

50th
Anniversary
Edition



Judicial Council
of British Columbia
Annual Report 2020



Judicial Council of British Columbia Twenty-fourth Annual Report: 2020

**50 years of dedication to ensuring
exceptional judicial service
by the Provincial Court
of British Columbia**

Contents

BC's Judicial Council	1
50 Years of Dedication to Ensuring Exceptional Judicial Service	3
Long-term Trends	7
2020 By the Numbers	14
Members of the Judicial Council	16
Meetings and Business Conducted	28
Appointment Process for Provincial Court Judges	29
Appointment Process for Judicial Justices	40
Appointment Process for Justices of the Peace	42
Judicial Education	43
Judicial Ethics	43
Complaints	44
Other Matters	45
Financial Expenses	45
Public Access	46
A Look Back: 2009-2019	47

July 14, 2021

The Honourable David Eby, Q.C.
Attorney General
Ministry of Attorney General
PO Box 9044, Stn Prov Govt
Victoria, BC V8W 9E2



Dear Attorney General:

I am pleased to provide you with the Judicial Council of British Columbia's 2020 Annual Report.

The Council's primary responsibility is to recommend candidates with the highest qualifications for judicial office. The work of the Judicial Council during the past year included reviewing applications and interviewing applicants seeking appointment to the Provincial Court.

The number of applications for appointment as a Provincial Court judge in 2020 decreased to 30 from 37 in the previous year. Including some carried forward from 2019, the Council reviewed 38 applications for appointment as a Provincial Court judge, interviewed nine applicants, and recommended five for the bench. In addition, the Council reviewed applications for appointment as a judicial justice and justice of the peace.

In-person interviews were limited this year to safeguard the health of applicants and Council members. However, the Judicial Council began conducting virtual interviews in January 2021 and is in the process of reducing the backlog caused by the COVID-19 pandemic.

The Judicial Council strives to make the application process as transparent as possible and encourages applications from candidates of diverse backgrounds. In 2020, 16 of the 30 applications included information pertaining to diversity. The Council's commitment to transparency, recognized by the Canadian Bar Association in 2013, continues to be a priority. In keeping with the Council's tradition of accountability, transparency, and public access to information this report is accessible on the Provincial Court website at provinciacourt.bc.ca.

Since the Council was established in 1970, it celebrated its 50th anniversary this year. This report includes highlights of its activities over five decades, as well as an analysis of trends in applicants' demographics during the periods for which data is available. This look back shows that British Columbians can be proud of their Judicial Council's transparent, independent appointment process and its leadership in judicial ethics and education.

I want to express my appreciation to the members of the Judicial Council for their many contributions to its work during the past year. To continue the Council's work during the pandemic, we transitioned to virtual meetings and interviews with applicants. Council members adapted to the virtual environment and made it work effectively. To the departing members, I offer my sincere thanks for their dedicated service to the public during their time on the Council.

Sincerely,

Melissa Gillespie
Chief Judge, Provincial Court of British Columbia
Presiding Member, Judicial Council of British Columbia

BC's Judicial Council

The Judicial Council of British Columbia was established on July 21, 1970 and held its first meeting on August 10, 1970. Its creation was significant – not just in BC, but across Canada.

Within British Columbia, the Council provided the foundation of the Provincial Court's judicial independence. To keep judges at arm's length from government, the *Provincial Court Act* of 1969 transferred responsibilities for screening candidates for judicial appointment and for judicial discipline from the Attorney General to the new Council.

Nationally, BC's Judicial Council has often served as a model for judicial appointment processes to other courts. When it was established, its outstanding feature – a statutory requirement that the government can only appoint a judge who has been screened and recommended by the Judicial Council – was found nowhere else in Canada.

BC's Judicial Council has also led the country in transparency through the publication of detailed annual reports, including demographic information about applicants, since the 1990s.

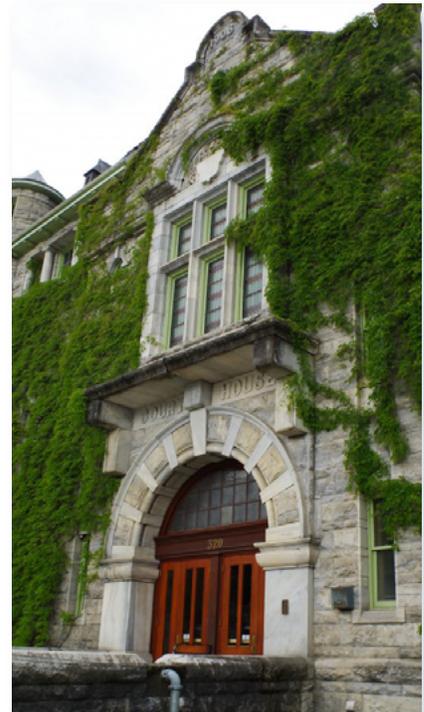
Each year the Judicial Council issues a report to the Attorney General and the public. To mark the Council's 50th anniversary, this report includes a look back at highlights of the last five decades in addition to information on its membership and activities in 2020. It also examines interesting long-term trends in applicants' characteristics.

Responsibilities

The role of the Judicial Council of British Columbia is to improve the quality of service provided by the judicial officers of the Provincial Court (judges, judicial justices, justices of the peace, and judicial case managers).

The [duties](#) of the Judicial Council under the *Provincial Court Act* are:

- to recommend and advise the Lieutenant Governor in Council (the provincial cabinet) on the appointment of Provincial Court judges, judicial justices, and justices of the peace;
- to oversee the delivery of education for judicial officers;
- to maintain a judicial Code of Ethics;
- to consider proposals for improving the Court's judicial services; and
- to undertake inquiries into the conduct of judicial officers when necessary.



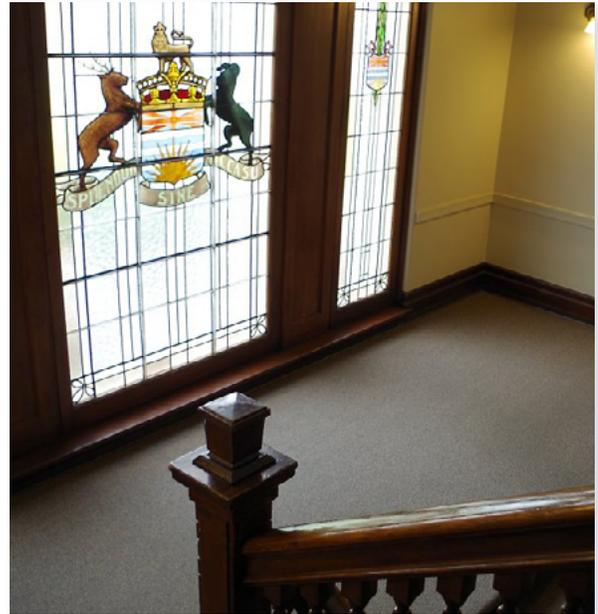
Nelson Court House

Credit John Deacon, QC

Members

The Judicial Council is composed of judges, lawyers, and lay persons, representing perspectives from both within and outside the judiciary. Four of its nine members are appointed by the Lieutenant Governor in Council. The other members, designated by the [Provincial Court Act](#), are the Chief Judge, an Associate Chief Judge, the president of the Provincial Court Judges' Association of BC, and the presidents (or their nominees) of the Law Society of BC and the Canadian Bar Association, BC Branch.

For more information on the operation of the Provincial Court of British Columbia, please refer to the Court's [website](#) and the [Court's Annual Reports](#).



Vernon Law Courts

Credit John Deacon, QC



Powell River Law Courts

Credit John Deacon, QC

50 Years of Dedication to Ensuring Exceptional Judicial Service

For 50 years, BC's Judicial Council has served as a national model - with its early establishment of an independent appointment process and adoption of a Code of Ethics, its progressive approach to judicial education, and its commitment to transparency and accountability – all demonstrated by the activities noted here.

1970s

The Judicial Council of British Columbia was established with membership including lay persons.

The Council included legal training as a requirement for judges' appointment (the Court previously included former lay magistrates without legal training).

In 1976 adoption of a Judicial Code of Ethics by the Council and the Provincial Court Judges Association made BC's Provincial Court the first in Canada to have a Code of Ethics.

1980s

The Council began making submissions on application trends and the Court's work to the periodic Judicial Compensation Advisory Committees established by legislation in 1986.

The Council examined judicial education, encouraging BC Provincial Court judges' initiatives to use adult education techniques to improve its effectiveness, and to introduce social context and diversity programs to Canadian judicial education.

1990s

The Council updated the Code of Ethics in 1993/94.

The Council began publishing [Annual Reports](#), with the first covering 1996 – 1998 and including criteria for appointment, judicial education programs, and encouragement to Indigenous lawyers and those with diverse backgrounds to apply for appointment.

In 1999 the Council began providing applicants an opportunity to indicate on a voluntary basis whether they were members of equity groups, including race, culture, disability, and sexual orientation. Annual reports posted on the Court's website began including applicants' demographics.

2000s

In 2001 the Council adopted a procedural bylaw to standardize its review and approval processes, and published the bylaw in its annual reports and on the Court's website.

The Council updated and expanded criteria for appointment of [judges](#) and [judicial justices](#), increasing minimum qualifications for judicial justice applicants to include a law degree and at least five years legal practice or related experience.

The Council stepped up its efforts to promote a more diverse Court and to encourage applicants from all walks of life.

The Council reviewed appointment processes for judges and other judicial officers, and re-appointment application processes by retired judges, and updated application packages.

2010s

In 2012 the Council made a written submission to the [BC Justice Reform Initiative](#) conducting a review of BC's justice system, including concerns about the ongoing reduction in judicial resources in the Provincial Court.

The Council further expanded its efforts to increase diversity on the Court, seeking assistance from the Law Society of British Columbia and the Canadian Bar Association, BC Branch, to encourage a broad range of applicants representative of the general population.

In a 2013 [resolution](#) on Equality in Judicial Appointments, the Canadian Bar Association cited the Council's publication of demographic statistics on applicants for appointment in its annual report as a model of transparency in the judicial appointments process.

Application forms had included information on applicants' experience with diversity since 1999, but in 2013 the Council amended the forms to include a specific voluntary question about diversity factors, and then reported this information in its annual reports.

After consultation with judicial officers, in 2014 the Council adopted the [Ethical Principles for Judges](#) published by the Canadian Judicial Council (CJC) to guide judicial behaviour in and out of Court.

In 2017 the Council adopted online [application forms](#) to streamline and speed up the process for applicants and the Council members, making BC's the first judicial application process in Canada to replace all paper forms and documents.



Prince Rupert Law Courts

Credit John Deacon, QC

2020s

In 2020, the Council responded to the COVID-19 pandemic flexibly, continuing its work with socially distanced meetings and interviews, and transitioning to virtual proceedings.

How many?

applications has the Council received for appointment as a Provincial Court judge since 1995?

1318

interviews has the Council conducted with applicants for appointment as a judge since 1999?

596

applications has the Council received for appointment as a Provincial Court judicial justice since 2002?

157

Long-term Trends

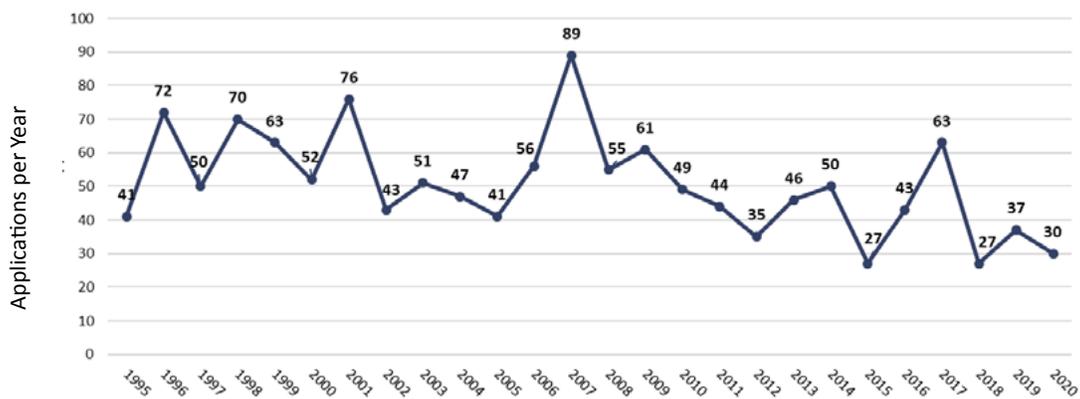
The Judicial Council’s annual reports generally include an analysis of application trends during the preceding decade. The 50th anniversary seems a good time to reflect on trends over a longer period. Data is not readily available for the Council’s first 25 years, but data collection and retention has improved and expanded over time. Some data is available beginning in 1995 and some in 1999, so the time periods covered in the following figures will vary.

Applications for Appointment as a Provincial Court Judge

Figure 1 below shows the total number of judicial applicants per year over a 25 year period. The Judicial Council has received an average of 51 applicants a year and a total of 1318 applications since 1995.

While there is no evidence of reasons for variations in the annual number of applicants, they sometimes coincide with identifiable events. For example, in 2017 a large influx of applications was received following the announcement of the new online application system which urged applicants to submit their paper applications before the launch date. The application rate also increased in both 2001 and 2006, years when Judicial Compensation Commission hearings resulted in substantial increases in judges’ compensation, and it continued to increase in 2007.

Figure 1: Total Applications per Year (1995 - 2020)^{1, 2}



1. Data are preliminary and subject to change. Small fluctuations in the reported totals and/or percentages are expected due to continuing improvements in data quality.

2. Data source: JC Database.

Applicants' Gender

Since 1995 the Judicial Council has received 834 applications to be a Provincial Court judge from applicants who identify as male and 484 from applicants who identify as female.

Over the past 25 years, the average number of judicial applications received per year is 32 from applicants who identify as male and 19 from applicants who identify as female.

The gap between male and female applicants is closing over time. Although female applicants make up an increasing percentage of applications, the average number of female applicants per year has been relatively consistent over time. As the dashed trend lines depicting averages in Figure 2 show, the gap is closing mainly due to the decreasing number of applications from males over time.

Figure 2: Number of Applications by Gender (1995 - 2020)

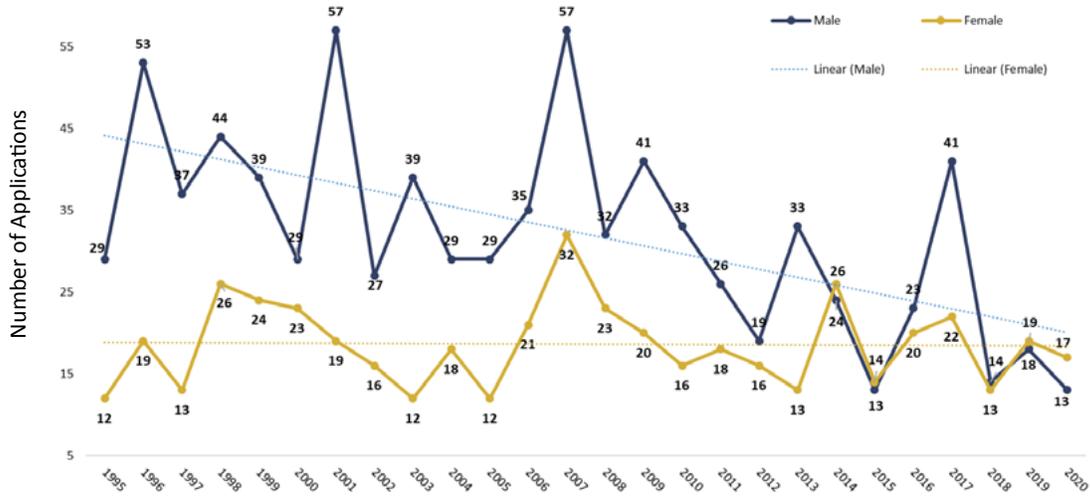
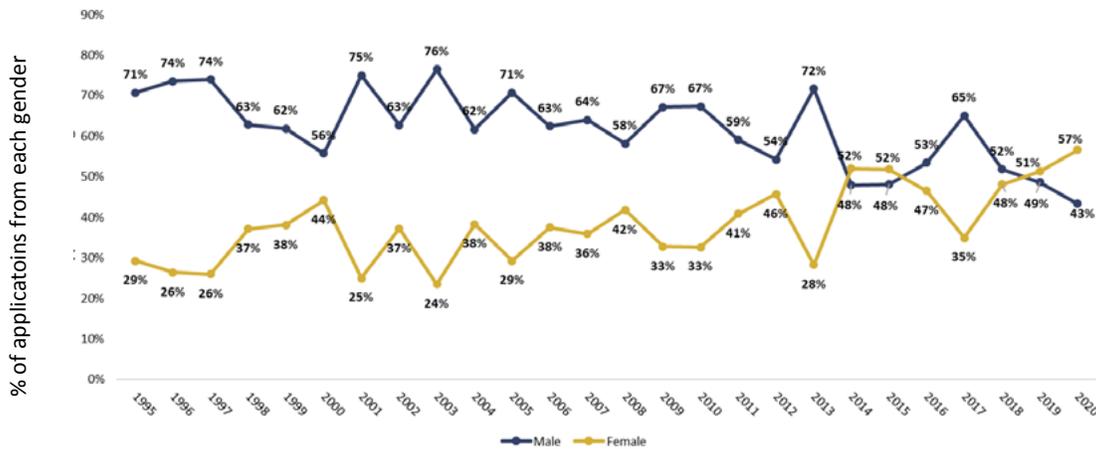


Figure 3: Percentage of Applications by Gender (1995 - 2020)

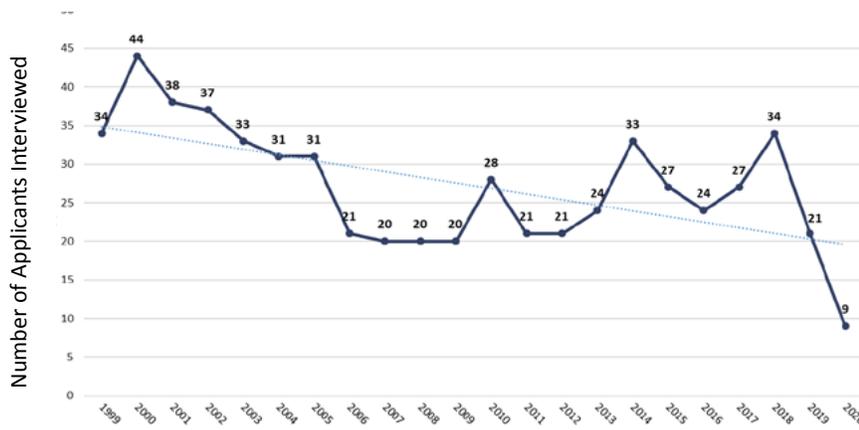


Interviews Conducted

Until 1996 Judicial Council interviewed all applicants, but it then decided to conduct a preliminary review of applications to determine whether an interview was warranted.

Since 1999, the Judicial Council has conducted 596 interviews. The Council interviews an average of 27 applicants per year. Interviews were suspended for several months during 2020 due to COVID-19, resulting in an unusually low number.

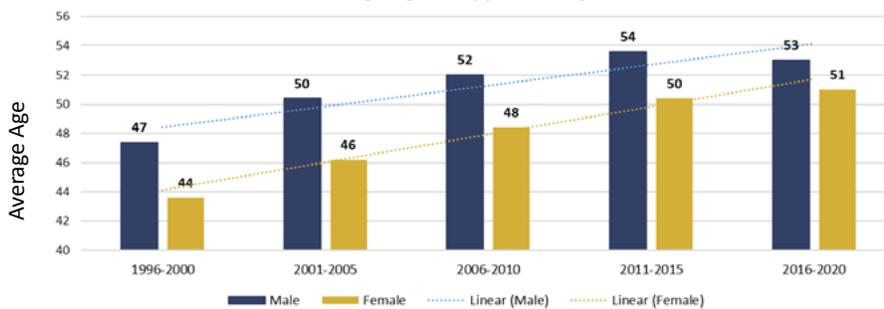
Figure 4: Total Judicial Interviews per Year (1999-2020)³



Applicants’ Age and Experience

The average age of a judicial applicant from 1995 to 2020 was 49 (51 for male identifying applicants and 48 for female identifying applicants). The average age for all applicants has increased over time. The highest average age was 56 for male applicants in 2012 and 2019. The youngest average age was 41 for female applicants in 1996.

Figure 5: Average Age of Applicants by Gender by 5 Year Increment (1996 - 2020)

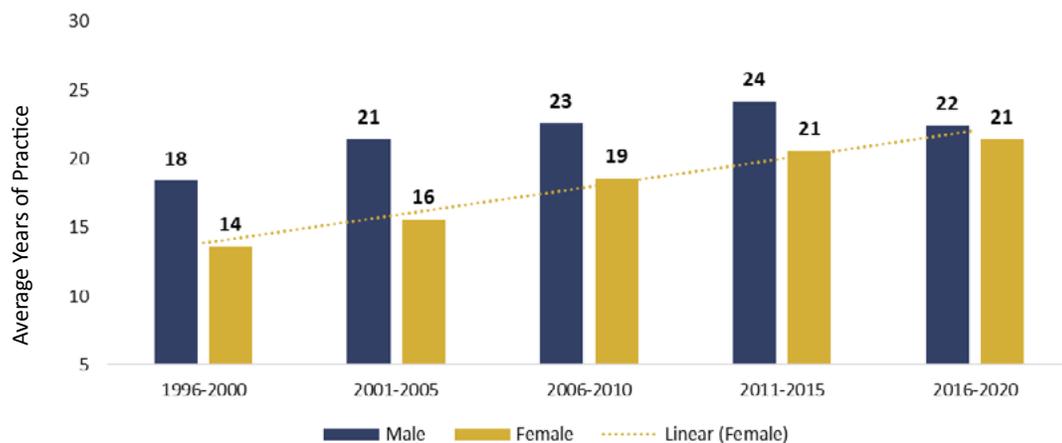


3. Data are preliminary and subject to change. Small fluctuations in the reported totals and/or percentages are expected due to continuing improvements in data quality.

From 1995 to 2020, judicial applicants had an average of 20 years experience working as lawyers (“legal practice”). Males had an average of 22 years of legal practice and females averaged 18 years. The average length of legal practice experience is increasing over time for all applicants, and particularly for females.

In the past five years, the average years of practice for female and male applicants has become more aligned.

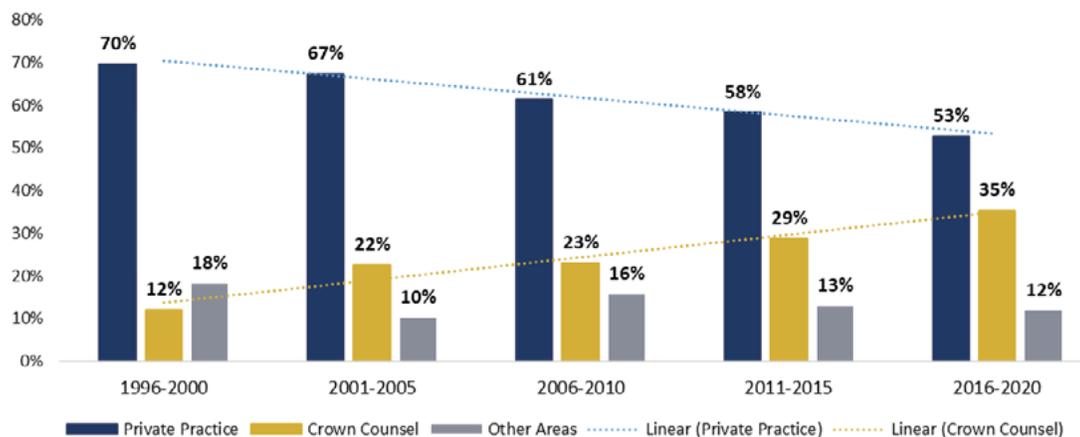
Figure 6: Average Years of Legal Practice by Gender by 5 Year Increment (1996 - 2020)



From 1995 to 2020, on average, 62% of judicial applicants' experience was from private practice, 24% from Crown counsel, and 14% from other legal areas.

The percentage of applicants coming from private practice has declined over time and the percentage from Crown has increased. These percentage changes result largely from a decrease in the number of applicants coming from private practice over time.

Figure 7: Percentage of Applicants by Area of Practice by 5 Year Increment (1996 - 2020)



Since 1995, on average, 65% of male applicants have come from a private practice background, 21% from Crown counsel, and 14% from other legal areas. On average, 57% of female applicants have had private practice experience, 28% Crown counsel experience, and 15% experience in other areas.

The percentage of applicants coming from private practice is decreasing, and the percentage coming from Crown counsel is increasing for all applicants.

Figure 8: Percentage of Male Applicants by Area of Practice by 5 Year Increment (1996 - 2020)

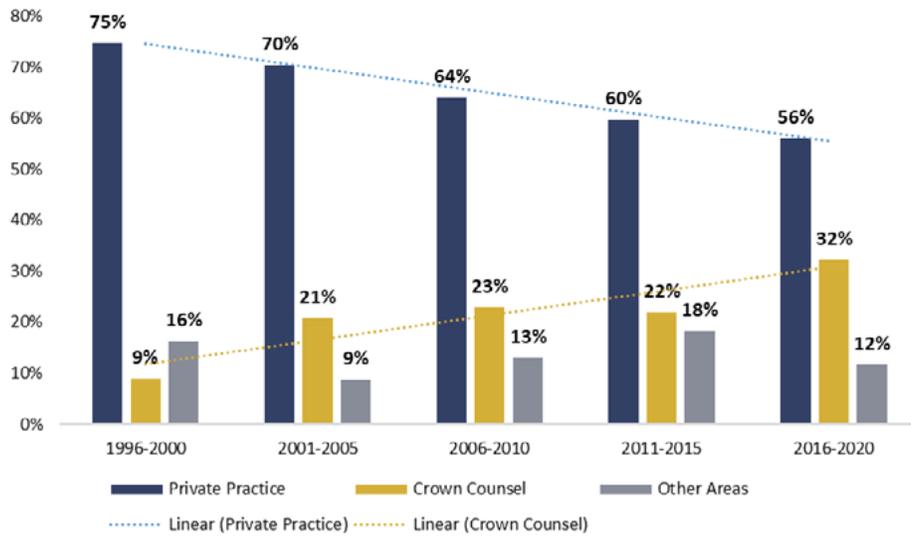
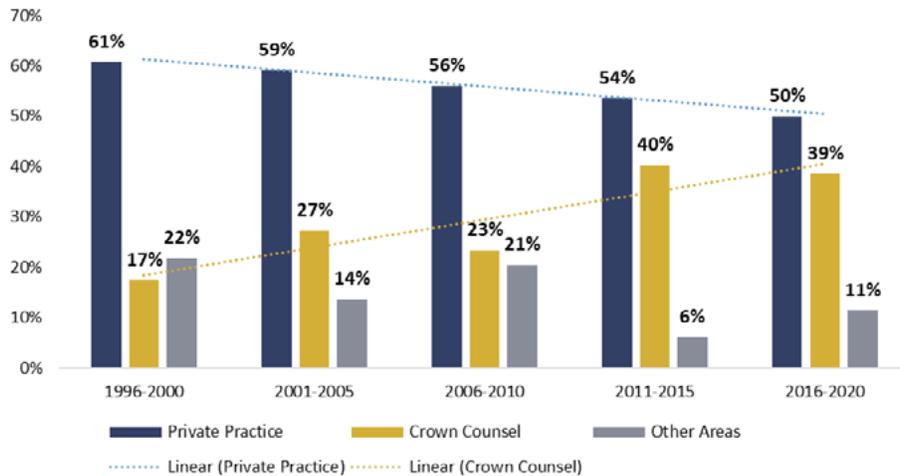


Figure 9: Percentage of Female Applicants by Area of Practice by 5 Year Increment (1996 - 2020)



Appointments

The Judicial Council maintains a list of those applicants who are recommended for appointment and when a vacancy arises the provincial Cabinet (on the recommendation of the Attorney General) makes the judicial appointment from this list. Since 1996, on average four male applicants and three female applicants have been appointed as a Provincial Court judge each year. On average, 61% of Provincial Court judge appointments have identified as male and 39% have identified as female.

The average percentage of females appointed as a judge has increased over time, averaging 46% of appointments between 2006 and 2020, as opposed to 28% of appointments between 1996 and 2005.

Figure 10: Percentage of Appointments by Gender (1996 - 2020)⁴

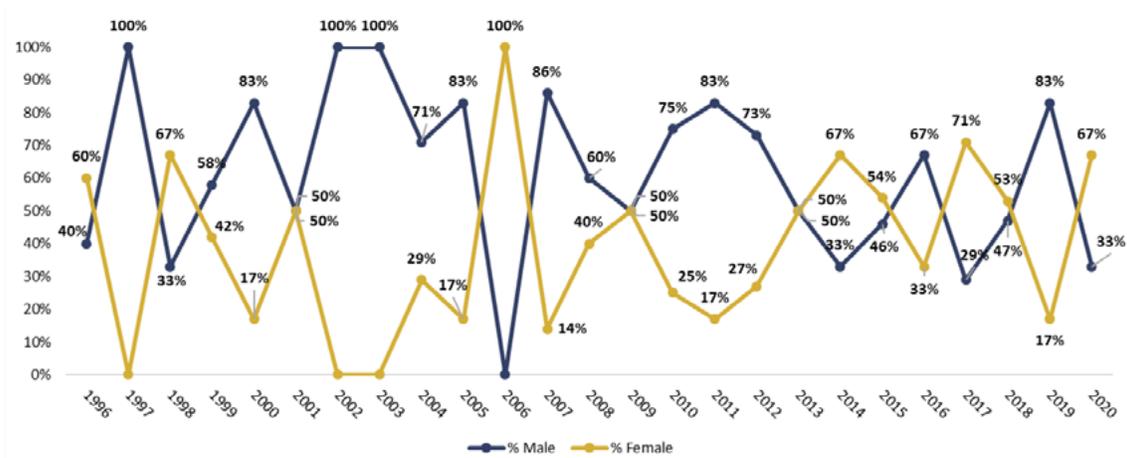
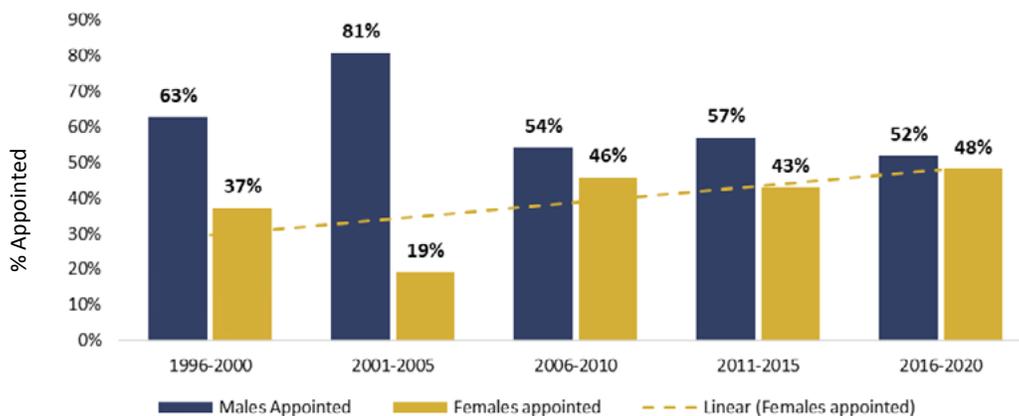


Figure 11: Average Percentage of Appointments by Gender by 5 Year Increment



4. Data are preliminary and subject to change. Small fluctuations in the reported totals and/or percentages are expected due to continuing improvements in data quality.

Applications for Appointment as a Provincial Court Judicial Justice

The office of judicial justice of the Provincial Court was created by amendments to the *Provincial Court Act* in 2001.⁵ Data on applications for appointment as a judicial justice is available from 2002 through 2020.

Since 2002 the Judicial Council has received a total of 157 applications for appointment as a judicial justice. It receives an average of eight applications annually and interviews three. On average, the provincial government appoints two judicial justices per year. However, as Figure 12 shows, the volume of applications tends to fluctuate, rising significantly when the Judicial Council issues a call for applications.

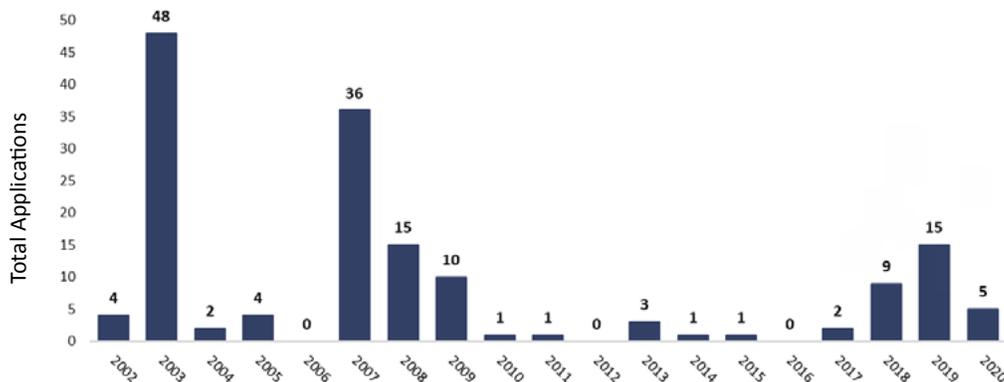
Most years see fewer than five applications, but there was a huge spike in 2003. The assignment of search warrant applications and bail hearings to judicial justices led to an increase in the number needed and the Judicial Council had advertised for applicants.

Although judicial justices were originally all full-time judicial officers, the *Provincial Court Act* was amended in 2008 to permit their appointment either full-time to age 75, or part-time for a ten-year term. The *Act* was amended in 2017 to extend the term to 12 years and amended again in 2019 to reduce the term to ten years and allow re-appointment for a second ten-year term.

The next increase in applications occurred from 2007 to 2009, after the Council advertised in 2007, encouraging lawyers with at least five years' legal practice experience to apply for part-time appointment. The number of applications plummeted in 2010 following the appointment of 17 part-time judicial justices in 2007 and 2008.

After those term appointments expired, the volume of applications rose again in 2018 and 2019, reflecting both applications for re-appointment and response to a call for applications from across Canada by the Judicial Council.

Figure 12: Judicial Justice Applications (2002 - 2020)



5. Before this, from 1975 to 2001, some justices of the peace, known as “sitting justices of the peace”, were authorized by the Chief Judge to conduct trials of traffic tickets, bylaw informations, specific small claims and family court matters, and after 1997, bail hearings and matters involving custodial sentences.

2020 By the Numbers

Applications for appointment as a Provincial Court judge

30
applications received in 2020 (17 women – 13 men)

38
applications reviewed (includes some from 2019)

19
approved for interview

9
interviews conducted (7 women – 2 men)

5
applicants recommended

25
average number of recommended applicants in “pool” from which government appoints judges

6
judges (4 women – 2 men) appointed by BC Government in 2020



Diversity factors volunteered by

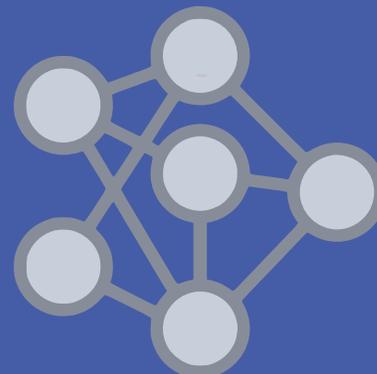
16
of 30 applications for appointment as a judge:

5
Indigenous

8
ethnic or visible minority group

6
diverse group

(total exceeds 16 as some applicants made more than one response)



By the Numbers 2020

Age & Experience

50

average age of applicants
for appointment as a judge

20

average years of legal
practice experience

50%

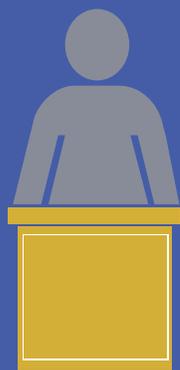
applicants from
private practice

40%

from Crown counsel

10%

from other areas
of legal practice



Applications for appointment as a judicial justice

5

applications received

3

interviews conducted

2

applicants recommended

3

judicial justices appointed
by BC government
from those
recommended
in last 2.5 years



Applications for appointment as a Court Services Branch justice of the peace

15

applications received

15

applicants recommended

Members of the Judicial Council

The Judicial Council members in 2020 were:

The Honourable Chief Judge Melissa Gillespie, Presiding Member

The Honourable Associate Chief Judge Susan Wishart, Alternate Presiding Member

The Honourable Judge Bonnie Craig, President, Provincial Court Judges' Association of BC (2020)

Ms. Nancy Merrill, QC, Representative, Law Society of BC

Mr. Kenneth Armstrong, QC, President, Canadian Bar Association, BC Branch

Ms. Patricia Schwartz

Mr. Gordon McRae

Mr. Patrick Kelly

Mr. Alan Kazuta



Back row, left to right: Ms. Patricia Schwartz; Mr. Alan Kazuta; Ms. Nancy Merrill, QC, Judge Bonnie Craig, Mr. Kenneth Armstrong, QC
Front row, left to right: Associate Chief Judge Susan Wishart, Mr. Patrick Kelly, Chief Judge Melissa Gillespie, Mr. Gordon McRae

Membership of the Judicial Council

The Honourable Chief Judge Melissa Gillespie

Presiding Member

Appointed Chief Judge October 19, 2018

Chief Judge Melissa Gillespie was born and grew up in Calgary, Alberta. She obtained a Bachelor of Commerce from Queen's University in Kingston, Ontario in 1985, an LLB from the University of Toronto in 1989, and was called to the BC bar in 1991. For more than 20 years Chief Judge Gillespie served as Crown counsel in the Fraser region of British Columbia, working primarily in Surrey and New Westminster. In 2005 she became Regional Crown Counsel, and in 2009 she was appointed Queen's Counsel.

Chief Judge Gillespie was appointed to the Provincial Court in 2012, sat in Surrey and the Fraser Valley, and was appointed an Associate Chief Judge of the Provincial Court in 2016, Acting Chief Judge on May 7, 2018, and Chief Judge on October 19, 2018.

For many years she has represented the Court on the board of directors of the BC Justice Education Society (JES). Since 2015 she has worked with JES to provide ongoing education and training to police, prosecutors, and magistrates in [Guyana](#), to strengthen that country's justice system.

Chief Judge Gillespie also served on the BC Provincial Court Judges' Association executive and participated in a number of Court committees including the Criminal Law Committee. She is now a member of the Canadian Council of Chief Judges where she chairs its Court Performance Committee.



Chief Judge Gillespie

In addition, she has been involved in providing education for members of the judicial and legal communities including programs hosted by the Continuing Legal Education Society of BC, Trial Lawyers Association, the Advocates Society, Canadian Bar Association, Criminal Defence Advocacy Society, National Judicial Institute, and the Canadian Institute for the Administration of Justice.

Chief Judge Gillespie's vision and leadership guided the Provincial Court steadily through the complex access to justice issues created by the pandemic in 2020, achieving not just substantial backlog reduction by the end of the year, but significant progress on new initiatives.

The Honourable Associate Chief Judge Susan Wishart

Alternate Presiding Member

Appointed to the Judicial Council July 1, 2016

Associate Chief Judge Susan Wishart obtained a Masters of Science degree from Queen's University in 1990, followed by a law degree from the University of Victoria in 1994. Called to the BC bar in 1995, her practice experience focused on criminal defence law. She was involved with the Canadian Bar Association, BC Branch, serving as chair of the criminal section in Victoria for many years and was a member of its Executive Committee at the time of her appointment.

Associate Chief Judge Wishart was appointed to the Provincial Court of British Columbia in March of 2009, serving Victoria, Duncan, and the Western Communities. In November of 2014 she was elected president of the BC Provincial Court Judges' Association and in that capacity served as a member of the Judicial Council for the year 2015.

In May 2016, Judge Wishart was appointed Associate Chief Judge and re-appointed to the Judicial Council in July 2016. As Associate Chief Judge, she serves on various committees including access to justice initiatives, court technology, and business intelligence. She has worked with government, stakeholders, and judges on the development and implementation of new Provincial Court Family Rules. She is also involved with the specialized courts across the province including Indigenous and First Nations sentencing courts, the Aboriginal Family Healing Court Conference child protection project in New Westminster, Drug Treatment and Downtown Community Courts in Vancouver, and Victoria Integrated Court.



Associate Chief Judge Susan Wishart

The Honourable Judge Bonnie Craig

President, Provincial Court Judges' Association
Appointed to the Judicial Council January 1, 2020

Judge Bonnie Craig was appointed to the Provincial Court in November 2012. She served in Port Coquitlam and New Westminster until 2015, when she was transferred to the Vancouver region, with chambers in Richmond. Judge Craig was elected president of the BC Provincial Court Judges' Association in October 2019 and served on the Judicial Council in that capacity throughout 2020.

Judge Craig spent several years on the Criminal Law Committee and was one of the founding members of the Criminal Law "Boot Camp". She continues to teach judges about criminal law in educational programs held for new judges each year.

Judge Craig was raised in the Lower Mainland. She obtained her Bachelor of Science in 1987, and then her law degree in 1992 from the University of British Columbia. Her main area of practice was as a criminal defence lawyer. She also did some family law, human rights law, ad-hoc prosecution work, and work for a First Nation. She spent several years on the executive of the criminal section of the Canadian Bar Association, BC Branch, in Vancouver, serving as chair in 2000.



Judge Bonnie Craig



Chilliwack Law Courts

Credit John Deacon, QC

Ms. Patricia Schwartz

Member

Appointed to the Judicial Council as a judicial justice December 31, 2010 - December 31, 2016; re-appointed as a member December 31, 2016

Patricia Schwartz has extensive experience in the Provincial Court of British Columbia, having served as the acting operations manager at the Office of the Chief Judge and as a judicial case manager before being appointed a judicial justice in 2001. She then presided in Traffic Court and at the Justice Centre, and also served as Administrative Judicial Justice for a number of years until her retirement.

In the community, she has served on the board of directors for City Hall Daycare, the École Pauline Johnson After School Care program, and the Vancouver Skating Club. She attended Capilano University, has completed government management courses, and attended bi-annual seminars for judicial justices.

Ms. Schwartz retired after 35 years of working in the Provincial Court. She is proud to continue her work on the Judicial Council as a lay member.



Patricia Schwartz

Mr. Gordon McRae

Member

Appointed to the Judicial Council November 7, 2016

Gordon McRae retired from the Royal Canadian Mounted Police (RCMP) in June 2009 after a 40 year career. He was appointed to the Immigration and Refugee Board in January 2010 and served until March 2016 as an adjudicator in the Refugee Protection Division and later the Refugee Appeals Division.

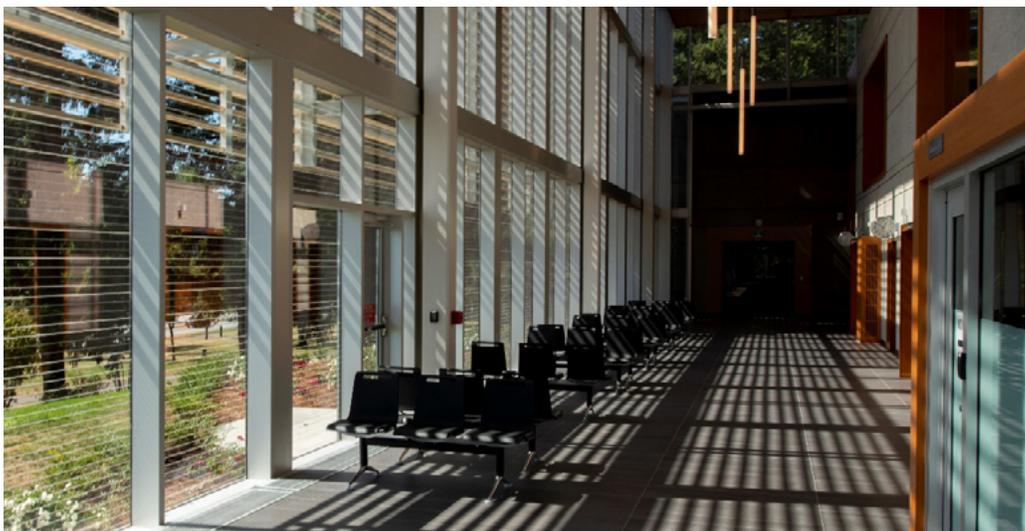
Before his retirement from the RCMP, Mr. McRae was the superintendent in charge of the economic crime section for British Columbia. Previously he served as an inspector for the North Vancouver Detachment, inspector for the economic crime section in Newfoundland and staff sergeant for the commercial crime section in Saskatchewan.

He was seconded to the United Nations in 2000 and served as the Canadian Contingent Commander and Director of Operations for the United Nations Mission in Kosovo (2000-2001).

Mr. McRae is a recipient of the Order of Merit for Police Forces (2007), the RCMP Long Service Medal, the Canadian Peace Keeping Medal, the United Nations Medal (Kosovo), and received the Deputy Commissioner's Commendation. Mr. McRae holds his Bachelor of Human Justice (Criminology) from the University of Regina.



Gordon McRae



Surrey Courthouse

Credit Cliff MacArthur

Mr. Patrick Kelly

Member

Appointed to the Judicial Council December 31, 2016

Patrick Kelly is a member of the Leq:amel First Nation in the Sto:lo Nation. He was appointed to the Judicial Council in December 2016 and as director of the BC Oil and Gas Commission in November 2018. He was also board chair and chief executive officer of the Coastal First Nations from 2000 to 2018.

Mr. Kelly operates a consulting business and was a senior advisor to a renewable energy company and to the Lieutenant Governor of BC. Previously, he was Director, Strategic Planning and Communications, British Columbia region with Indian and Northern Affairs Canada. In addition, Mr. Kelly was manager, Cultural Relations and Corporate Training in BC Hydro's Aboriginal Relations department and executive director of the BC chapter of the Canadian Council for Aboriginal Business.

Active in the community, Mr. Kelly is past board chair, Victoria Foundation, past president of British Columbia Golf, co-chair of the Indigenous Program Council of the Banff Centre, a member of the International Advisory Board of the University of Victoria Gustavson School of Business, and advisor to the Sauder School of Business, University of British Columbia.

In March 2019, Mr. Kelly was elected to the board of Golf Canada. He has held executive positions with the Mission Chamber of Commerce, the Mission Heritage Association, the Mission Indian Friendship Centre, and the Coqualeetza Cultural Centre. He is the founding president of the BC Aboriginal Golf Association. Previously, he served as a bencher to the Law Society of BC, a director of the BC Buildings Corporation, and a governor with Vancouver Community College. In 1982, he attended dinner with Queen Elizabeth II as a young achiever for Canada at the ceremony to repatriate Canada's constitution. In 2009, Mr. Kelly was the recipient of the BC Community Achievement Award.



Patrick Kelly

Mr. Kenneth Armstrong, QC

President, Canadian Bar Association, BC Branch

Appointed to the Judicial Council January 1, 2020

Called to the bar in 1996, Mr. Armstrong has focused his practice on motor vehicle accident litigation since 1997, while also practicing some employment law and general commercial litigation. He is currently Managing Partner at Armstrong Naish Trial Lawyers in Vancouver, where his practice focuses on defending major loss motor vehicle accident claims and appellate work. He has appeared before all levels of the courts in British Columbia and the Tax Court of Canada, as well as before various tribunals. He has taught lawyers on aspects of motor vehicle accident litigation, including conducting jury trials.

Mr. Armstrong has been heavily involved in the affairs of the Canadian Bar Association, BC Branch. He was President (2019-20 term). He served over 20 years on Provincial Council (as a section chair and as a county representative), including ten years on the Branch Executive Committee. He was co-chair of the 2005 Canadian Legal Conference in Vancouver. He was also President of the New Westminster Bar Association in 2004/05. Mr. Armstrong was appointed Queen's Counsel in 2020.

Mr. Armstrong was born in Vancouver, BC and has lived most of his life in Metro Vancouver. He obtained a Bachelor of Arts degree from UBC in 1991, obtained a Bachelor of Laws degree from the University of Alberta in 1995, and promptly moved back to Metro Vancouver to practice law.

Away from law, he is a committed youth sports volunteer, with over 25 years of youth sports volunteerism in soccer and Little League baseball. In addition to coaching and serving on boards, he is an accomplished Little League umpire. He was named to Little League BC's Roll of Honour in 2008 and he was named a Little League BC Life Member in 2019.



Ken Armstrong

Ms. Nancy Merrill, QC

Representative, Law Society of BC

Appointed to the Judicial Council January 1, 2019

Nancy Merrill was born and raised in Windsor, Ontario and moved with her family as a teenager to Niagara Falls, Ontario. She graduated with a degree in psychology from the University of Waterloo, a law degree from the University of Windsor, and a master's degree in tax law from Osgoode Hall Law School. Ms. Merrill was called to the Ontario bar in 1990 and the British Columbia bar in 1991. For over 25 years, she has been a partner with Merrill, Long and Company in Nanaimo, where she practises predominately in the areas of family law, estate litigation, and mediation and arbitration. Ms. Merrill also worked as a federal prosecutor in Ontario when she returned to complete her master's degree. She currently sits on the Health Professions Review Board.

Throughout her career, Ms. Merrill has consistently worked on a variety of community boards and committees. This work has reflected the diversity of her interests, from protection of animals with the Society for the Prevention of Cruelty to Animals, of which she remains a life member, to working on a number of legal projects dealing with rights of children. This includes her most recent work, which is an international project in conjunction with the Canadian Embassy in Havana, Cuba focusing on rights of children.

Ms. Merrill is a life bencher of the Law Society of British Columbia and is its past president (2019). She received her Queen's Counsel designation in 2015 and is the 2019 recipient of the University of Windsor Alumni Access to Justice Award.



Nancy Merrill

Mr. Alan Kazuta

Member

Appointed to the Judicial Council November 15, 2018

Alan Kazuta retired as director, human resources at Western Canadian Coal Corporation. His previous assignments were with Westshore Terminals Ltd. and White Spot Limited. Mr. Kazuta has worked in the human resources/labour relations (HR/LR) field for over 30 years with many of those years in the most senior HR/LR position in the applicable company. He was responsible for all aspects of HR/LR including recruitment, training, compensation, benefits, and collective bargaining.

He has represented companies as the chief negotiator in collective bargaining in both the provincial and federal sectors as well as being the company representative in provincial and federal labour board and arbitration hearings. Mr. Kazuta also served on the BC Labour Relations Board as a part time management representative on mediation and adjudication hearings.

He currently serves as president/treasurer of Canada Shotokan Karate Society and as a board member for Shotokan Karate of America. Mr. Kazuta obtained a Bachelor of Commerce degree from the University of BC in the Organizational Behaviour and Industrial Relations discipline.



Alan Kazuta

Judicial Council Personal Profiles

Each annual report includes reflections by two or three current Council members. In addition to those featured in this report – Patricia Schwartz, Gordon McRae, and Kenneth Armstrong QC – see Judicial Council's [2019 Annual Report](#) for personal profiles of Alan Kazuta and Nancy Merrill QC, and its [2018](#) report for Patrick Kelly's (T'esots'en) profile.

Patricia Schwartz

Member

Appointed to the Judicial Council December 31, 2010

After 35 years working with the Provincial Court of British Columbia, I retired as an Administrative Judicial Justice who presided over traffic and bylaw matters. One of the highlights of my career was when I was appointed to the Judicial Council in December 2010. When my appointment expires in December 2022, I'll be one of the longest serving members of the Judicial Council.

The members of the Judicial Council may have changed over the years, but the commitment and dedication to selecting the best candidates for the Provincial Court judiciary has remained constant. Each Council member is keenly aware of the importance of ensuring that our judiciary is of the highest calibre, not only for their legal knowledge, but for their empathy and compassion for the people who appear before them. The Council also recognizes the need for transparency and the importance of having a judiciary that reflects the diversity of our population to strengthen the fairness of the bench and enhance the public's confidence in the administration of justice.

The workload of the Council is heavy and as a member, you have to love to read. There are detailed applications, lengthy reference reports, background information and other materials to review for each judicial candidate. Based on those written materials, the Judicial Council determines which candidates will be interviewed. After the interview we then decide whether the candidate will be recommended to the Attorney General for judicial appointment.



“Each Council member is keenly aware of the importance of ensuring that our judiciary is of the highest calibre, not only for their legal knowledge, but for their empathy and compassion for the people who appear before them.”

Patricia Schwartz,
Member

This process became more challenging in 2020 with the onset of COVID-19 and our decision not to hold in-person interviews. In order to keep our work up-to-date and to ensure the health and safety of the interviewees and members of the Council, we began to conduct interviews virtually in January 2021. Given the importance of the candidate's interview, I admit that I was somewhat concerned that with virtual interviews we would lose an important personal connection with each candidate. That was not the case as the technology worked well and any concerns I had were alleviated. The Council members have agreed that we will continue to hold interviews virtually as needed.

Our work is made easier with the help of others. I am grateful to the members of the CBA Advisory Committee for their reference reports which are an important and integral part of the Council's work. And to the staff at the Office of the Chief Judge, many thanks for your administrative and technical support.

It has been a pleasure and a privilege to work with my colleagues on the Judicial Council over the past ten years. They are a diverse and dedicated group who know that their work to ensure the highest quality of judicial appointments in our province is of the utmost importance. Based on my experience, I am confident that the citizens of British Columbia are well-served by the work of the Judicial Council.



Salmon Arm Courthouse

Credit John Deacon, QC

Meetings and Business Conducted

The Judicial Council's process is governed by a [Procedure Bylaw](#) adopted in 2001. The Council meets once a month to review applications for appointment as a Provincial Court judge, judicial justice, and justice of the peace and to interview applicants who have been approved for interview.

With the onset of the COVID-19 pandemic the Council cancelled two meetings and held others in a large conference room or by videoconference in order to comply with provincial health orders. Meetings were held in-person on January 17, February 21, March 13, August 14, and October 9 and virtually on May 15, June 19, September 11, November 19, November 20, and December 11.

In-person interviews were limited during 2020, but in January 2021 the Council began to conduct virtual interviews to avoid creating a backlog while protecting the health of applicants and the Council members.

Members of the Judicial Council regularly speak to legal organizations about the work of the Council and strongly encourage qualified candidates from all backgrounds to consider making an application for judicial office.



Judicial Council members in a virtual meeting

Appointment Process for Provincial Court Judges

In Canada, judges are appointed to provincial courts by the province's Lieutenant Governor in Council (the Lieutenant Governor acting on the advice of the provincial cabinet). In British Columbia, in accordance with section 6 of the [Provincial Court Act](#), the Judicial Council screens and recommends candidates for appointment to the judiciary. The provincial Attorney General selects from the candidates approved by the Judicial Council and makes recommendations to cabinet for appointments.

The process of making a recommendation begins with the Judicial Council receiving an application and proceeds to a rigorous examination of the applicant's professional standing, reputation, abilities, temperament, and other relevant factors. Visit the [Provincial Court website](#) for more information on the appointment process.

The [Provincial Court Act](#) gives the Judicial Council the objective of improving the quality of judicial service. Therefore, the approval process must ensure that only the most exceptional applicants, who are unquestionably capable of meeting the demands of judicial service, are recommended for appointment. The Council has identified a set of criteria and competencies for applicants seeking appointment as a Provincial Court judge.

Criteria:

- At least 10 years in the practice of law or a range of related experience
- Superb legal reputation and a professional record review from the Law Society of British Columbia
- Experience in mediation or alternative dispute resolution
- Respect in the community
- Good health
- Appreciation of and experience with diversity
- Willingness to travel and to sit in all subject areas

Competencies:

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

The Judicial Council attempts to ensure that the diversity of BC's population is reflected on the Provincial Court bench. It analyzes factors such as the applicants' gender, age, ethnicity, residential region, and type of practice. While the Judicial Council considers these factors in its overall assessment of applicants, it does not assign specific weight to them.

Application and Approval Process

Application

The Judicial Application and Reporting System (JARS), launched on September 5, 2017, is the first in Canada to replace all paper forms and documents in the judicial application process with an online system. Applicants can access the application forms and process summaries at: apply.provinciacourt.bc.ca.

Once an application is submitted, an extensive investigation follows. The Council strives to ensure that applicants understand and consent to this.

Re-application

An applicant is eligible to re-apply for appointment three years from the date they submitted their application or 2.5 years from the date of their interview (if an interview was granted). It is common for applicants to re-apply at least once before being appointed by the Lieutenant Governor in Council. Interviewed applicants must advise the Council if at any time they wish to withdraw their application.

Applications and Outcomes

In 2020, the Council received 30 applications for appointment as a Provincial Court judge and reviewed 38 (including some submitted in the previous year). The Council approved 19 applications for interview, interviewed nine, and recommended five for full-time appointment. Six full-time Provincial Court judges were appointed in 2020.⁶

The judicial application forms invite applicants to include information relating to their ethnic or cultural backgrounds on a voluntary basis. In 2020, 16 of the 30 applications included ethnic and cultural information. Five applicants were Indigenous, eight applicants indicated they were members of an ethnic or visible minority group, and six indicated they were members of a diverse group.

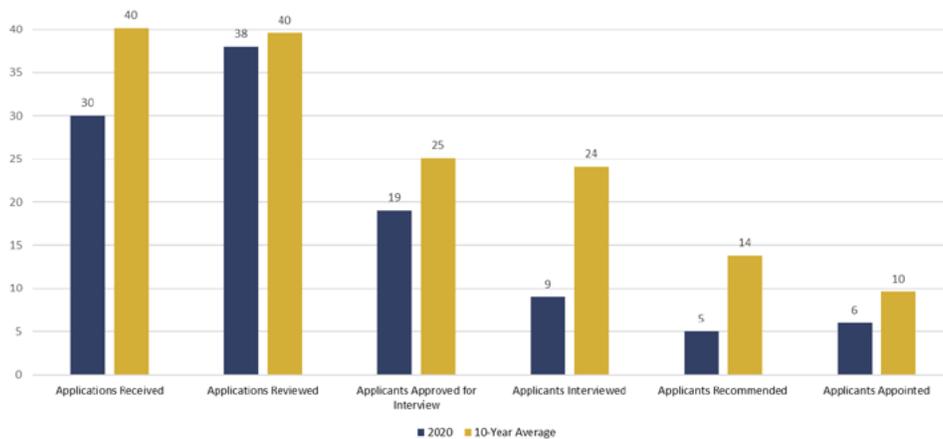
Applications were received from throughout the province in 2020. The Council recommended five applicants for full-time appointment to the Provincial Court bench, two applicants for appointment as judicial justices, and 15 applicants for appointment as Court Services Branch justices of the peace.

6. The requirement to keep individual applicants' outcomes confidential prevents the Council from reporting more detailed information on outcomes in 2020.

The figures that follow reflect the Council’s activities in the 2020 year, but may include reviews, interviews, or appointments of candidates who applied in previous years. Details are included in this report’s following sections.

Figure 13 shows a comparison between 2020 figures and the 10-year average for applications for appointment as a Provincial Court judge (PCJ). Note that slight numerical discrepancies may exist due to figures being rounded to whole numbers.

Figure 13: Applications and Outcomes (2020 and 10-Year Average)⁷



Over the 10-year period from 2011 to 2020, the Council received an average of 40 applications a year for appointment as a judge. The Council reviewed an average of 40, approved an average of 25 for interview, interviewed an average of 24 (60% of applicants) and of those, recommended an average of 14 applicants (35% of total applicants).

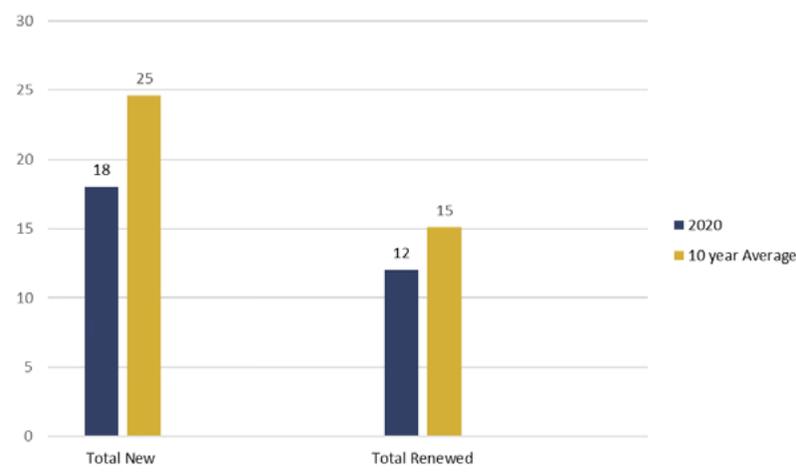
While six judges were appointed in 2020, over the past 10 years, an average of ten Provincial Court judges have been appointed each year, constituting approximately 25% of the average number of total applicants.

7. Data source: Judicial Application and Reporting System (JARS).

New and Renewed Applications

Applicants may re-apply three years from the date they submitted their application; those who are interviewed but not appointed are eligible to re-apply 2.5 years from the date of their interview. Over the past decade, the Judicial Council received an average of 25 new applications and an average of 15 renewed applications. On average over this 10-year period, the Council recommended 36% of new applications compared to 27% of renewed applications.

Figure 14: New and Renewed Applications (2020 and 10-Year Average)



The number of renewed applications from previously unsuccessful applicants in 2020 (12) is greater than the number of renewed applications in 2019 (nine), but lower than the 10-year average. (“Unsuccessful” applicants include those who are not granted an interview, as well as those interviewed but not recommended or appointed.)

Applicants Recommended

In 2020, there was an average of 25 candidates each month on the list of applicants recommended for appointment. As of December 31, 2020, there were 24 candidates on the list: 10 men and 14 women.

Gender

In 2020, the number of female applicants rose above the number of male applicants although it was still slightly below the 10-year average of 18. The number of females reviewed was above the 10-year average while the number received, approved for interview, interviewed, and recommended for appointment was either equal to or below the average.

The number of male applicants in 2020 (13) decreased compared to the previous year and remained well below the 10-year average of 22. The number of males reviewed, approved for interview, and interviewed in 2020 was below the 10-year average.

In 2020, four women and two men were appointed to the bench.

Figure 15 shows applicants by gender in 2020. Note that applications reviewed and approved for interview may have been submitted in the preceding year while those applicants who were interviewed and recommended for appointment in 2020 may have submitted their applications in preceding years.

Figure 15⁸ Male and Female Applicants in 2020

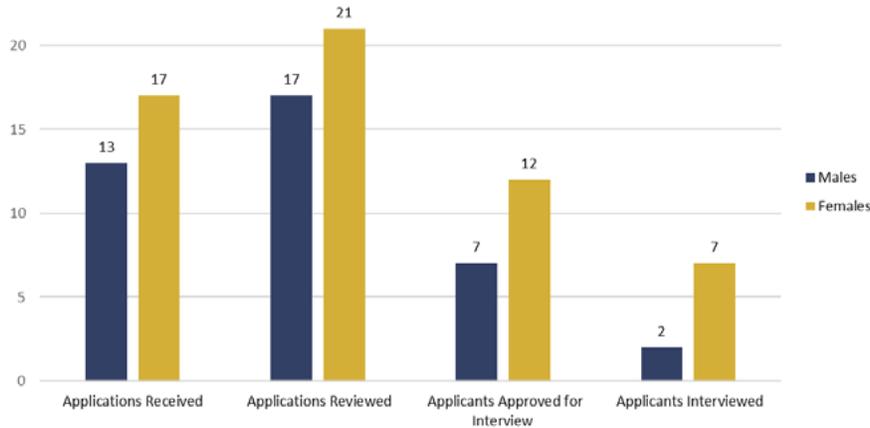
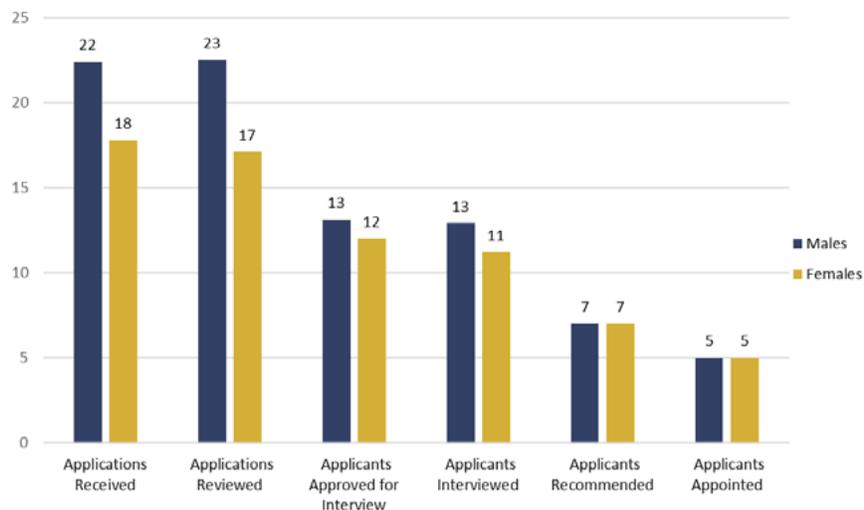


Figure 16⁹ shows 10-year averages for applicants and outcomes by gender. Over the past five years, 26 women and 24 men have been appointed to the Provincial Court bench.

Figure 16: Male and Female Applicants and Outcomes – 10-Year Averages



8. The requirement to keep individual applicants' outcomes confidential prevents the Council from reporting more detailed information on outcomes in 2020.
9. Data are preliminary and subject to change. Small fluctuations in the reported totals and/or percentages are expected due to continuing improvements in data quality.

Gordon McRae

Member

Appointed to the Judicial Council November 7, 2016

I have been involved in the Canadian justice system since joining the RCMP in 1969. During the ensuing forty years I came to appreciate and respect the role that all of the different disciplines play in the quest to deliver justice. Most of us involved in the system have the luxury of being able to focus on one area. The police focus on gathering evidence during the investigative stage. During the trial stage the Crown focuses on the prosecution of the accused and the defense concentrates on presenting the evidence so a reasonable doubt is raised. The only role that is mandated to examine the entirety of the evidence and to adjudicate based on that evidence is the presiding judge.

One of the most difficult and demanding tasks in our justice system is to sit in judgment. Court rulings have significant impact on the lives of the citizens who appear in court and that is why it is imperative that the right people be appointed to the Bench. I was honoured when I was appointed, via an Order in Council, to the Judicial Council for the Provincial Court thus involving me in the extremely important process of screening lawyers who aspire to sit on the Provincial Court bench. As a lay member of the Judicial Council I have the responsibility of representing the people of British Columbia in this extremely important process.

A thorough investigation of the candidates is conducted and the applications are assessed independently by each member of the Judicial Council. The applicants are then interviewed and questioned by each member of the Council. Characteristics such as legal ability, decision making, judicial temperament, efficiency, and ability to communicate, to name a few, are explored.

I have been extremely impressed by the caliber of applicant received by the Council. I have also been impressed with the process that calls for the Judicial Council to identify prospective Provincial Court judges, judicial justices, and justices of the peace to the Attorney General. I can say with confidence that the citizens of British Columbia are well served by this process and that the Provincial Court is well positioned to continue to serve British Columbians in a fair, professional, and impartial manner.

I appreciate the confidence placed in me and wish to acknowledge the strong leadership offered to the Judicial Council by our chair, Chief Judge Melissa Gillespie and our co-chair Associate Chief Judge Susan Wishart. I look forward to continuing to contribute to this key process.



“The only role (in the justice system) that is mandated to examine the entirety of the evidence and to adjudicate based on that evidence is the presiding judge.

One of the most difficult and demanding tasks in our justice system is to sit in judgment. Court rulings have significant impact on the lives of the citizens who appear in court and that is why it is imperative that the right people be appointed to the Bench.”

Gordon McRae
Member

Age, Years, and Area of Practice

The average age of applicants to the Court in 2020 was 49 years for women and 50 years for men. Over the past decade, applicants had an average age of 52 years, with 51 years for women and 53 years for men.

Applicants in 2020 had an average of 20 years in the practice of law: 19 years for females and 20 years for males. From 2011 to 2020 they had an average of 22 years of practice: 21 years for females and 23 years for males.

Applicants to the Court have varied legal experience including private practice, Crown counsel, and other types of legal work. In 2020, applications from private practice accounted for half of the total number of applications, Crown counsel formed 40%, and applications from other areas formed only 10%.

Applicants and New Appointments by Region

The Provincial Court is organized into five geographical regions, in addition to an Office of the Chief Judge (OCJ) region comprised of isolated communities not serviced by other regional centres. Figure 17 demonstrates the number of full-time applications received and appointed from each of the Court's regions.

In 2020, six judicial applicants were appointed to the Court as Provincial Court judges: two to the Fraser region, three to the Northern region, and one to Vancouver Island.



Nanaimo Courthouse

Credit John Deacon, QC

Figure 17: Applicants and Appointments by Region

			Vancouver	Fraser	Northern	Vancouver Island	Interior	OCJ Region	Outside BC
2020	Applicants	#	10	5	5	6	4	0	0
		%	33%	17%	17%	20%	13%	0%	0%
	Appointments	#	0	2	3	1	0	0	0
		%	0%	33%	50%	17%	0%	0%	0%
2019	Applicants	#	11	10	6	7	3	0	0
		%	30%	27%	16%	19%	8%	0%	0%
	Appointments	#	1	2	1	0	2	0	0
		%	17%	33%	17%	0%	33%	0%	0%
2018	Applicants	#	7	10	3	3	4	0	0
		%	26%	37%	11%	11%	15%	0%	0%
	Appointments	#	0	9	4	0	2	0	0
		%	0%	60%	27%	0%	13%	0%	0%
2017	Applicants	#	20	12	7	12	9	0	1
		%	32%	20%	11%	19%	15%	0%	2%
	Appointments	#	0	5	2	1	5	1	0
		%	0%	36%	14%	7%	36%	7%	0%
2016	Applicants	#	9	9	8	6	8	0	1
		%	22%	22%	20%	15%	20%	0%	2%
	Appointments	#	1	3	1	3	1	0	0
		%	11%	33%	11%	33%	11%	0%	0%
2015	Applicants	#	7	10	3	2	5	0	0
		%	26%	37%	11%	7%	19%	0%	0%
	Appointments	#	1	6	2	1	1	2	0
		%	8%	46%	15%	8%	8%	15%	0
2014	Applicants	#	15	7	5	11	10	0	2
		%	30%	14%	10%	22%	20%	0%	4%
	Appointments	#	1	2	1	1	0	1	0
		%	17%	33%	17%	17%	0%	17%	0%
2013	Applicants	#	21	4	5	8	8	0	0
		%	46%	9%	11%	17%	17%	0%	0%
	Appointments	#	1	4	0	2	3	0	0
		%	10%	40%	0%	20%	30%	0%	0%
2012	Applicants	#	13	4	4	8	5	0	1
		%	37%	11%	11%	23%	14%	0%	3%
	Appointments	#	0	5	4	1	1	0	0
		%	0%	45%	36%	9%	9%	0%	0%

Diversity

The Judicial Council recognizes the importance of having a judiciary that reflects British Columbia's diverse population. Not only does diversity on the bench eliminate an implicit barrier to under-represented groups applying for judicial appointment, but it also strengthens the fairness of the bench and enhances public confidence in the administration of justice. The Council believes that cultural representation on the bench encourages mutual respect, as well as sensitivity to and understanding of those who appear before judicial officers in court.

The Council's first step in encouraging a diverse range of applicants was to be as transparent and open as possible about the process while preserving the need for confidentiality. Its second step was to invite the Canadian Bar Association, BC Branch and the Law Society of British Columbia to encourage their members to apply. Chief Judges have often spoken to lawyers about building diversity on the bench and encouraged other Provincial Court judges to make similar presentations. Chief Judge Gillespie continues to share this message. The Council's third step, which is also ongoing, is to highlight the results by reporting on applicants' diverse backgrounds to the extent permitted by privacy and confidentiality requirements.

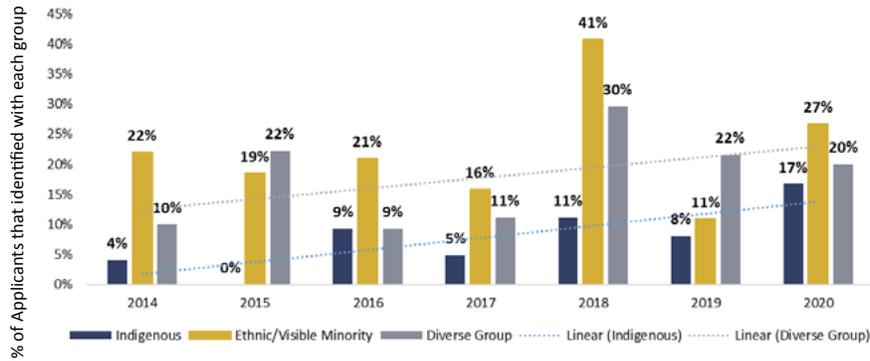
In 2013, the Judicial Council amended its judicial application forms to include a specific question inviting applicants to provide, on a voluntary basis, their ethnic or cultural information. In 2014, collection and reporting of this information began.

In 2020, 16 of 30 applicants provided information on their ethnic or cultural backgrounds. Five were of Indigenous heritage, eight indicated an ethnic or visible minority background, and six identified themselves as being part of a diverse group. An applicant may respond to one or more of the questions, resulting in the total number of responses being greater than the number of applicants.

Visible minority and diverse groups identified by applicants included: First Nations; origin or heritage specified by country; LGBTQ; and specified religious heritage. The Judicial Council notes these answers in its overall assessment of applicants but does not assign a specific weight to them.

The Judicial Council will continue to review and revise its processes to encourage a wide cultural range of applicants and to make merit-based recommendations that reflect the diversity of British Columbia's population. Figure 18 shows that over time, the percentage of applicants who choose to identify themselves as Indigenous and/or part of a diverse group has increased. Note that applicants can voluntarily choose to identify with any of the three diversity descriptors, including the option to choose more than one or skip the question.

Figure 18: Percentage of Diversity Responses (2014 - 2020)¹⁰



Figures 19 and 20 appear to indicate that female applicants have been more likely to voluntarily provide this information.

Figure 19: Percentage of Female Diversity Responses (2014 - 2020)

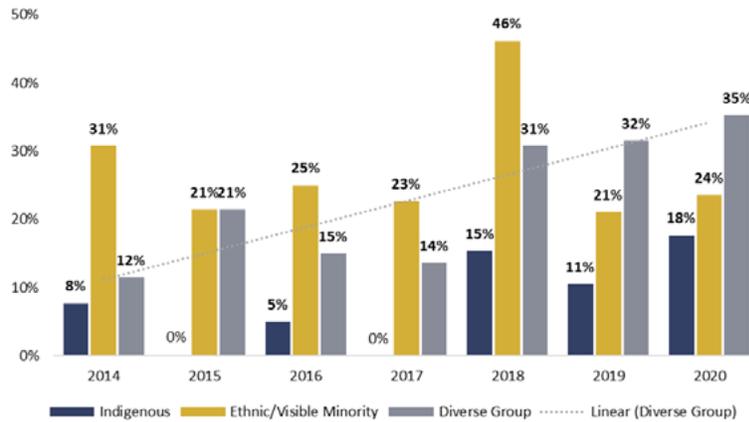
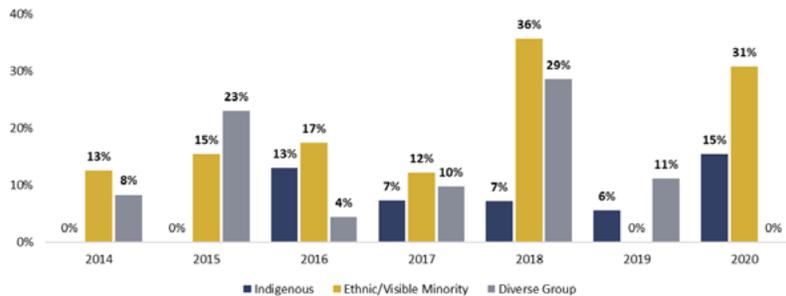


Figure 20: Percentage of Male Diversity Responses (2014 - 2020)



¹⁰. Data are preliminary and subject to change. Small fluctuations in the reported totals and/or percentages are expected due to continuing improvements in data quality.

Kenneth Armstrong, QC

President, Canadian Bar Association, BC Branch
Appointed to the Judicial Council January 1, 2020

I was proud to serve as the Canadian Bar Association, BC Branch's representative to the Judicial Council for 2020; indeed, it was one of the highlights of my term as CBABC President. The Judicial Council consists of three Provincial Court judges, two lawyers, and four lay members, and is supported by very capable and hard-working staff at the Office of the Chief Judge. All nine members of the Judicial Council put in a great deal of effort preparing for meetings and contributing to our meetings. I am grateful for the opportunity to work with all the members of the Judicial Council, and I am better for the experience.

Preparation for the Judicial Council meetings requires hours of reading application materials and background materials, including reports from the CBABC's Advisory Committee to the Judicial Council. This committee interviews candidates' references with respect to the candidate's legal knowledge and skills, their decision-making abilities, their character, and their professional reputation. I had the privilege of serving on the CBABC's Advisory Committee a few years ago so I was well aware of the work that committee's members put into their reports. I now know how valuable those reports are to the Judicial Council members and I am truly grateful for the work that committee does.

The Judicial Council operates in a very collegial and constructive manner. It is clear all members of the Judicial Council come well prepared and ready to discuss each applicant. Discussions about candidates are always thorough and respectful. Similarly, interviews of candidates are always thorough and respectful. The interviews are particularly important in assessing a candidate's strengths including their compassion and their potential judicial temperament. Although the public health emergency due to the COVID-19 pandemic changed how we met for some of our meetings, we continued our work and we continued to work in that collegial, collaborative, and constructive manner.

The Judicial Council is a diverse body and strives to ensure that the diversity of BC's population is reflected on the Provincial Court and that candidates are mindful of diversity issues, including the importance of reconciliation with Indigenous peoples.

I had long thought British Columbia was lucky to have a transparent process for applicants to the Provincial Court. Having had the opportunity to serve first on the CBABC Advisory Committee and now on the Judicial Council, I know that to be true. It has been an honour and a privilege to serve on the Judicial Council in 2020.



“I had long thought British Columbia was lucky to have a transparent process for applicants to the Provincial Court. Having had the opportunity to serve first on the CBABC Advisory Committee and now on the Judicial Council, I know that to be true.”

Kenneth Armstrong, QC
President, Canadian Bar Association, BC Branch

Appointment Process for Judicial Justices

In addition to judges, judicial justices are appointed by the Lieutenant Governor in Council on the recommendation of the Judicial Council. Judicial justices are assigned by the Chief Judge to preside over matters within their statutory jurisdiction, including traffic and other ticketable offences, payment hearings in small claims court, and applications for bail and search warrants at the Justice Centre. Some judicial justices may have assignments that include hearing some municipal bylaw matters. For more information about the appointment process, visit the [Provincial Court website](#).

Application and Appointment Criteria

Applications for the office of judicial justice may be submitted at any time or may be solicited by a recruitment campaign for a specific vacancy.

Applicants for appointment as a judicial justice must meet the following:

Criteria:

- At least five years having practiced law in Canada (those with less legal practice experience may be considered if they have a range of related experience)
- Superb legal reputation and professional record review(s), including from the applicable Law Society
- Experience in mediation or alternative dispute resolution
- Respected and valued member of the community
- Good health
- Appreciation of and experience with diversity
- Willingness to travel and to sit in all subject areas

Competencies:

- Commitment to continuing education
Conscientiousness, commitment to high standards
- Decision-making
Decisiveness, confidence, courage, independence, impartiality
- Communication and authority
Firmness without arrogance, courtesy, patience, tolerance, fairness, sensitivity, compassion, self-discipline
- Professionalism and temperament
Capacity to handle stress and isolation of judicial role, sense of ethics, patience, honesty, tolerance, consideration of others, personal responsibility
- Effectiveness
Commitment to public service, commitment to efficient administration, self-discipline
- Leadership and management for judicial justices holding administrative positions
Flexibility, responsibility, imagination, commitment to efficient administration
- Fairness, diplomacy, some administrative experience preferred

Role of the Judicial Council in the Appointment of Judicial Justices

When received, applications are reviewed in a process similar to that for judges. The application and investigation results are reviewed by the Council to decide whether the applicant will be interviewed. The Council then invites successful candidates to attend an interview. Names of applicants recommended for appointment after an interview remain on the list for three years. Applicants are eligible to re-apply three years after the date their application is submitted or 2.5 years from the date of their interview. Application forms and process summaries for judicial justices can be accessed at: apply.provincialcourt.bc.ca.

In 2020, five applications were received, three applicants were interviewed, two were recommended for appointment, and three were appointed.



Vancouver Robson Square Courthouse

Credit Rebecca Jensen

Appointment Process for Justices of the Peace

Justices of the peace fill several important functions within the British Columbia justice system, ranging from adjudicating specific types of cases to managing and scheduling caseloads. More than 300 justices of the peace serve in various court locations throughout the province. All are subject to the supervisory authority of the Chief Judge and are appointed by the Lieutenant Governor in Council on the recommendation of the Judicial Council. For more information about the appointment process, visit the [Provincial Court website](#).

There are three kinds of justices of the peace, each with different assignments:

- **Justice of the peace adjudicators (JPAs)** preside at the Robson Square and Richmond court locations, hearing simplified trials in small claims cases involving from \$5,001 to \$10,000. JPAs are senior members of the legal profession who serve part time.
- **Judicial case managers (JCMs)** are judicial officers who manage cases and schedule hearings and trials. They are assigned responsibilities by the Chief Judge. Applications for appointment as a JCM proceed through the Judicial Council approval process for justices of the peace.
- **Court Services Branch justices of the peace (CSBJPs)** work in the court registries throughout the province. In addition to the justice of the peace duties assigned by the Chief Judge, they hold various administrative positions in the Court Services Branch of the Ministry of Attorney General, such as court manager, administrator, and court clerk. There are also CSBJPs assigned to the Justice Centre in Burnaby.

Duties assigned to CSBJPs include:

- Swearing informations, issuing process including summonses, warrants of arrest, and subpoenas to witnesses;
- Attending to various judicial authorizations made by judges and judicial justices after execution, including deciding on the detention of seized property;
- Approving sureties, perfecting bail, handling consent remands; and
- Generally, performing other duties required of a “justice” under the [Criminal Code](#) that are primarily administrative in nature and do not require the exercise of material judicial discretion.

In 2020, the Judicial Council reviewed 15 applications for appointment as a Court Services Branch justice of the peace and recommended all 15 applicants for appointment.



Revelstoke Courthouse

Credit John Deacon, QC

Judicial Education

The Judicial Council is responsible for and fully supports continuing education for judicial officers of the Court. Continuing education is provided in different ways, including orientation for newly appointed judicial officers, informal observation and mentoring, and a variety of education programs delivered within the Court. Judicial officers are also encouraged to attend education programs offered by other organizations to supplement their continued learning.

The Council delegates the authority to develop and manage the Court's education programs for each type of judicial officer to several committees. The Office of the Chief Judge provides administrative and support services to these committees. The annual report of the Provincial Court of British Columbia contains details of the Court's education programming for judges, judicial justices, and other judicial officers. For more information, please see the most recent [Annual Report](#) of the Provincial Court of British Columbia and the [Judicial Education](#) page on the Court's website.

While in-person education was cancelled in 2020, the Provincial Court continued to provide a dynamic education program for all judicial officers using a variety of online webinars and conferences.



Rossland Courthouse

Credit John Deacon, QC

Judicial Ethics

The Judicial Council is responsible for preparing and revising a judicial code of ethics. Judicial ethics provide a general framework of values and considerations to guide judicial officers in their conduct both in and out of court.

The Provincial Court of BC was the first court in Canada to adopt a code of ethics. In 1976, judges of the Court prepared a code of judicial ethics that was adopted by the Judicial Council and reviewed from time to time. More recently, both the Judicial Council and the Court's judiciary felt that as our society evolved, the principles guiding judicial behaviour should be reviewed.

Following discussions with judges and judicial justices, in December 2014 the Judicial Council adopted the [Ethical Principles for Judges](#), published by the Canadian Judicial Council, as the guiding principles for the judicial officers of the Provincial Court. These guidelines are based on five fundamental principles for judicial conduct: integrity, independence, equality, diligence, and impartiality. As there has been broad consultation in the last year, an updated version of the document is expected.

Guidelines for the conduct of justices of the peace are found in the [Justice of the Peace Code of Ethics](#) and for judicial case managers in the [Standards of Conduct](#).

Complaints

Under the [Provincial Court Act](#), the Chief Judge has the authority and the duty to supervise the Court's judges, judicial justices, and justices of the peace. The Chief Judge, under section 22.1(1) of the *Act*, must examine all complaints respecting judicial officers and report the result of the examination, in writing, to the complainant and the judicial officer.

The *Act* also requires, under section 22.1(2), that the Chief Judge conduct an investigation of the fitness of a judicial officer to perform their duties when the Chief Judge considers that an investigation is required, or if directed to do so by the Attorney General. The result of an investigation may include corrective action or an order for an inquiry to determine whether the judicial officer is fit to perform their duties.

In the event that the Chief Judge or the Attorney General directs an inquiry into the fitness for office of a judicial officer, the judicial officer may elect, under section 24 of the *Act*, to have the Judicial Council act as the tribunal for that inquiry. The alternative tribunal is a justice of the Supreme Court, designated by the Chief Justice of the Supreme Court.

The Judicial Council's role in public complaints involving judicial officers also helps it fulfill its responsibility to improve the Court's judicial services. As presiding member, the Chief Judge reports to the Council regarding complaints that may affect the overall quality of judicial service. Complaints can demonstrate a need for judicial education on a particular topic.

Complaints may be submitted in one of three ways:

1. Using the secure online complaint form on the [Complaints](#) page on the Court's website.
2. By letter addressed to the Chief Judge of the Provincial Court of British Columbia and faxed to 604-660-1108.
3. By letter addressed and mailed to:
The Chief Judge of the Provincial Court of British Columbia
337 – 800 Hornby Street
Vancouver, British Columbia V6Z 2C5

The Judicial Council may conduct a formal inquiry into the fitness of a judicial officer if the first two stages of the complaint process, examination and investigation, fail to conclude the matter. In 2020, no such formal inquiries were held by the Judicial Council. Further information regarding the complaint process is outlined on the [Provincial Court website](#) and in the Court's [Annual Reports](#), where complaints received and action taken are summarized.

Other Matters

The Judicial Council is responsible for reporting to the Attorney General on matters the Attorney General considers necessary. No such matters were raised for action in 2020.



Nelson Courthouse

Credit John Deacon, QC

Financial Expenses

Administrative support, boardroom, and catering expenses are provided to the Judicial Council by the Office of the Chief Judge, Provincial Court of British Columbia.

Non-judicial members of the Judicial Council are eligible to be paid honoraria for attending meetings in person. There were 11 meetings in 2020. The following table details the meeting honoraria paid to the members of the Judicial Council in 2020.

Figure 21: Remuneration for the Judicial Council Members (2020)

Name	Allowable Honorarium Per Meeting	Meetings Attended	Total Remuneration
The Honourable Chief Judge M. Gillespie	\$0	10	\$0
The Honourable Associate Chief Judge S. Wishart	\$0	11	\$0
The Honourable Judge B. Craig	\$0	10	\$0
Ms. P. Schwartz*	\$250/\$125	11	\$2,000
Ms. N. Merrill, QC*	\$250/\$125	10	\$1,750
Mr. K. Armstrong, QC*	\$250/\$125	10	\$1,750
Mr. G. McRae*	\$250/\$125	11	\$2,000
Mr. P. Kelly*	\$250/\$125	11	\$2,000
Mr. A. Kazuta*	\$250/\$125	11	\$2,000

* Non-judicial members of the Judicial Council receive an allowable honorarium of \$250 for a full-day meeting and \$125 for a half-day meeting

Public Access

Any member of the public who has a question relating to the Judicial Council of BC or the judicial candidate application process, whether arising from this report or for any other reason, may send it in writing by one of the following:

Fax: (604) 660-1108

Mail: Judicial Council of British Columbia
337 – 800 Hornby Street
Vancouver, British Columbia V6Z 2C5

Acknowledgements

Judge Ann Rounthwaite (retired), Digital Communications Coordinator

Travis Dudfield, Digital Production

Rebecca Jensen, Administrative Coordinator

Judge Clifford MacArthur (retired), Judicial Council photo, page 16



Prince George Courthouse

Credit John Deacon, QC

Judicial Council of British Columbia

A Look Back: 2009-2019



2009



2010



2011



2012



2013



2014



2015



2016



2017



2018



2019

