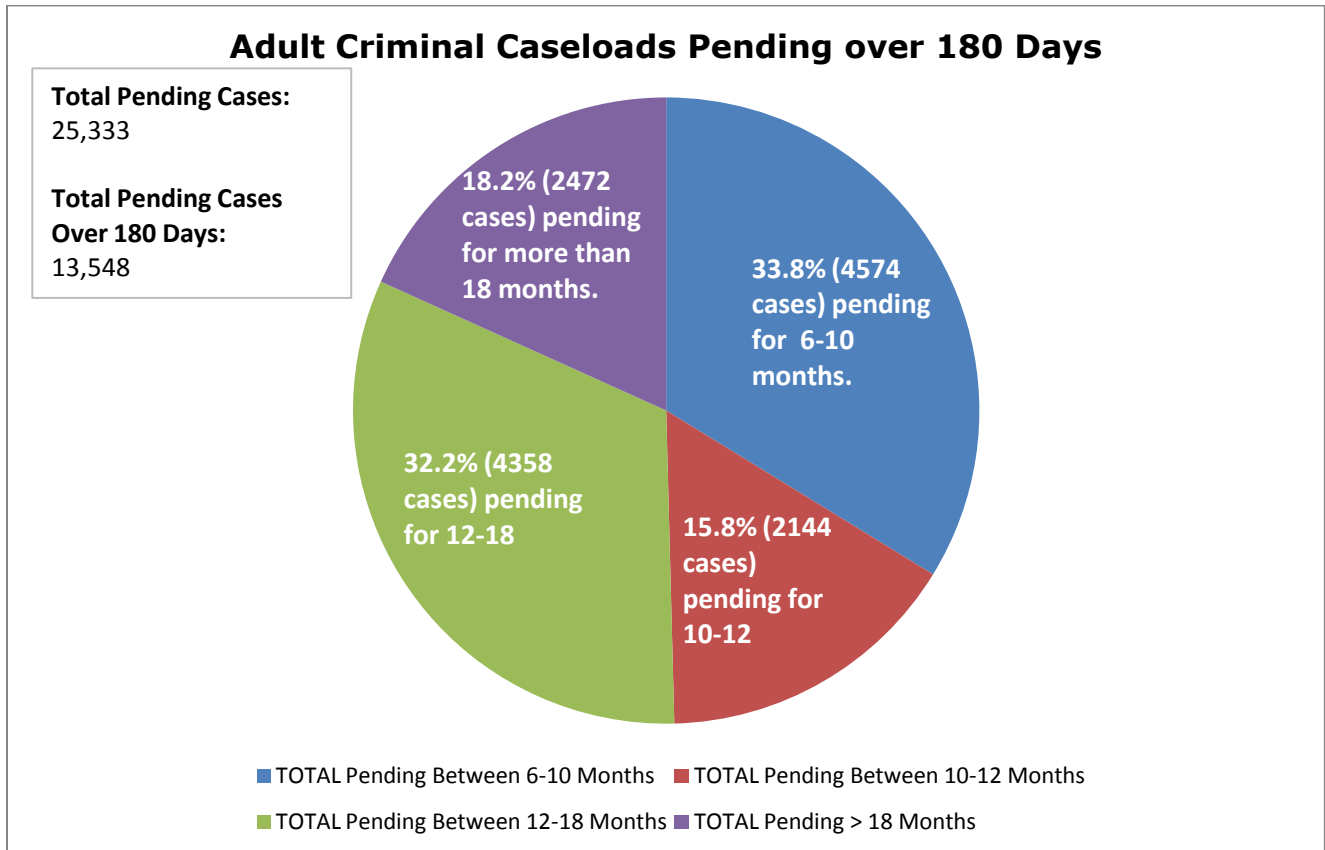
In 2005, the Court endorsed a number of performance measures which set standards to measure whether cases were scheduled for trial in a timely manner. The Court determines available hearing dates in each area of the Court’s jurisdiction for each district through quarterly surveys of the “next available trial date”. This data is gathered and assessed to produce a provincial summary that represents the time to trial based on the time between the setting of a case and the first date the Court is available to hear the case. The findings are set out in this section.

The most recent survey on delays was completed on March 31, 2012. The Court continues to experience delays in many Court locations throughout the province. The Court continues to experience delays for all lengthy cases (i.e., those that require two days or longer of court time to hear). In short, the performance targets are not being met on a province-wide basis. While a variety of challenges may result in backlogs developing, the one consistent pressure is the lack of sufficient judicial resources to meet the need throughout the province. Case backlogs will continue to be monitored and assessed into the future and regular updates will be provided on the Court’s [website](#).

Chart 4 shows adult criminal cases that exceed the Court’s standard of 180 days from the arraignment hearing. The significance of this figure relates to the commentary in the *Justice Delayed* report that cases over a certain period of time are vulnerable to an application for a stay of proceeding due to the Court’s inability to provide criminal trial dates within a reasonable period of time.

There has been a decrease in the total number of cases pending (25,333 compared to 27, 108 last year). However, there has been an increase in the number of cases pending over 18 months (2472 compared to 2371 cases last year).

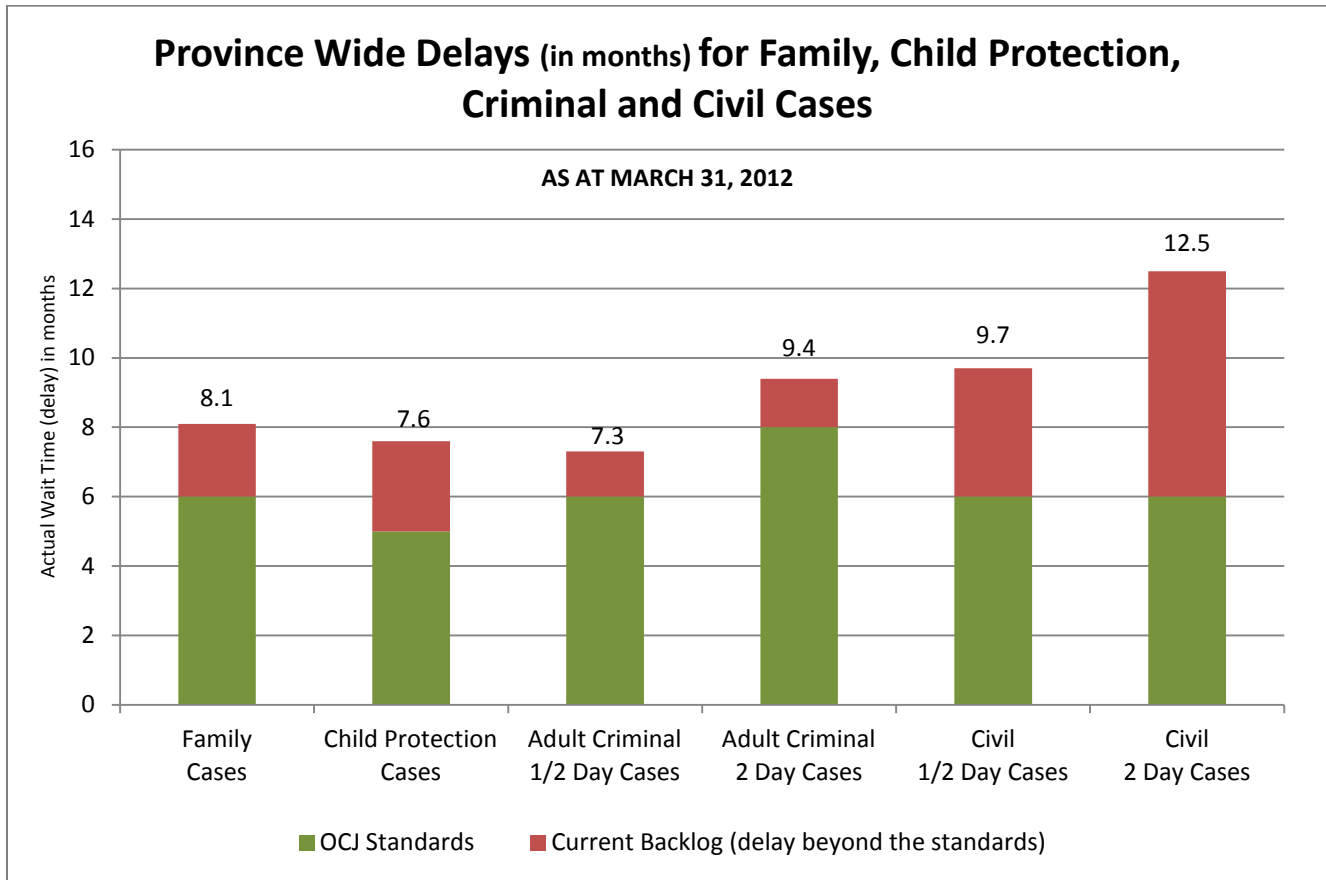
**CHART 4 – ADULT CRIMINAL CASELOAD PENDING OVER 180 DAYS**



See [Appendix 3](#) for data source and notes

Chart 5 sets out province-wide delays for all of the cases in the Court’s jurisdiction.

**CHART 5 – PROVINCE-WIDE COURT DELAYS**



See [Appendix 3](#) for data source and notes

The details in Chart 5 can be summarized as follows:

**Family**

- The Court’s standard for family half-day trials is 6 months from the initial filing to the first available trial date. The time to trial as of March 31, 2012 is 8.1 months, a decrease of 0.1 months or 1.2% from last year.

**Child protection**

- The Court’s standard for child protection half-day hearings is 5 months from the initial filing to the first available trial date. The time to trial as of March 31, 2012 is 7.6 months, a decrease of 0.4 months or 5% from last year.

**Criminal**

- The Court’s standard for adult criminal half-day trials is 6 months from the fixing of the trial date to the first available trial date. The time to trial as of March 31, 2012 is 7.3 months, a decrease of 2.9 months or 28.5% from last year.
- The Court’s standard for adult criminal two-day trials is 8 months from the fixing of the trial date to the first available trial date. The time to trial as of March 31, 2012 is 9.4 months, a decrease of 2.3 months or 19.7% from last year.

### Civil cases

- The Court’s standard for civil half-day trials is 6 months from the time the case is ready to proceed to the first available trial date. The time to trial as of March 31, 2012 is 9.7 months, a decrease of 1.1 months or 11.1% from last year.
- The Court’s standard for civil two-day trials is 6 months from the time the case is ready to proceed to the first available court date. The time to trial as of March 31, 2012 is 2.5 months, a decrease of 1.8 months or 12.6% from last year.

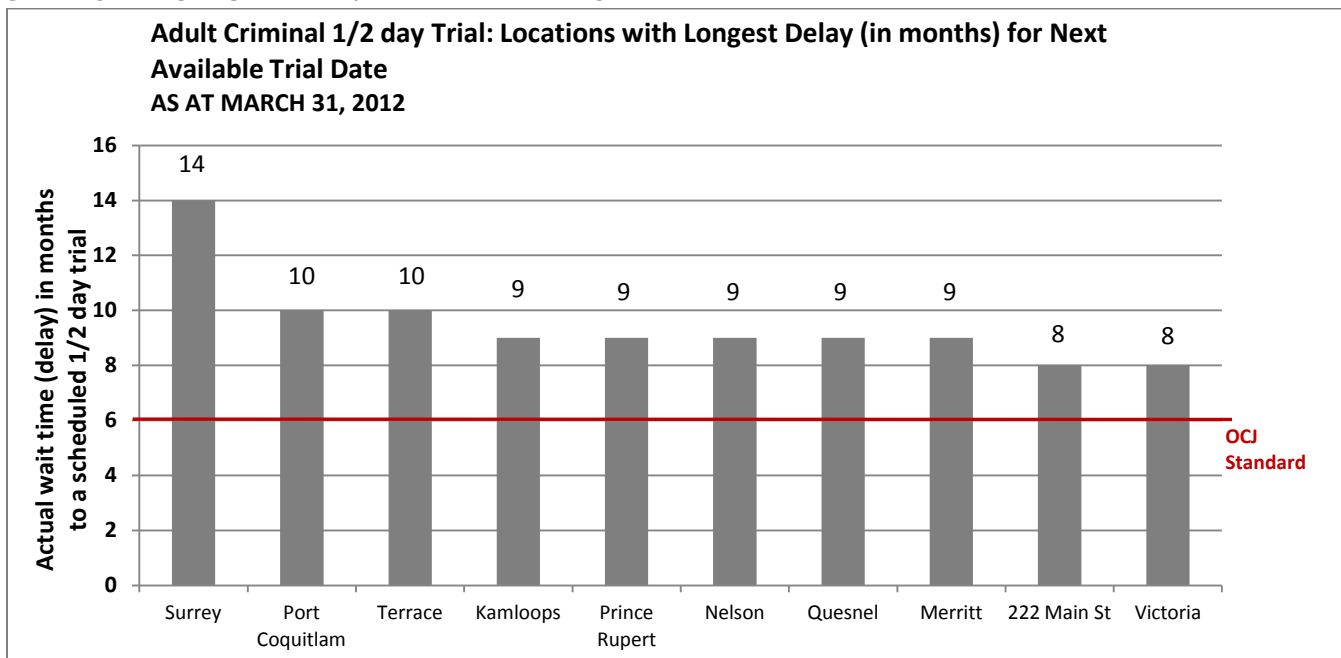
While times to trial are getting shorter in some areas of the Court’s jurisdiction, they still exceed the Court’s standards.

## LOCATIONS WITH THE LONGEST DELAYS

In most locations in the province, cases awaiting a trial date exceed the Court’s standards for scheduling. The following charts identify the top ten locations where the time to trial is significant and exceeds the standards established by the Court.

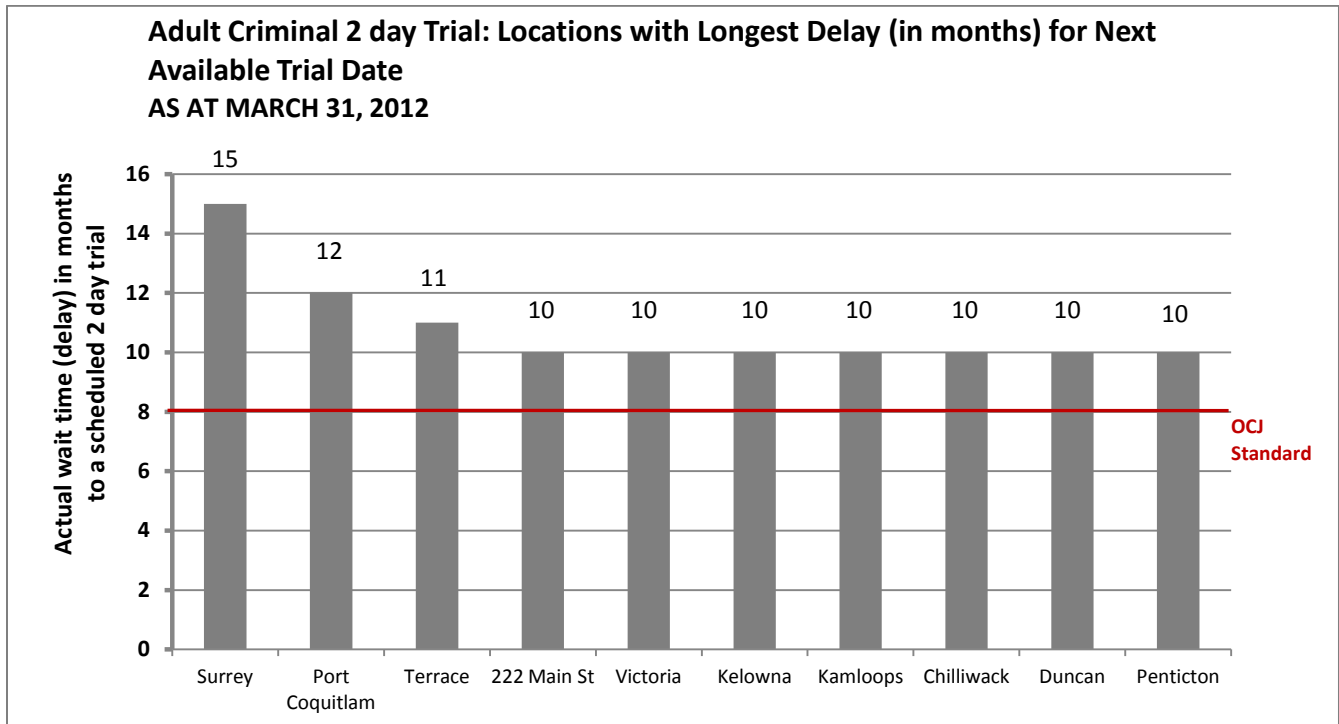
The locations where delays are experienced changes from year to year. In smaller communities, the change can be seen quickly when more judicial resources are directed to that area. In contrast, there is a reduced impact in larger communities.

**CHART 6 – ADULT CRIMINAL 1/2 DAY TRIAL DELAYS**



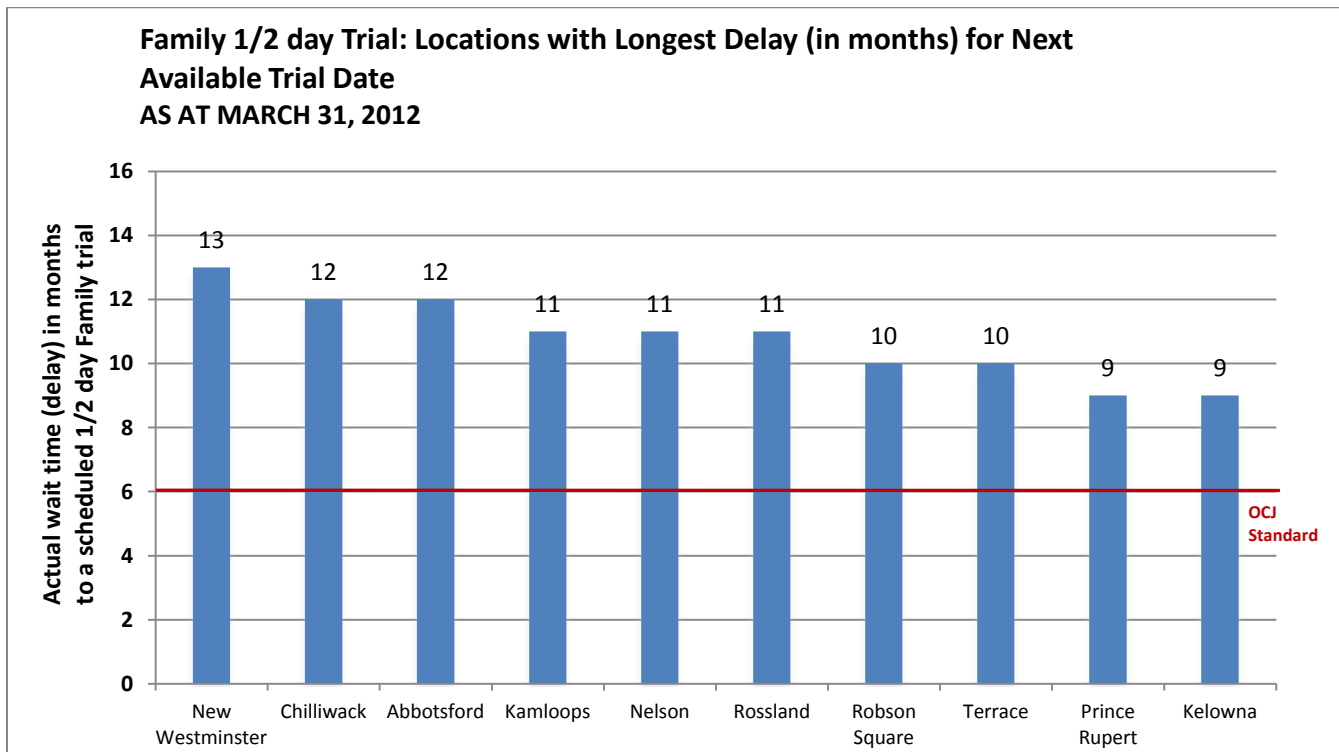
See [Appendix 3](#) for data source and notes

**CHART 7 – ADULT CRIMINAL 2 DAY TRIAL DELAYS**



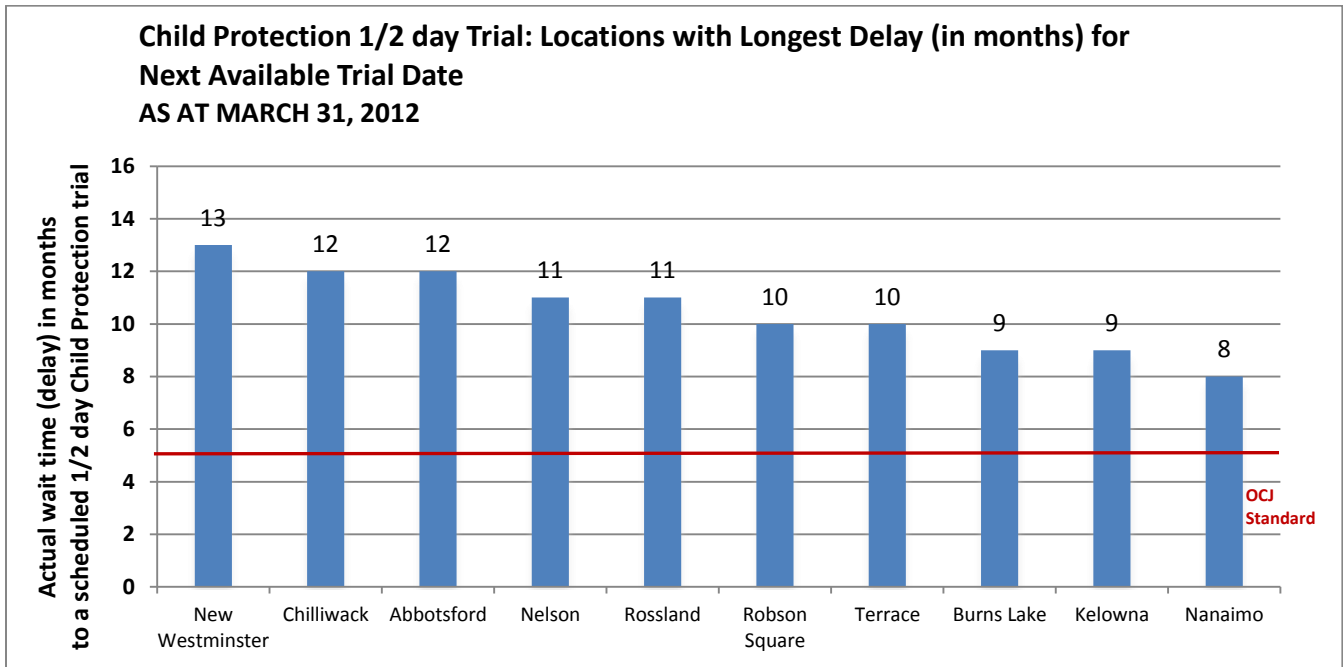
See [Appendix 3](#) for data source and notes

**CHART 8 – FAMILY COURT DELAYS**



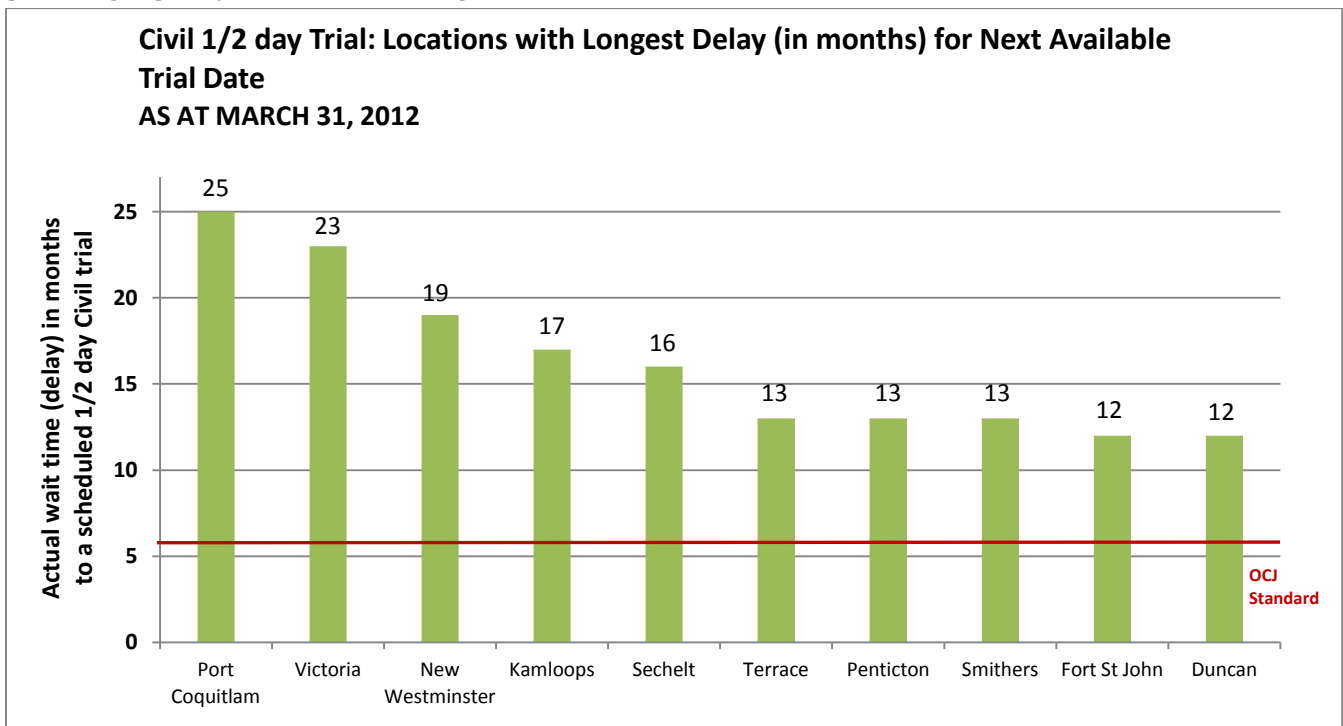
See [Appendix 3](#) for data source and notes

**CHART 9 – CHILD PROTECTION DELAYS**



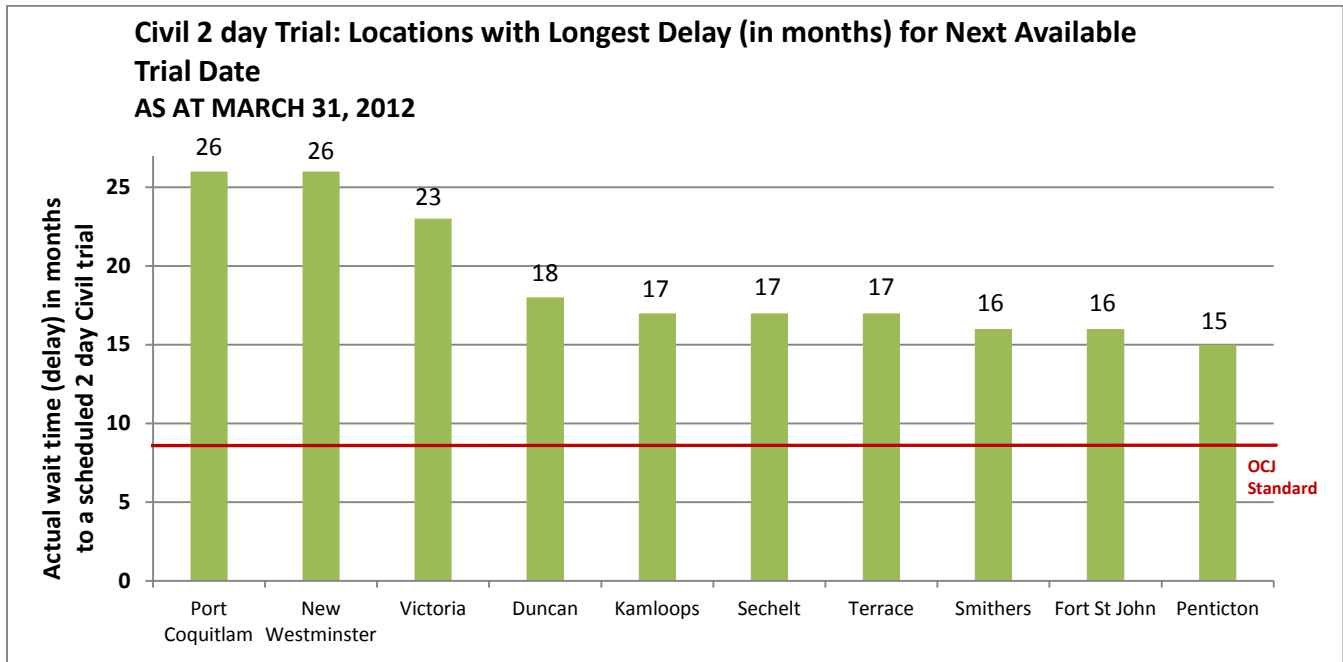
See [Appendix 3](#) for data source and notes

**CHART 10 – CIVIL 1/2 DAY TRIAL DELAYS**



See [Appendix 3](#) for data source and notes

**CHART 11 – CIVIL 2 DAY TRIAL DELAYS**



See [Appendix 3](#) for data source and notes

## ADDRESSING THE NEEDS OF THE CITIZENS OF BRITISH COLUMBIA

The Court has faced unique challenges in recent years. In particular, the needs of First Nations communities and mentally disordered and substance addicted offenders have led to several innovative responses in the form of problem-solving courts. Through consultation and collaboration with social and health service agencies, the Court is now able to focus its resources in more effective ways.

### Vancouver's Downtown Community Court

Many offenders in downtown Vancouver have health and social issues, including alcoholism, drug addiction, mental illness, homelessness, and poverty. The Downtown Community Court opened in September 2008 and is a partnership between the Court and justice, social, and health service agencies that work to address crime in downtown Vancouver, Chinatown, Coal Harbour, the Downtown Eastside, Gastown, Strathcona, Yaletown, the West End, and Stanley Park. Its goal is to reduce crime, improve public safety, and provide integrated justice, health and social services to offenders in a timely way while holding them accountable for their actions.

This Court includes a co-coordinator, Crown counsel, defence lawyers, Vancouver police officers, sheriffs, court clerks, probation officers, native courtworkers, and other health and social service agencies.

An extensive evaluation of this Court is currently underway and is expected to be completed in the fall of 2013.

## Victoria's Integrated Court

The Victoria Integrated Court (VIC) is a community-led initiative that followed on the work of the Street Crime Working Group and the Mayor's Taskforce on Homelessness. The Victoria Community Outreach Team and a number of Assertive Community Treatment Teams were created to address the demands placed on emergency and health service providers by individuals who are homeless and substance addicted and/or mentally disordered. Virtually all of the individuals serviced by these Teams are chronic offenders who place high demands on the criminal justice system.

The Court initiated a discussion that led to the creation of the VIC in March 2010. The VIC takes an integrated approach that strives to improve access to health, social, and economic services for offenders, improve public safety, and hold offenders accountable for their actions in a timely manner. In its first year, the VIC expanded its services to hear cases for offenders supported by the Community Response Team of Community Living BC.

In VIC, community service is frequently ordered as part of a sentence. Work is underway on two new community service projects – a mural and a community garden; both are funded by donations from the local community, the bar, and individual donors.

The Court issued a [report](#) after VIC's first year in operation. A progress report is scheduled to be released in June, 2012.

## First Nations Court

After Consultation with First Nations' communities who advised the Court that their needs were not being met, the First Nations Court in New Westminster was established in November 2006. The First Nations' communities sought a holistic approach to sentencing that acknowledges the harm done by the offender and ensures that healing occurs for the victims of crime and the community impacted by the crime. A group of elders and a community liaison guide the Court; Court Services staff support the Court; and Crown counsel and duty counsel have dedicated staff in the Court.

The First Nations Court is based on the principles enunciated by the Supreme Court of Canada in the *Gladue* case and the *Criminal Code*, which require that the unique circumstances of Aboriginal persons be taken into account at sentencing.

## First Nations Sentencing Court

First Nations Sentencing Court was established in the Coast District in February of 2012 to deal with offences occurring in Whistler, Squamish, and the North Shore. It was developed in consultation with the local First Nations, the community at large, the police, community corrections, Crown counsel, the defense bar, and many other support services groups such as The Native Courtworkers and Counselling Association. The approach is holistic, recognizing the unique circumstances of First Nations offenders. The Court provides support and healing to assist offenders in their rehabilitation and to reduce recidivism. It also seeks to acknowledge and repairing the harm done to the victims and the community. The Court encourages the local First Nations to contribute to the proceedings.

This Court applies the same sentencing principles as the First Nations Court.



## Drug Treatment Court of Vancouver (DTCV)

The Drug Treatment Court of Vancouver (DTCV) was created in 2001 and is one of the busiest programs with a fully integrated treatment program for all participants in Canada.

The DTCV provides an alternative to the regular criminal court process for people who commit drug offences or minor *Criminal Code* offences arising from their addiction to cocaine, heroin, or other controlled substances.

For approximately 14 months, DTCV participants undergo drug addiction treatment that is supervised by a DTCV judge. They receive services from addiction counsellors, case managers, a psychologist, an addictions specialist physician, a nurse, and a financial assistance worker. A participant can “graduate” from the program at the end of 14 months and receive a non-custodial sentence. Alternatively, the charge will be stayed if he or she has abstained from consuming all intoxicants for the three months prior to graduation, secured stable housing approved by the DTCV Judge, has not been charged with a new offence for six months immediately preceding graduation, and has been engaged in secure employment, training, or volunteering for three months immediately preceding graduation.

The goal of the program is to help offenders achieve:

- abstinence from drug use;
- reduced future contact with the criminal justice system;
- improved well-being, including improved housing;
- employment and education; and
- pro-social use of their time.
- The first report<sup>2</sup> concludes that DTCV participants exhibited significantly greater reductions in offending, and a significant decrease in drug-related offences.

## Cowichan Valley Domestic Violence Court Project

The Cowichan Valley Domestic Violence Court Project is the first dedicated Court in BC to address issues of domestic violence. It has been in operation since March 2009.

The Court is a blend of an “expedited case management” court and a “treatment or problem-solving” court. The goal is to bring these cases to the disposition stage (either by plea or trial and sentence) as soon as possible to reduce the rate of victim recantation or other witness-related problems, to offer a less punitive approach for those willing to accept responsibility for their actions and seek treatment, and to ensure the safety of victims and the public.

Partners in this project include specially trained and dedicated Crown counsel, RCMP, probation officers, community-based victim services, a native court worker, and a child protection social worker.

---

<sup>2</sup> Somers, Julian M., [Drug treatment court of Vancouver: An empirical evaluation of recidivism](#), International Journal of Drug Policy, published online 15 March 2012. This links to the free abstract.

## **Kelowna Community Justice Project**

The Community Justice Project in Kelowna commenced operations in September of 2010 following a number of very positive meetings involving justice system participants and the larger community. The goal of the Project is to collaboratively address the quality of life of the Kelowna community for all of its residents through the swift imposition of responsive and focused bail and sentencing orders for offenders experiencing issues involving mental health, homelessness, and/or addictions. This is addressed by a team-based approach to integration of services available through existing resources and facilitated by a Court liaison worker funded by the John Howard Society.

## **Video Bail and Other Hearings**

To accommodate remote bail hearings, the Court continues to utilize video technology from the Justice Center in Burnaby, where links have been established. It also is used to allow Judicial Case Managers and judges to hear preliminary matters from a remote location.

Video technology is also utilized in most Court locations throughout the province to accommodate remand appearances and bail hearings by persons charged with an offence appearing from a remand or custody centre. This year the use of video technology resulted in 21,525 saved prisoner transports for persons required to appear in court for preliminary matters.

The Court believes that video in all staffed courthouses and most circuit locations would enhance access to justice and save operational expenses by reducing prisoner and witness transport costs. The Court welcomes the installation of additional video equipment in three correctional centres and 11 court locations during the fiscal year.

## **Bail Reform Project**

The Court initiated the Bail Reform Project in December 2007 in cooperation with the ministries of Attorney General and Public Safety and Solicitor General and the Criminal Justice Reform Secretariat. The Project, which is underway in the Peace Region, allows judicial interim release (bail) hearings to be scheduled before a Judicial Justice at the Justice Centre in the Lower Mainland. An accused person appears in custody from police cells or a correctional facility. A police officer (or Crown counsel and defence counsel) also appears by video conference from their respective locations. These hearings occur during the Court day as well as evenings and weekends in Fort St. John, Dawson Creek and Fort Nelson.

In addition, video bail hearings are conducted from the Justice Centre to Vancouver, Delta, and Surrey during the evenings and on weekends.

## **Reforms in the Civil Division**

In November 2007, the Court began piloting civil reforms at the Robson Square and Richmond courthouses. Small claims cases are tracked into one of three streams. In both locations, claims under \$5000 (other than personal injury and institutional debt) are scheduled for simplified trials, conducted by senior civil lawyers. At Robson Square, all small claims cases (regardless of monetary amount) involving an institutional debt are

scheduled for a 30-minute summary debt trial. And, at Robson Square, civil claims over \$5000 proceed through mediation and a trial conference before being set for trial.

## Public and Media Access to the Court

In an ongoing attempt to address the need to inform the public, the Court has established its *Policies Regarding Public and Media Access in the Provincial Court of British Columbia* which is available on the Court's [website](#).

The purpose of these policies is to foster an open and accessible court. The policies seek to balance the vitally important principle of an open court with the judiciary's overall responsibility for the fair administration of justice in individual cases.

The policies cover such matters as:

- access to courthouses and courtrooms;
- access to court records;
- access to digital audio recordings of proceedings;
- televising court proceedings; and
- publication bans.

The policies are evolving documents that will continue to develop through discussion with the public and the media. The present policy documents are a significant and helpful step in the ongoing process of ensuring an open and accessible court.

One specific matter that has been the subject of recent consultation with the media and others is the Court's interim policy related to the use of live text-based forms of communication (including *Twitter*) from within courtrooms of the Provincial Court of British Columbia. It is expected that, following these consultations, an ongoing policy in this regard will be determined and announced during 2012.

## THE PROVINCIAL COURT'S COMMITTEE WORK

### Judges' Education Committee

The Provincial Court Judges' Association is responsible for continuing education for the judges of the Court. In this fiscal year the members of the Education Committee were:

- Judge C. Bagnall (Chair from April to November, 2011)
- Judge C. Birnie (Chair as of November 2011)
- Judge E. Blake
- Judge A. Brooks
- Chief Judge Thomas Crabtree
- Judge E. De Walle
- Judge D. Potheary
- Judge R. Bowry
- Judge K. Skilnick
- Judge T. Woods

The Committee designed and delivered two education conferences in 2011. The spring conference took place in Kelowna. The first day of presentations dealt with family law, including discussions on best practices in a number of areas of family law. The second day of the conference included sessions on technology in the courtroom, hate crime, small claims initiatives, and an address on developments in s. 24(1) of the *Charter*.

The second conference took place in Vancouver and focused on the law of evidence. The first day included sessions on expert evidence, including an address by recently retired Supreme Court of Canada Justice Ian Binnie, the hearsay rule, and a presentation on a more stream-lined preliminary hearing. The second day dealt with evidentiary issues in family and small claims proceedings and some discrete evidentiary issues, such as interpreters and judicial notice.

During the year the conference Chair attended the meeting of the National Education Committee of The Canadian Association of Provincial Court Judges (CAPCJ). Three Committee members attended the Provincial and Territorial Education Chairs conference offered by the National Judicial Institute.

## Judicial Justices' Education Committee

The Judicial Justices Association of BC appoints members to the Education Committee who are responsible for continuing education of Judicial Justices. During this fiscal year, the members were Judicial Justice G. Hayes and Judicial Justice I. Blackstone.

Evening educational sessions addressed the topics of traffic court procedures, search and seizure, the role of probation officers and bail supervisors, and child pornography investigations. Mr. Justice Frankel, BC Court of Appeal, spoke about changes in the law with respect to bail and the issuance of search warrants.

The Education Committee designed and delivered two conferences. The first focussed on writing and delivering effective oral judgments. There was also a discussion of the public interest in bail hearings in the context of criminal organizations, firearms, and armoured vehicles.

The second conference included a discussion on judicial ethics led by Chief Judge Crabtree and Associate Chief Judge Gill. Attendees were updated about new technologies and changes to the law regarding the use of digital evidence and the mandate of the fugitive return program "ConAir".

## Judicial Justice Review

In May 2011, Chief Judge Crabtree initiated an internal consultation process with the Judicial Justices division to seek input on potential reform. That consultation culminated at the fall education conference for Judicial Justices where submissions were made to the Court regarding the future of the division.

The submissions were considered by the Executive Committee and in March 2012, the Chief Judge accepted a series of recommendations from the Executive Committee including:

- That the decision of Judicial Council to transform the division to a per diem delivery mode comprised of practising lawyers be retained;
- When the court is made aware of the government's intentions regarding the role played by Judicial Justices in the delivery of justice services, including changes in the traffic division, the Court should consider the impact of those changes on the structure, makeup, and capacity of the division.

## Judicial Education Review Committee

The membership of the Judicial Education Review Committee was:

- Chief Judge Thomas Crabtree (Chair)
- Judge M. McMillan (Provincial Court Judges' Association)
- Judge A. Palmer (Former Chair, Education Committee, Provincial Court Judges' Association)
- Judge J. Threlfall (Executive Committee)
- Administrative Judge J. Watchuk (Management Committee)

The Committee delivered a report to the Chief Judge on April 12, 2011. In undertaking a review of judicial education, the Committee focused on the purpose of judicial education and the recent changes to the Court including the following:

- Legislative amendments impacting the age of retirement for the judiciary;
- The extension of the Senior Judge program (enabling judges to sit part time);
- Changing demographics of the Court;
- Increasing reliance on technology in delivering the work of the Court including video appearances in Court and the use of information technology;
- Scarcity of fiscal resources;
- Health and wellness challenges facing the Court;
- The need to meet the Strategic Plan of the Court; and
- Responsibility to the public for providing judicial services by a judiciary who meet high standards of skill and knowledge.

The Executive Committee is reviewing the report and developing an action plan to coordinate the delivery of education to all judicial officers.

## Emergency Planning Committee

The Emergency Planning Committee was struck in 2008. Its mandate was to:

- identify emergency preparedness issues affecting the Court;
- develop recommendations to address those issues; and
- educate the judiciary on emergency preparedness issues.

The Committee concluded its mandated tasks and delivered a full day of judicial education on emergency preparedness at the spring judicial conference in 2010. In 2011, the Chief Judge instructed a subcommittee to develop a plan for implementing those aspects of the Emergency Planning Report that were within the control of the Court in an emergency. These include a plan for the devolution of authority, a list of critical functions for the Court, and list of key contacts.

## Senior Judge Program Review Committee

In April 2011, Chief Judge Crabtree established an *ad hoc* committee of the Court to examine the Senior Judge Program ("the Program"). The Program provides for eligible judges to elect to carry out their judicial duties on a part-time basis for a period of time prior to retiring from office.

The mandate of the Committee included reviewing and making recommendations regarding:

- existing policies and procedures concerning the administration and efficiency of the Program;
- improvements to the Program; and
- issues involving part-time judges engaging in other work or activities when not assigned as a judicial officer, including the nature of the work or activities; remuneration for the work or activities; ethical issues arising from the work; and policy or legislative changes that may be required.

The members of the Committee were:

- Associate Chief Judge Phillips (Chair)
- Judge Burdett (President, Provincial Court Judges Association of BC)
- Administrative Judge Dohm (Management Committee)
- Judge A. Palmer (Senior Judge)
- Judge Cleaveley (member at large)

The committee delivered its report to the Chief Judge on November 2, 2011. The Executive Committee is considering its recommendations.

## FINANCIAL REPORT

	<b>Budget</b>	<b>Actual</b>	<b>Variance</b>	
Salaries	\$39,093,000	\$35,951,291	\$3,141,709	(1)
Supp. Salaries	30,000	59,112	(29,112)	
Benefits	8,991,000	8,290,117	700,883	(2)
Judicial Council/Ad Hoc/Per Diem	1,435,000	1,627,704	(192,704)	(3)
Travel	1,288,000	1,318,179	(30,179)	
Professional Services	157,000	155,664	1,336	
Information Services	207,000	632,190	(425,190)	(4)
Office Expenses	905,000	1,054,267	(149,267)	(5)
Advertising	3,000	0	3,000	
Court Attire and Supplies	74,000	112,468	(38,468)	(6)
Vehicles	66,000	96,008	(30,008)	(7)
Amortization	249,000	328,134	(79,134)	(8)
C.A.P.C.J. Grant	4,000	10,000	(6,000)	
Library	175,000	201,950	(26,950)	(9)
Interest on Capital Leases	9,000	1,864	7,136	
General Expenses	0	0	0	
<b>Total Operating Expenses</b>	<b>\$52,686,000</b>	<b>\$49,838,948</b>	<b>\$2,847,052</b>	
<b>Capital Budget Variance (Systems and Furniture)</b>	<b>\$140,000</b>	<b>\$125,971</b>	<b>\$14,029</b>	

- (1) Long term disabilities and retirements - delays in replacements thereto.
- (2) Additional usage to cover retirements of salaried Judicial Justices.
- (3) Related to salary savings.
- (4) Maintenance and enhancements to information systems, computer software and licences.
- (5) Education costs and meeting expenses.
- (6) Replenishment of judicial attire.
- (7) Vehicle repairs and fuel.
- (8) Amortization of computer equipment.
- (9) Increased costs for judicial reference material.

## MAINTAINING CONFIDENCE IN THE JUSTICE SYSTEM

The public and litigants must have confidence in our justice system, and that begins with having confidence in the decisions that are made in the courtroom. They must be confident that judges have integrity and are impartial and independent. They must also have an opportunity to formally criticize our judicial officers and courts if they believe that justice was not delivered in a fair and independent manner. Not only must justice be done, it must be seen to be done.

Sometimes litigants make a formal complaint to the Chief Judge if they are dissatisfied with the outcome of their trial. The Chief Judge can review complaints only about judicial conduct, not the merits or “correctness” of judicial decisions. Principles of judicial independence prevent interference by anyone, even a Chief Judge, in the judicial decision-making process. Members of the judiciary must be free to make decisions unfettered by outside influence, fear of sanction or hope of favour, and it is not open to a Chief Judge to review judicial decisions. A party who objects to the merits of judicial decisions would need to pursue such objections through any available avenue of appeal to, or review by, a higher court. When such complaints are received, one of the Court’s legal officers usually provides the litigant with general information about the appeal process.

Complaints must be delivered in writing to the Chief Judge. Under the *Provincial Court Act*, the Chief Judge is responsible for supervising Judges, Judicial Justices and Justices of the Peace, and is required to examine all conduct complaints about members of the judiciary. When a complaint raises a potential issue of judicial misconduct within the Chief Judge’s authority, the Chief Judge or an Associate Chief Judge will review the complaint letter, any relevant material such as an audio recording of the proceedings and will invite the judge or Justice to comment on the complaint. The Chief Judge or an Associate Chief Judge (or their delegate) must report in writing to the complainant and the judicial officer following an examination. Most complaints are resolved with a letter explaining or acknowledging the conduct and, in some cases if appropriate, providing an apology.

The *Act* also requires that the Chief Judge conduct an investigation into the fitness of a Judge or Justice to perform his or her duties if the Chief Judge considers that an investigation is required, or if requested to do so by the Attorney General. The result of an investigation may include corrective action or an order for an inquiry respecting the fitness of the Judge or Justice to perform their duties. At the option of the judicial officer at issue, the inquiry would be conducted by a Justice of the BC Supreme Court or Judicial Council. In the history of the Court there have only been eight inquiries and none since 1981.



The following chart captures information on complaints since 2004.

	2004	2005	2006	2007	2008	2009	2010	2011
Letters received	118	174	144	258	216	245	280	272
Non-complaints (those found not to be within Section 11)	95	137	123	205	169	207	225	239
Examinations of complaints performed to December 31, 2011 as summarized below or in previous Annual Reports	* 20	* 34	19	* 53	* 45	* 35	* 29	* 39
Investigations of complaints performed	* 3	2	1	0	0	0	0	0
Files unresolved by January 1, 2012	0	1	0	0	1	0	0	15

*\* Indicates that an examination may have dealt with more than one letter from a complainant or more than one complaint about the same matter.*

Complaint statistics are reported on a calendar year basis as that was the practice when (prior to 2004) such statistics and summaries were reported in the Annual Reports of the Judicial Council of British Columbia, which reported on a calendar year basis. As explained in the 2004-2006 Annual Report of Judicial Council, the decision was then made to report complaints in the Court's annual report, rather than the Judicial Council annual report, in light of the limited role of Judicial Council in complaint processing generally.

During the period from January 1, 2011 to December 31, 2011, 272 letters of complaint were received at the Office of the Chief Judge. On assessment, 239 matters were found not to be complaints within the authority of the Chief Judge. Examinations were commenced on the remaining matters. Including complaints carried over from 2010, 39 examinations were completed during 2011. Of the 39 completed examinations, all were resolved at the examination stage.

A summary of the completed complaint examinations are set out in [Appendix 4](#) to this Annual Report.



Court of Appeal of British Columbia



Supreme Court of British Columbia



Provincial Court of British Columbia

### **Judicial Independence (And What Everyone Should Know About It)**

**15 March 2012**

#### **Introduction**

The provincial government's "Justice Reform Initiative" presents an opportunity to provide information to the public about the courts and the role of the judiciary in our system of government.

Our system of government is divided into three branches: the legislative, the executive and the judiciary. Each has separate and independent areas of power and responsibility. In its simplest form, the legislative branch creates the law, the executive branch enforces the law, and the judicial branch interprets and applies the law in individual cases.

Through a long history, a balance has been struck among these three branches of government, keeping each branch from gaining too much power or having too much influence over the others.

Every resident of Canada remains subject to the application of the law. No person nor government is beyond its reach. This principle is often called the "rule of law" and is important in a democratic system of government. A former Secretary General of the United Nations has defined the rule of law as follows:

*It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.<sup>1</sup>*

This principle has a long history, but the independence of the judges, who are tasked with interpreting and applying the law in individual cases, is an important part.

---

<sup>1</sup> U.N. Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General*. (S/2004/616). 23 August 2004.

## What is Judicial Independence and Why is it Important?

The term “judicial independence” is often talked about when discussing the justice system, but is not always well-understood. The purpose of these comments is to help the public understand what judicial independence is and why it is important.

A famous English judge said that “Justice must be rooted in confidence.” He was referring to the confidence litigants and the public must have that judicial decision-makers are impartial. Those who come before the courts must be certain that decisions made by those courts are not subject to outside influence. Judicial independence means that judges are not subject to pressure and influence, and are free to make impartial decisions based solely on fact and law. Judicial independence is often misunderstood as something that is for the benefit of the judge. It is not. It is the public’s guarantee that a judge will be impartial. The principle has been expressed this way:

*In the final analysis we value and stress judicial independence for what it assures to the public, not for what it grants to judges themselves. Ultimately, the sole purpose of the concept is to ensure that every citizen who comes before the court will have [their] case heard by a judge who is free of governmental or private pressures that may impinge upon the ability of that judge to render a fair and unbiased decision in accordance with the law.<sup>2</sup>*

It has been suggested that judges may use independence as a “shield” against scrutiny. This is a mistaken view.

Judges have a responsibility to protect their independence and impartiality. They do so not out of self-interest, but as an obligation they owe to the public who have entrusted them with decision-making power, and to whom they are ultimately accountable to maintain the public’s confidence. One judge expressed it this way:

*It is the judge [...] who is primarily responsible for the maintenance of [their] independence and the independence of the judiciary generally. The Chief Judge and others with administrative duties must act as a buffer between the executive and individual judges. All judges, especially those with administrative duties, must be vigilant to preserve their independence and the independence of their court. They must keep the Ministry, just as they must keep all others, at arm’s length.<sup>3</sup>*

To preserve judicial independence, the *Constitution* of Canada requires three things:

1. **Security of tenure:** Once appointed, a judge is entitled to serve on the bench until the age of retirement, unless, for Superior Court judges, both houses of Parliament agree that he or she should be removed from office, or for Provincial Court judges, a tribunal established under the *Provincial Court Act* has ordered that he or she should be removed from office.
2. **Financial security:** Judges are paid sufficiently and in a manner so they are not dependent on or subject to pressure from other institutions.

---

<sup>2</sup> Garry D. Watson, “The Judge and Court Administration” in *The Canadian Judiciary* (Toronto: Osgoode, 1976) at 183 quoted in British Columbia, Commission of Inquiry Pursuant to Order-in-Council #1885, July 5, 1979, *Report of the Honourable Mr. Justice P.D. Seaton, Commissioner* (October 23, 1979) at 11 [“*Seaton Report*”].

<sup>3</sup> *Seaton Report* at 60.

3. **Administrative independence:** Courts must be able to decide how to manage the litigation process and the cases judges will hear.

It is easy to see how the first two aspects are important to ensure judges are free from government or private pressures affecting their impartiality. The third aspect, administrative independence, is more complex.

The court as a whole must remain separate from other branches of government to prevent any suggestion of improper influence. The Supreme Court of Canada has stated the aspects of administrative independence necessary to maintain a constitutionally-sound separation between the judiciary and other branches of government. They include:

1. the assignment of judges to hear particular cases;
2. the scheduling of court sittings;
3. the control of court lists for cases to be heard;
4. the allocation of courtrooms; and
5. the direction of registry and court staff in carrying out these functions.

It is important to understand why these functions must remain within judicial control. First, the public could not have confidence in the independence and impartiality of the courts if others, outside the judicial branch, could control or manipulate proceedings by interfering in any of these functions. A judge cannot be independent if the necessary support staff is unavailable, or is subject to the control of and accountable to others.

All recognize there is a requirement for accountability for the allocation and disposition of the resources, human and otherwise, necessary to the proper functioning of the courts. There is bound to be continuing tension between the uncertain and varying demands for the resources, and the constraints on those who must budget for the supply of those resources. But if there is a business case to be made for cost savings, that case must be made within the confines of what is permitted by the *Constitution*.

Reforms also need to be examined in context. For example, it has been suggested that “overbooking” (the setting of more than one case before the same judge on the same day) is inefficient and costly, because one or more counsel and parties who attend on the appointed day will have their cases adjourned. That can be one result of overbooking. But this view overlooks the fact that overbooking often leads to more effective utilization of judicial and other court resources, taking into account the number of cases that normally settle on the eve of trial or do not proceed for other reasons.

By long history, our court proceedings are based on an adversarial system. The parties present their opposing positions, witnesses are called and cross-examined. The judge sits as a neutral decision-maker. It is not a perfect system, and it continues to evolve, but in its essential form, and particularly in the area of criminal law, it is a system that has worked well for centuries.

In the adversarial system, the preparation and presentation of cases is left primarily in the hands of the lawyers representing the adverse parties. The courts exercise some measure of control over this, but they must respect the accused’s constitutional rights, as well as the professional obligations of the lawyers to their respective clients.

The adversarial system is one feature of the legal system that makes it an uneasy fit with the application of business analysis and systems management designed for a business or government enterprise. The judiciary of

each Court has drawn upon such analysis to develop projects and systems to better serve the public in a manner that also recognizes the constitutional structures and rights that underpin the legal system.

There are many other factors which require consideration when seeking to improve the justice system. No one can predict with confidence the number of cases coming into the system at any given time, and no one can predict their complexity or the time they will require to be heard and resolved. Predetermined limits on human resources by those outside the judicial system are likely to give rise to serious problems. Flexibility is necessary if changing demands for judicial and court resources are to be met.

### **Other Types of Independence**

It is important to distinguish between judicial independence and the sort of independence that characterizes the role of other members of our legal system. Police, prosecutors and defence counsel all have to make important decisions in the detection, prosecution and defence of persons alleged to have committed crimes.

There is a critical distinction between the police and Crown prosecutors on the one hand, and the judiciary on the other. The police and prosecutors are in the employ and within the authority of the executive branch of government. Although required to exercise their duties impartially and independently, at the end of the day they are agents of the Crown.

Judges by contrast are not subject to the direction or control of the executive branch of government.

There are sound reasons for this. Government, in its many manifestations, is frequently a party to court proceedings in an adversarial role. For example, the state is behind every criminal prosecution. Government agencies are frequently either parties to court proceedings, or are subject to having their decisions reviewed in the courts. Courts are called upon to decide disputes between our Aboriginal peoples, and various levels of government, or government agencies. Courts also have to rule on the validity of legislation, as to whether it is within the powers given to the Legislature or Parliament by the *Constitution*, and whether it conforms to the requirements of the *Charter of Rights and Freedoms*.

So while police and prosecutors must be independent within their proper spheres, theirs is an independence of a different nature or quality than judicial independence. While police and prosecutors must be objective, they are ultimately part of and answerable to the executive branch of government. Judges are not, and their independence safeguards their impartiality.

### **Conclusion**

The judiciary is always open to discussing ways to improve the administration of justice. Indeed, all levels of court have engaged in extensive discussions with government officials over the past several years with a view to achieving that end. In being open to discussion, however, the judiciary will remain steadfast in protecting the essential elements of judicial independence, as the precursor and guardian of judicial impartiality.

**Chief Justice Lance Finch**  
**Chief Justice Robert Bauman**  
**Chief Judge Thomas Crabtree**

*Chief Justice of British Columbia*  
*Chief Justice Supreme Court of British Columbia*  
*Chief Judge Provincial Court of British Columbia*

## Judges

### OFFICE OF THE CHIEF JUDGE

#### **CRABTREE, T. (Chief Judge)**

Gove, T.

Pendleton, D. (Senior Judge)

Rae, M. (Senior Judge)

Angelomatis, G. (LTD)

Trueman, C. (LTD)

Walker, R. (LTD)

Warren, C. (LTD)

### COAST DISTRICT

#### **CHALLENGER, J. - Administrative Judge**

Auxier, J. (Senior Judge)

Baird Ellan, C.

Gedye, J. (Senior Judge)

Merrick, S.

Milne, J.

Moss, D. (Senior Judge)

Rodgers, W. (Senior Judge)

### CARIBOO/NORTHEAST DISTRICT

#### **WEATHERLY, D. - Administrative Judge**

Bayliff, E.

Blaskovits, R.

Bowry, R.

#### **Brecknell, M. (Associate Chief Judge)**

Church, M.

Daley, B.

Galbraith, V.

Gray, M.

Morgan, D.

O'Byrne, D.

### KAMLOOPS DISTRICT

#### **FRAME, S. - Administrative Judge**

Cleaveley, C.

Donegan, S. A.

Harrison, S.

Rohrmoser, H. (Senior Judge)

### KOOTENAYS DISTRICT

#### **WEBB, R. - Administrative Judge**

Fabbro, R. (Senior Judge)

Mrozinski, L.

Sheard, G.

Sperry, D. (Senior Judge)

### NORTH FRASER DISTRICT

#### **BULLER BENNETT, M. - Administrative Judge**

Alexander, T.

de Couto, P.

Dossa, S.

Dyer, B.

Janzen, P.

Pothecary, D.

Spence, A. (Senior Judge)

Steinberg, D.

Stone, D. (Senior Judge)

Walters, R.

Woods, T.

### NORTH VANCOUVER ISLAND DISTRICT

#### **COWLING, D. - Administrative Judge**

Doherty, P. (Senior Judge)

Dohm, T. (Senior Judge)

Gouge, T.

Gould, A. (Senior Judge)

Iverson, E. (Senior Judge)

Joe, J. (Senior Judge)

Klaver, B. (Senior Judge)

MacCarthy, P.

Saunders, J.

Saunderson, B. (Senior Judge)

Sutton, R.

NORTHWEST DISTRICT

**SEIDEMANN III, H. - Administrative Judge**

Birnie, C.  
Krantz, A.  
Struyk, C.  
Wright, T.

OKANAGAN DISTRICT

**SMITH, R.- Administrative Judge**

Burdett, E.  
Cartwright, J.  
Chapman, B.  
de Walle, E. (Senior Judge)  
Hogan, V. (Senior Judge)  
Klinger, W. (Senior Judge)  
Koturbash, G.  
McKimm, M.  
Shaw, M.  
Sinclair, G. (Senior Judge)  
Takahashi, M.  
Threlfall, J. (Senior Judge)  
Wallace, A.

SOUTH FRASER DISTRICT

**GULBRANSEN, P. - Administrative Judge**

Arthur-Leung, K.  
Bahen, J.  
Baird, R.  
Ball, K.  
Bond, P.  
Borowicz, M.  
Brown, G.  
Caryer, R.  
Cohen, G.  
Dickey, R.  
Dohm, P.  
Field, H. (Senior Judge)  
Gardner, D.  
**Gill, G. - Associate Chief Judge**  
Gillespie, M.  
Gordon, E.  
Hamilton, R.  
Hicks, M.  
Hoy, B.

Hyde, P. (Senior Judge)  
Jardine, J. (Senior Judge)  
Lenaghan, J. (Senior Judge)  
Lytwyn, J. (Senior Judge)  
MacDonald, W. (Senior Judge)  
MacGregor, S. (Senior Judge)  
MacKay, R.  
Miller, R. (Senior Judge)  
Raven, R.  
Romano, R.  
Rounthwaite, A. (Senior Judge)  
Rounthwaite, J.  
Skilnick, K.  
Young, W.

SOUTH VANCOUVER ISLAND DISTRICT

**BROOKS, A. - Administrative Judge**

Blake, E.  
Chaperon, L.  
Harvey, J. (Senior Judge)  
Higinbotham, R.  
Hubbard, M. (Senior Judge)  
Kay, J. (Senior Judge)  
Neal, Brian (Senior Judge)  
Palmer, A. (Senior Judge)  
Quantz, E. (Senior Judge)  
Smith, W. (Senior Judge)  
Wishart, S.  
Wood, J.

VANCOUVER CRIMINAL DISTRICT

**LOW, R. - Administrative Judge**

Bagnall, C.  
Bastin, B. (Senior Judge)  
Burgess, E.  
Galati, J.  
Giardini, M.  
Harris, R.  
Howard, F.  
Kitchen, W. (Senior Judge)  
MacLean, M.  
McMillan, M.  
Palmer, J.

Rideout, G.  
Senniw, D.  
St. Pierre, D.  
Walker, K.

#### ROBSON/RICHMOND DISTRICT

##### **CHEN, P. - Administrative Judge**

Dhillon, H.  
Ehrcke, A. (Senior Judge)  
Fratkin, R. (Senior Judge)  
Gallagher, R. (Senior Judge)  
McKinnon, J.  
Meyers, P.

##### **Phillips, N. - Associate Chief Judge**

Romilly, V.  
Schmidt, D. (Senior Judge)  
Werier, J.  
Wingham, J.  
Yee, W.

## Judicial Justices

#### OFFICE OF THE CHIEF JUDGE

Kobiljski, M. (LTD)

#### SITTING DIVISION (FULL TIME)

Schwartz, P. (Administrative JJ- Violation Ticket Centre)  
Blackstone, I. (Abbotsford)  
Dodwell, P. (Richmond)  
Hughes, J. (Kamloops)  
Joseph-Tiwary, S. (Port Coquitlam)  
Lim, P. (North Vancouver)  
Makhdoom, Z. (Robson/Richmond)

#### JUSTICE CENTRE (FULL TIME)

Hayes, G. (Administrative JJ)  
Arlitt, K.  
Chellappan, J.  
Cyr, B.

#### APPOINTED TO SERVE ON A PER DIEM BASIS

Adair, B. (Justice Centre/Traffic)  
Beer, B. (Justice Centre)

Bowes, E. (Justice Centre)  
Brecknell, E. (Traffic - Salmon Arm)  
Brown, A. (Justice Centre)  
Burgess, B. (Traffic - Vernon)  
Callegaro, N. (Justice Centre)  
Campbell, A. (Justice Centre)  
Edwards, B. (Justice Centre)  
Gordon, H. (Traffic - Victoria)  
Hodge, F. (Justice Centre)  
Holmes, T. (Justice Centre)  
Langford, L. (Traffic - Nelson)  
Lindsey, H. (Justice Centre)  
Padron, D. (Justice Centre)  
Roberts, C. (Justice Centre)  
Schwartz, D. (Justice Centre)

#### APPOINTED TO SERVE ON AN AD HOC BASIS

Harvey, C. (Justice Centre)  
Maihara, D. (Justice Centre)  
Mayner, L. (Traffic)  
Rogers, C. (Justice Centre)  
Wakefield, J. (Justice Centre)



## Justice of the Peace Adjudicators

Baynham, B.  
Borowicz, F.  
Cornish, B.  
Glasner, K.  
Kahn, L.  
Nordlinger, K.  
Pratchett, M.

Roberts, D.  
Saunderson, D.  
Urquhart, G.  
Wallace, B.  
Warner, K.  
Yule, D.

## Judicial Case Managers

OFFICE OF THE CHIEF JUDGE  
D. North (Administrative JCM)  
H. Holt

VANCOUVER CRIMINAL DISTRICT  
K.E. Butler  
L. Caporale  
T.L. Hill  
C.J. Johnstone  
J. Mihic  
L. Stokes

VANCOUVER RICHMOND DISTRICT  
B. Brown  
C. Goodrich  
C. Mayhew  
J. Norton

NORTH FRASER DISTRICT  
M.L. deKeruzec  
S. Gill  
L. MacDonald  
M. Scott  
S. Steele

SOUTH FRASER DISTRICT  
D. Hodge  
J. Willock  
B. West  
L. Lockyer  
A. Mitchell  
A. Schulz  
S. Throne

COAST DISTRICT  
S.I. McLarty

SOUTH VANCOUVER ISLAND DISTRICT  
A. Bruce  
S.L. Cole  
D. Henry  
Y. Locke

NORTH VANCOUVER ISLAND DISTRICT  
C. Ballman  
V. Mitchell  
F. Campbell  
S. Jasper

KOOTENAYS DISTRICT  
M. Jensen  
S. Hadikin

OKANAGAN DISTRICT  
K. Bullach  
D. Krenz  
B.L. Vincent  
M.K. Warwick

CARIBOO NORTHEAST DISTRICT  
S. Lawrence  
D. Bigras

KAMLOOPS DISTRICT  
S. Paul

NORTHWEST DISTRICT  
L. Leonardes  
C.M. Foerster  
S. MacGregor

### Chart 1 – Total Judge Complement (2008 - 2012)

#### Data Source: Rota 6

Provincial Court Judge Complements are as at March 31 of each fiscal year. JFTE = Judicial Full Time Equivalent positions. This includes all full time Judge positions (1 JFTE) + all Senior Judge positions (0.45 JFTE) province wide. This total does not include any Adhoc judge positions or Judges on Long Term Disability.

### Chart 2 – New Cases by Division (2007/08 – 2011/12)

#### (1) Number of New Cases. Data Source: CORIN Database

Provincial Court Criminal New Case: One accused person with one or more charges on an 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.

Provincial Criminal Adult, and Traffic/Bylaw (Ticket) case methodology has changed. The new count, which no longer filters on ACT\_CAT, uses only the court class filter (i.e. Adult = Court Class "R", Youth= Court Class "Y", Traffic/Bylaw (ticket) = Court Class "T")

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

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 and subsequent applications are counted separately.

There is a management information system latency factor which exists for approximately 3 months after the data are extracted from the case management systems. As a result, the Court Services Branch Strategic Information and Business Application group has initiated a process to create periodic extracts from which all data requests are fulfilled. At the same time, a comprehensive review of the business rules applied to the data extract queries was undertaken and through mutual consultation with the judiciary, changed some historical business rules which has resulted in the restating of previously reported data.

### Chart 3 - Total Cases per Judge (2007/08 – 2011/12)

#### (1) Number of New Cases. Data Source: CORIN Database

Provincial Court Criminal New Case: One accused person with one or more charges on an 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.

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

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 and subsequent applications are counted separately.

## **(2) Provincial Court Judge Complement. Data Source: Rota 6**

Provincial Court Judge Complements are as at March 31 of each fiscal year. JFTE = Judicial Full Time Equivalent positions. This includes all full time Judge positions (1 JFTE) + all Senior Judge positions (0.45 JFTE) province wide. This total does not include any Adhoc judge positions or Judges on Long Term Disability.

There is a management information system latency factor which exists for approximately 3 months after the data are extracted from the case management systems. As a result, the Court Services Branch Strategic Information and Business Application group has initiated a process to create periodic extracts from which all data requests are fulfilled. At the same time, a comprehensive review of the business rules applied to the data extract queries was undertaken and through mutual consultation with the judiciary, changed some historical business rules which has resulted in the restating of previously reported data.

## **Chart 4 – Adult Criminal Caseloads Pending over 180 Days**

### **(1) Data Source: CORIN Database**

Provincial Court Pending Case: A case that has not completed and for which a future appearance is scheduled. Provincial Court Pending Case 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 2012 and represents a snapshot of the pending case inventory for all cases over 180 days. This report breaks these over180 day cases into 4 different timelines.

There is a management information system latency factor which exists for approximately 3 months after the data are extracted from the case management systems. As a result, the Court Services Branch Strategic Information and Business Application group has initiated a process to create periodic extracts from which all data requests are fulfilled. At the same time, a comprehensive review of the business rules applied to the data extract queries was undertaken and through mutual consultation with the judiciary, changed some historical business rules which has resulted in the restating of previously reported data.

## **Chart 5 – Province-Wide Court Delays and Charts 6 through 11 – Locations with the Longest Delays**

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

(1) All locations in the province were weighted based on calendar year 2011 new caseloads for March 31, 2012 delays as a percentage of the provincial total.

(2) For Civil trials, this wait time represents the number of months between the final document filing and the first available court date that a typical settlement conference can be scheduled into PLUS the number of months between a Settlement Conference and the first available court date that a typical ½ day or 2 day trial can be scheduled into.

OCJ Standard:

2 months delay to settlement conference availability

4 months delay from settlement conference to ½ day trial

6 months delay from settlement conference to 2 day trial

(3) For Adult Criminal Trials, this wait time represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical ½ day or 2 day Adult Criminal trial can be scheduled into.

OCJ Standard:

6 months delay to criminal ½ day trial availability

8 months delay to criminal 2 day trial availability

(4) For Family Hearings, this wait time represents the number of months between the initiating document and first appearance PLUS the number of months between the first appearance and the first available court date for a Case Conference PLUS the number of months between the case conference and the first available court date that a typical ½ day Family hearing can be scheduled into.

OCJ Standard:

1 month delay to first appearance

1 month delay from first appearance to case conference

4 months delay from case conference to ½ day trial

(5) For Child Protection Hearings, this wait time represents the number of months between the initiating document and first appearance PLUS the number of months between the first appearance and the first available court date for a Case Conference PLUS the number of months between the case conference and the first available court date that a typical ½ day child protection case can be scheduled into.

OCJ Standard:

1 month delay to first appearance

1 month delay from first appearance to case conference

3 months delay from case conference to ½ day trial

The “first available date” for all divisions of work 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.

### Complaints against Judges

**Complaint:** The Judge treated counsel like “garbage,” and in a demeaning, condescending, nasty and offensive manner.

**Review:** The transcript and audio recording did not support the complainant’s assertions and the matter was closed.

**Complaint:** A Judge at a family case conference yelled at a party, made a personal attack on her as a woman and a mother, and made inappropriate comments about her psychiatric diagnosis.

**Review:** Other information received indicated that the complainant persistently interrupted when Director’s Counsel was speaking, and that the Judge had to take a firm stance to control the proceedings. Director’s Counsel had brought up the complainant’s diagnosis and the Judge denied yelling at the complainant. In examining all the information received, the Judge’s conduct was not inappropriate and no misconduct was established.

**Complaint:** The Judge at a small claims settlement conference was rude, condescending and insulting.

**Review:** The Judge acknowledged that he had indeed been frustrated, short and impatient with the complainant who did not accept that there was a legal reason the matter should proceed to trial. In the specific circumstances, however, judicial misconduct was not established.

**Complaint:** A Judge during a family case conference was biased, making critical comments to the mother but none to the father.

**Review:** The Judge provided a detailed response to the complaint, noting the difficult circumstances between the parties and explaining how the mother’s assertions were not accurate. Judicial misconduct was not established.

**Complaint:** The Judge criticized a professional associated with a community court initiative in a letter to the professional’s employer. In addition, the court initiative was not being properly managed by the Judge.

**Review:** The Judge was concerned that the ongoing viability of the project was affected by the professional’s actions. In communicating this concern to the employer, the Judge acted in good faith and with a proper purpose. The Judge regretted that she had not apparently achieved which she had strived for, which was a process worked out collaboratively with sensitivity to the professional’s feelings. Complaint dismissed on that basis.

**Complaint:** The Judge in a small claims matter yelled at and interrupted the claimant on a number of occasions and directed him much more than the other party’s counsel. The complainant felt humiliated in front of the other party in court.

**Review:** There were instances when the Judge became exasperated and raised her voice with the complainant. A level of frustration was understandable in light of how the case was presented, including inconsistency between the claim and the evidence presented. However, it is important for presiding Judges to maintain

serenity, even in the face of a challenging litigant. The Judge was reminded of the ideals of conduct to which Judges aspire and how the Judge's conduct is perceived by litigants.

**Complaint:** The Judge in a small claims matter issued his reasons for judgment and posted them to the court's website a number of days prior to when they were scheduled to be presented to the parties in court. The parties had not been advised of the early release of reasons and this caused embarrassment to counsel with his client.

**Review:** The Judge regretted the circumstances and apologized for the embarrassment caused. The Judge had his reasons ready a number of weeks before the scheduled delivery date and arranged to have them transcribed so the parties would have a transcript on that day. This was an important learning experience for the Judge and he will not issue reasons for judgment in the same manner in the future.

**Complaint:** The Judge in a child protection case was hostile, angry, mocking and punitive to the mother.

**Review:** The complainant had not been present in court and relied upon third-party information. Review of the audio recording of the proceedings did not support the assertions. In the few minutes the case was in court, the Judge raised matters that were entirely appropriate and within his discretion to explore with the parties.

**Complaint:** Four separate complaints related to one case were made when a Judge called the accused "an idiot" during the proceedings.

**Review:** The Judge apologized in court to the accused at the next appearance after clearly identifying the misconduct complained of. The comment was after the Judge had attempted in a calm and respectful manner to explain to the accused that the theory of law the accused was presenting as a defense was not consistent with the law as the Judge understood it. Nevertheless, the accused continued to press his theory of law. The offending comment was made as the Judge's frustration grew. It was apparent from the Judge's early apology that this was a learning experience for the Judge. These circumstances were brought to the attention of the complainants and the complaint files were closed on this basis.

**Complaint:** Judge showed a "bad, rude attitude" when the complainant attended a hearing by telephone, during which the Judge told the clerk to hang up on the complainant.

**Review:** The audio recording did not support the complaint. The telephone equipment in the court room was not operating properly and the Judge, believing that the complainant could not hear what was occurring in court, asked the clerk to end the telephone call. The Judge was completely unaware of the complainant's level of distress and expressed her sincere regrets about having contributed to it.

**Complaint:** A Judge in a family case conference (FCC) was rude, disrespectful and biased.

**Review:** The complainant had agreed to various consent orders, thereby contradicting representations about the FCC. Both parties were addressed in a similar manner by the Judge. The Judge was not aware of any rudeness, disrespect or bias in her conduct. While it was apparent the complainant found the mediation did not work entirely to his satisfaction, the circumstances did not suggest misconduct.

**Complaint:** The Judge at a settlement conference allowed the representative of the other party to be rude towards the claimant while defending his position. In addition, the complainant asserted that the presiding Judge did not defend the claimant's position.

**Review:** While the defendant's representative was firm in his position, he had not been rude in doing so. The case could not reasonably be settled at the settlement conference. Judges will not generally continue to press parties unwilling towards that goal. No judicial misconduct was found.

**Complaint:** The Judge in a small claims pre-trial conference was very rude and expressed frustration with documents submitted by the complainant.

**Review:** Judges at pre-trial conferences routinely provide evaluative feedback to the parties about their case. The complainant was taken aback by the frankness with which the Judge spoke to ensure there was no ambiguity about her view of the matter. While the Judge took some guidance from how she was perceived by the complainant, no judicial misconduct was established.

**Complaint:** The Judge referred in insulting terms to an organization that was seeking to assist the court in sentencing options. In addition, the Judge made derogatory remarks about the community in which he was presiding.

**Review:** Review of the audio recording did not support any of the assertions made about the presiding Judge. The Judge provided a full and helpful response to the complaint, a copy of which was provided to the complainant.

**Complaint:** Judge spoke in a loud, intimidating and disrespectful tone in response to the complainant who sought to provide information to the court from her seat in the gallery.

**Review:** The Judge acknowledged that he addressed the complainant with a loud and firm voice but did so to maintain order and decorum and to ensure that he was being heard in the public gallery. It was not his intent to humiliate or be disrespectful but it was important for a presiding Judge to prevent interjections from the gallery, however well-meaning. No misconduct was found.

**Complaint:** The Judge was abrupt and unprofessional during family law proceedings.

**Review:** During the hearing the Judge made a decision about which year's income would be taken into account to determine maintenance. The Judge considered the complainant to be abruptly challenging her decision. While it may have been preferable for the Judge to have more gently responded to the party's concern, in context, the abbreviated comments of the Judge were understandable. While the Judge would take some guidance from how she was perceived by the complainant, no judicial misconduct was established.

**Complaint:** The Judge telephoned a JCM at her home on a weekend and criticized the JCM in the telephone conversation. A last-minute scheduling change by the JCM had required the Judge to significantly change planned time off as the Judge was consequently required to travel on a non-work day.

**Review:** The scheduling change was necessary and, while both the Judge and the JCM communicated with each other in a manner that could have been more appropriate, the JCM and the Judge resolved outstanding issues arising from the incident and they have resumed a normal professional working relationship. The complaint file was closed.

**Complaint:** A Supreme Court of British Columbia decision overturned a Judge's decision due to a reasonable apprehension of bias as a result of comments made by the Judge during the course of a criminal trial, including sarcastic remarks towards the accused.

**Review:** The trial decision was made at a time when the Judge was under particular stress and the Judge had taken steps to deal with those issues. The file on this matter was closed.

**Complaint:** The Judge was perceived as avoiding various sitting duties, including not conducting case conferences in family and civil matters.

**Review:** The Judge committed to presiding over all matters properly brought into court and the Judge would remain available at the courthouse during the judicial sitting day for assignments from the JCM, the Administrative Judge or the Office of the Chief Judge unless the Judge had been specifically excused. The complaint file was therefore closed.

## Complaints against Judicial Justices

**Complaint:** A Judicial Justice (JJ) treated a party with disrespect, informing him that he was not present in court when his name was called twice and thus his violation ticket was considered not disputed.

**Review:** While it would have been more helpful if the Judicial Justice had taken the time to explain why he could not reopen the case, judicial misconduct was not established.

**Complaint:** A JJ presiding on a violation ticket case verbally abused the disputant and “fought him with words” in considering his adjournment application.

**Review:** The audio recording of proceedings did not support the assertions. It is appropriate for Judicial Justices to closely question litigants to determine the merits of an application. No misconduct was established.

**Complaint:** A JJ presiding in traffic court had a medical condition preventing due execution of duties. Further, the JJ suggested that the complainant write to the provincial government, asking that they hire more Judges.

**Review:** Review of the audio recording of proceedings did not support the complaints. The JJ mentioned his diabetic condition as part of his explanation for not being able to sit during the lunch hour. The JJ, who was unable to hear the complainant’s case due to lack of court time, responded to the complainant’s concern by suggesting one could write to the Premier as it is government which makes the laws.

**Complaint:** A JJ presiding in traffic court was "very abusive" to disputants and was incompetent due to an error of law in the JJ’s decision.

**Review:** The audio recording of proceedings did not support the assertions of misconduct. Further, while the Chief Judge has authority to examine assertions of incompetence, a single alleged error of law by a JJ does not create a basis to suggest incompetence. Parties alleging errors of law in judicial decisions would need to pursue such objections through any available avenue of appeal to, or review by, a higher court.

**Complaint:** A JJ in traffic court was "openly rude, demeaning, humiliating and degrading by word and tone".

**Review:** Review of the audio recording of the proceedings did not support these assertions. There were instances when the JJ intervened into questions of a witness when the JJ considered the questions to be irrelevant to issues that needed to be decided. Intervention is appropriate and often necessary to control proceedings.



**Complaint:** A JJ in bylaw court was unnecessarily heavy-handed with a defendant, leaving her humiliated and belittled. The JJ suggested that the defendant, in the circumstances resulting in the violation ticket, had acted in a childish manner and demonstrated an anger management problem.

**Review:** The JJ acknowledged there could have been improvement in the manner the case was handled. On appeal to a higher court, the appeal Judge noted the JJ had been directed by the prosecutor to the wrong penalty sections of the legislation and that, had the JJ been made so aware, the JJ would not have been so harsh with the defendant. The JJ had resorted to inappropriate scolding of the defendant. The JJ acknowledged this and the need not to repeat this conduct. The matter was closed on that basis.

**Complaint:** The JJ was extremely rude, truculent and barked at the complainant while he was testifying.

**Review:** The JJ reached strong considered conclusions on questions of evidence and his expression of those conclusions did not constitute misconduct. The JJ will be mindful, however, how the strength of his comments are perceived by a party to the proceedings.

**Complaint:** The JJ inappropriately suggested on the record that the defendant's representative had deliberately misled the court.

**Review:** Review of the audio recording supported the conclusion reached by the JJ.

## Complaints against Judicial Case Managers

**Complaint:** A Judicial Case Manager (JCM) was "actively rude and obnoxious to the public" and told the complainant to "shut [her] mouth."

**Review:** The JCM denied the assertions. A separate account of the incident was received from another person who was present, which contradicted the complaint. There was no basis for a finding of judicial misconduct.

**Complaint:** A JCM used her position with the courts to interfere with family proceedings involving her son. Among the concerns was that the JCM had personally served court documents on her son's ex-spouse.

**Review:** Shortly after the incident of the JCM assisting her son by serving documents, the JCM was informed by her Administrative Judge that this was inappropriate for judicial officers. Administrative steps were taken to ensure that the JCM would not perform any work related to the case. There was later one instance when the JCM used her work email to contact her son's ex-spouse in an emergency. The JCM acknowledged her error. In these circumstances, and the absence of any attempt to interfere with the court's handling of the case by the JCM, the complaint file was closed.

## Complaints against Courts Services Administrative Justices of the Peace and Justice of the Peace Adjudicators

**Complaint:** A Court Services Justice of the Peace (CSJP) was disrespectful when, after providing what he thought was sufficient procedural information to the complainant at the Court Registry, dismissed the complainant by calling out "next" and then dealing with the next person in line at the counter.

**Review:** In response to the complaint, the Court Manager apologized for the CSJP who was informed that, even in frustrating circumstances, he must act in a calm and courteous manner.

**Complaint:** During non-work hours, a CSJP became intoxicated at a weekend social event. She was later a passenger in a vehicle driven by her son that was involved in a minor motor vehicle accident where police attended. The police reported that the CSJP was extremely intoxicated and that she had repeated 12 to 15 times that she was a JP and that she was "going to take care of this." The police officers in attendance took this to mean she would use her position as a JP to interfere with the investigation and processing of the charges against her son.

**Review:** The JP reported the incident to her courthouse supervisor at the earliest opportunity. She explained that she mentioned her JP status to police so they would not think she was a lawyer when her son looked to her for assistance. The comment about "taking care of this" meant she would support her son in getting a lawyer and provide any necessary financial assistance. The JP received a reprimand from the Court Services Branch. The circumstances were very troubling. However, the JP recognized her significant error at a very early stage and took steps to remedy it. She had otherwise been an exemplary employee with CSB. The JP was reminded of the need for judicial officers to be beyond reproach. In light of the considerable angst the incident has caused the JP, and its isolated nature, no further action against the JP was necessary.

**Complaint:** A CSJP had been rude when the complainant sought to present a private Information at the court registry.

**Review:** As the JP had retired since the complaint was made, the Chief Judge had no continuing authority over the complaint. The complaint file was closed.

**Complaint:** The JP directed several condescending remarks to the claimant and allowed counsel for the defendant to hijack the case to the point when the JP was taking instructions from that lawyer. In addition, the JP was arrogant.

**Review:** Review of the audio recording did not support the complaint. The JP had dismissed a preliminary application of the defendant and throughout the proceeding exercised polite control, reaching a considered decision on the merits after providing the parties with an opportunity to comment. No misconduct was found.