



**JUDICIAL COUNCIL  
OF BRITISH COLUMBIA**  
ANNUAL REPORT  
2011



## Judicial Council of British Columbia

September 24, 2012

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

Dear Attorney General:

I present herewith the Annual Report of the Judicial Council of British Columbia for the year 2011. The work of Judicial Council during the past year includes the review of applications and interviewing of applicants seeking an appointment to the Provincial Court. The activities of the Judicial Council during this period include the review of 52 applications for appointment as Provincial Court Judge. Of those applications, the Council interviewed 21 applicants for the position of Provincial Court Judge.

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

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

Sincerely,

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

JUDICIAL COUNCIL OF BRITISH COLUMBIA  
FIFTEENTH ANNUAL REPORT  
2011

---

**TABLE OF CONTENTS**

1. Introduction..... [3](#)

2. Meeting Schedule & Business Conducted..... [5](#)

3. Appointment Process for Judges ..... [7](#)

4. Appointment Process for Judicial Justices ..... [11](#)

5. Appointment Process for Court Services Justices of the Peace ..... [13](#)

6. Appointment Process for Judicial Case Managers..... [14](#)

7. Judicial Education..... [14](#)

8. Complaints..... [17](#)

9. Public Access to the Judicial Council..... [18](#)

Appendix “A”: Procedure Bylaw ..... [20](#)

Appendix “B”: Relevant Legislation..... [23](#)

## 1. Introduction

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

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

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



*Left to right; front row: Judge E. Burdett, Chief Judge Crabtree, Associate Chief Judge Gill; back row: Mr. McPhee, Administrative Judicial Justice Schwartz, Dr. Cherniwchan, Ms. Kirkpatrick, Mr. Walker*

The members of Judicial Council for 2011, and their dates of appointments, were as follows:

1. The Honourable Thomas J. Crabtree, Chief Judge Presiding Member  
*April 8, 2010*
2. The Honourable Gurmail Gill, Associate Chief Judge, Alternate Presiding Member  
*July 1, 2010*
3. The Honourable Judge Ellen Burdett, President, BC Provincial Court Judges' Association  
*December 31, 2010*
4. Administrative Judicial Justice Patricia Schwartz  
*December 31, 2010*
5. Mr. Kenneth Walker, The Law Society of BC nominee  
*January 14, 2009*
6. Mr. Stephen McPhee, President, Canadian Bar Association, BC Branch  
*January 1, 2011*
7. Dr. Darin Cherniwchan  
*July 8, 2011*
8. Ms. Karin Kirkpatrick  
*July 8, 2011*

## 2. Meeting Schedule & Business Conducted

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

The 2011 meeting schedule was as follows: January 7, February 18, March 18, April 29, May 27, June 24, July 22, September 9, October 14, November 4, and December 9, 2011.

The number of applications in 2011 for recommendation for appointment as a Provincial Court Judge, Judicial Justice and Justice of the Peace are shown in the following charts. The figures reflect the Council's activities in the specified year, and therefore may include reviews, interviews, or appointments of candidates who applied in a previous year.

### Applicants for Recommendation for Appointment as a Provincial Court Judge

Year	Applications Received			Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Recommended		
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2011	44	26	18	52	35	17	24	16	8	21	17	4	12	9	3

### Applicants for Recommendation for Appointment as a Judicial Justice

Year	Applications Received	Applicants Interviewed	Applicants Recommended
2011	1	0	0

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

Year	Applications Reviewed	Applicants Recommended
2011	12	12

In addition to interviews and the review of applications, Council attends to ongoing business at its meetings. Topics in 2011 included judicial education; reform of Judicial Code of Ethics and the Complaint Process; finalization of the process for the reappointment of retired judges under [s.6\(1\) of the Provincial Court Act](#); potential changes to the Judicial Justice division; and the ongoing decline of judicial resources in the Provincial Court. Members of Judicial Council, including the Chief Judge, also met with the Canadian Bar Association Judicial Advisory Committee to review their role in the appointment process.

## *Reappointment of Retired Judges*

As a result of the May 28, 2008 passing of Bill 43, *Miscellaneous Statutes Amendment Act* and the consequent changes to s.6 of the *Provincial Court Act*, Council undertook a comprehensive review of the process for the reappointment of retired Judges. This process, including the development of a new application package for retired Judges and the formation of a separate “Judicial Reappointment Advisory Committee” (JRAC), continued into 2011. The JRAC is responsible for providing input to assist Council with determining whether the retired candidate should be recommended for reappointment. The members of the JRAC are appointed by the Chief Judge and are comprised of a former Associate Chief Judge, an Administrative Judge or former Administrative Judge and a member of the Provincial Court Judges’ Association Executive nominated by the President.

### *Criteria and Competencies for applicants for appointment as a Provincial Court Judge*

#### Criteria:

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

#### Competencies:

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

### 3. Appointment Process for Judges

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

#### *Application and Approval Process*

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

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

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

Once the inquiries are complete and the above reports are received, Judicial Council reviews the information and determines whether to interview the applicant. If three or more members vote in favour, the applicant is approved for an interview. The timing of the interview depends on the number of applicants recommended for interview, but generally occurs within a year of receipt of the completed application package. Applicants not approved for an interview are not notified.

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



The names of recommended applicants are added to a roster for consideration by the Attorney General where they remain for a period of up to three years from the date of their interview. When a vacancy arises, or when the LGIC otherwise determines that an appointment is necessary, the Attorney General may select a candidate from the roster and submit the name to the LGIC for appointment.

In 2011, 6 recommended candidates were appointed by the LGIC.

An applicant who has been interviewed but who is not appointed within 2.5 years of the date of their interview may reapply for appointment. Interviewed applicants need to advise Council if at any time they wish to remove themselves from consideration for appointment.

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

The following chart shows the history of applications, interviews and recommendations for appointment, by Council, over a 10-year period, and indicates trends in application rates and a comparison of candidate approval rates. (These figures reflect Council's activities in the year specified, which include reviews and interviews of applicants from the prior year, and are not reflective of the results of applications made in a particular year.)

**Applications for Recommendation for  
Appointment as a Provincial Court Judge  
2002 - 2011**

Year	Applications Received			Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Recommended		
	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2011	44	26	18	52	35	17	24	16	8	21	17	4	12	9	3
2010	46	30	16	48	31	17	15	13	2	28	19	9	17	13	4
2009	59	39	20	86	52	34	27	16	11	21	13	8	7	5	2
2008	54	31	23	67	39	28	28	14	14	21	13	8	13	8	5
2007	89	57	32	81	48	32	27	19	8	25	16	9	11	8	3
2006	55	35	20	47	34	13	19	16	3	15	12	3	7	5	2
2005	41	29	12	41	30	11	20	13	7	28	17	11	16	10	6
2004	47	29	18	58	39	19	34	24	10	29	22	7	10	10	0
2003	51	39	12	53	36	17	29	20	9	33	23	10	19	12	7
2002	43	27	16	56	39	17	34	25	9	37	28	9	17	15	2

The average number of applications received per year for the 10 years prior to 2011 was 53. The 3 years with the highest number of applications received were 2007, with an all-time high of 89 applications; 2009, with 59 applications; and 2008, with 54 applications.

The average number of applications reviewed for interview over the last 10 years was 59, but on average, only 44%, or 26 applicants per year, were approved for an interview. The average number of applicants interviewed each year was 26, of which, on average, 13 were recommended for appointment, resulting in a 10-year average approval rate of about 50% of those interviewed and about 22% of total reviewed applications.

As mentioned, the number of Judges appointed in 2011 was 6, or about 14% of total applicants and 50% of the annual number recommended for appointment.

### *Demographics*

In 2011, Judicial Council had an average “pool” of 25 applicants recommended for appointment. As of December 31, 2011, this pool consisted of 26 candidates, of which 19 were men and 7 were women. Fifteen of the recommended candidates resided in the Lower Mainland, 11 resided in other parts of the province.

The roster of recommended applicants included applicants from each of the 12 administrative districts of the Court and most applicants indicated a willingness to be assigned to a judicial district other than their “home” district.

### **Applicants to Judicial Council by Age and Gender (2002 – 2011)**

As indicated below, the average age of applicants to the Court in the last 2 years was 51, with an average of 20 years in practice. The average age of male applicants has risen slightly, to 52 years, and the average age of women has also risen to 51 years.

Year	Total	Male	%	Average Age	Female	%	Average Age
2011	44	26	59%	52	18	41%	51
2010	46	30	65%	52	16	35%	50
2009	59	39	66%	51	20	34%	47
2008	54	31	57%	51	23	43%	52
2007	89	57	64%	51	32	36%	48
2006	55	35	64%	52	20	36%	45
2005	41	29	71%	54	12	29%	47
2004	47	29	62%	50	18	38%	45
2003	51	39	76%	51	12	24%	47
2002	43	27	63%	49	16	37%	46

Female applicants have, on average, two years less practise experience than their male counterparts. Council notes that, according to The Law Society of British Columbia’s 2011 [“Report on Performance,”](#) the profession is comprised of 36% women.

Of the 12 applicants who were recommended for appointed in 2011, 9 (or 75%) were male, 3 (or 25%) were female. Six applicants were appointed in 2011 and assigned to the following districts: 1 to North Vancouver Island; 1 to Cariboo/Northeast; 3 to South Fraser; and 1 to Okanagan.

#### **Applicants by Gender and Area of Practice (2007 – 2011)**

Type of Practice		Private	Crown Counsel	Other Areas
2011	Total	27	12	5
	M	16	6	4
	F	11	6	1
2010	Total	30	10	7
	M	22	5	4
	F	8	5	3
2009	Total	32	10	17
	M	24	6	9
	F	8	4	8
2008	Total	34	14	6
	M	21	8	2
	F	13	6	4
2007	Total	61	18	10
	M	41	13	3
	F	20	5	7

#### *Diversity*

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

#### *Comparison of New and Renewed Applications*

As stated above, applicants who are interviewed but not appointed may reapply 2.5 years from the date of their interview, and often do. The breakdown of applications based upon the number of new and renewed applicants is shown in the following chart. The figures shown in each column reflect the outcome of applications considered by Judicial Council in the specified year.

### New and Renewed Applications by Year and Sector (2003 – 2011)

	NEW APPLICATIONS:		RENEWED APPLICATIONS:	
	Total	Recommended After Interview	Total	Recommended After Interview
2011	28	8	16	4
2010	29	9	18	8
2009	35	6	24	1
2008	33	10	21	3
2007	59	8	30	3
2006	43	6	12	1
2005	34	12	9	4
2004	33	6	14	4
2003	35	13	16	6

*Note: The above figures are incomplete, since not all persons applying in 2011 had been interviewed by the end of the year.*

Though it may be difficult to identify a trend in light of the low overall numbers, the annual number of new applicants is relatively stable with the exception of a significant spike in 2007, followed by a decline. Applications from individuals in both private practice and the public sector have declined.

There has been a steady decline over the last several years in the number of applicants renewing their applications to Judicial Council after previously being unsuccessful. The number of renewed applications from applicants in private practice has remained steady, while those who were recommended for appointment decreased significantly. Similarly, the number of renewed applications from those in the public sector decreased, as did the number of applicants recommended for appointment.

#### **4. Appointment Process for Judicial Justices**

In addition to Judges, Judicial Justices (JJs) are appointed by the Lieutenant Governor in Council on the recommendation of Judicial Council. They are assigned by the Chief Judge to preside over matters within their statutory jurisdiction, including traffic and other ticket offences, some municipal bylaw matters, payment hearings in Small Claims Court, applications for bail and search warrants and, in Victoria's Integrated Court, case managing, hearing preliminary matters and issuing warrants for failure to attend court.

##### *Role of Judicial Council in the appointment of Judicial Justices*

In a process similar to that for Judges described earlier in this Report, the Council reviews applications, conducts interviews, and recommends JJ candidates for appointment. 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.

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

In 2007, Council began considering applications from lawyers for appointment to the then office of “Judicial Justices of the Peace” to serve part-time, for an indefinite term and remunerated on a per diem basis (per diem JJPs). In 2007, seven lawyers were appointed as per diem JJPs. In 2008, ten lawyers were appointed to serve as per diem JJPs for a fixed term of ten years, and a further 5 applicants were appointed to serve as JJPs on an ad hoc basis.

Due to the large number of appointments in 2007 and 2008, no interviews were conducted in 2011. It is anticipated that as JJs retire, resign or their terms of appointment conclude, Council may decide to recruit, interview and recommend applicants again.

#### *Appointment Criteria*

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

1. At least five years of practice with the BC Bar. Those with less legal practise experience, or those from a bar outside BC are considered if they have a range of related experience.
2. Superb legal reputation in the legal community, and a professional record review from the Law Society of British Columbia.
3. Demonstrated excellence in area of the law.
4. Experience in mediation or alternative dispute resolution.
5. Willingness and ability to learn and demonstrated commitment to continuing professional education.
6. Knowledge of current issues facing the courts, the judiciary, and the justice system, and awareness of the social context within which the Court operates.
7. Ability to listen and communicate effectively.
8. Personal characteristics such as decisiveness, evenness of temperament, fairness, open mindedness, common sense and courage.
9. Demonstrated compassion for those coming before the Court and an understanding of their circumstances.
10. Respect in the community.
11. Good health.
12. Passion and enthusiasm.
13. Balanced relationships with peers and subordinates.
14. Demonstrated adaptability and flexibility with respect to job changes.
15. Demonstrated balance of confidence and humility.
16. Appreciation of and experience with diversity.
17. Demonstrated dedication to public service.
18. Ability to cooperate and work with others.

19. Understanding of the role of the Court in society and respective roles of the judiciary and other participants in the justice system.
20. Willingness to travel and to sit in all subject areas.

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

## **5. Appointment Process for Court Services Justices of the Peace**

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

Court Services JPs perform such functions as:

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

The applicable process for a JP appointment is as follows:

1. A Court Manager (or their designate) in the relevant Court location will contact the JP Administrator at the Office of the Chief Judge (preferably in writing) when they require a JP appointment (e.g., a successful applicant for a position that performs JP duties; the position is usually posted as a government posting, and a competition is held at the local level).
2. The successful candidate will submit an application to Judicial Council for appointment as a JP.
3. When the application is received, it is reviewed by the JP Administrator at the Office and a police record check, a credit history and driving record are obtained and reviewed.
4. The candidate is interviewed by the Administrative Judge in the relevant district.
5. The applicant must attend and successfully complete the JP basic training course and sit the exam.
6. The complete application is then considered by Judicial Council.
7. The names of recommended applicants are forwarded to the Attorney General for consideration for appointment by the LGIC.

## 6. Appointment Process for Judicial Case Managers

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

## 7. Judicial Education

### *Judges' Education*

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

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

The Education Committee presents education conferences in the spring and fall for a total of four-and-a-half days of education programming. The sessions in the spring and fall of 2011 covered a wide range of topics, including:

- | <i>Spring</i>   | <i>Fall</i>   |
|---|---|
| 1. Blended families & Serial partnerships   | 1. Expert Evidence and Miscarriages of Justice                            |
| 2. Spousal support  | 2. The Application of the Hearsay Rule: An Interactive Presentation       |
| 3. When and why to have supervised access   | 3. The 'New' Streamlined Preliminary Hearing                              |
| 4. Case management of family files  | 4. Evidentiary Issues in Family Law                                       |
| 5. Ex parte applications including short leave                                    | 5. The Special Challenge of Evidentiary Rules in Small Claims Proceedings |
| 6. Interjurisdictional Support Orders (ISOs)                                      | 6. Qualifying and Working with Interpreters                               |
| 7. Failure to meet Parental Obligations   | 7. Selected Issues Regarding Judicial Notice                              |
| 8. Police enforcement clauses/enforceability                                      | 8. Recent Supreme Court of Canada decisions                               |
| 9. Primary considerations in mobility cases                                       |   |
| 10. Technology in the courtroom   |   |
| 11. New Developments in s. 24(1) – Exclusion of Evidence under the <i>Charter</i> |   |
| 12. Hate Crimes   |   |
| 13. Vicarious Trauma  |   |

In addition, Judges of the Court are entitled to five days of education leave to attend education conferences using their professional allowance. In the past year Judges have attended courses including:

1. AFCC Annual Conference
2. American Judges Association Education Conference
3. British Legal History Conference
4. Cambridge Law Lectures
5. Canadian Association of Provincial Court Judges Annual Conference
6. Canadian Conference of Judicial Mediation
7. CCIAWJ Conference
8. Civility in the Criminal Bar: A Cautionary Tale
9. CLE Human Rights Conference
10. Commonwealth Conference
11. Continuing Legal Education of BC Seminars
12. Court Technology Conference
13. Criminal Procedure, Ethics, & The Charter
14. Federation of Law Societies 2011
15. Hate Crimes Seminar
16. Indigenous Bar Association Fall Conference
17. International Barrister Program
18. II International Congress on Dual Disorders
19. International Congress of Law and Mental Health
20. International Legal Studies – Terrorism
21. International Society for the Reform of Criminal Law
22. Judges’ Language Training – French Immersion Session
23. National Criminal Law Program
24. National Association for Court Management and National Association of State Judicial Educators
25. NJI: Civil Law Seminar 2011
26. NJI: Pre-Retirement Seminar
27. Ontario Court of Justice Judicial Administration Conference
28. 10 year Retrospective of the Legal Response to Terrorism after 9/11
29. 25th Annual San Diego International Conference
30. 32nd Congress of the International Academy of Law and Mental Health

The Provincial Court of British Columbia continues to be at the forefront of judicial education for Judges in Canada. The continuing success of the Court’s education programs is due to the volunteer efforts of the Provincial Court Judges’ Association’s Education Committee and the many Judges who participate on a volunteer basis at the conferences. Judges also participate in educational programs, panels and seminars for continuing legal education to assist in educating Judges from other courts and provinces, members of the bar, and the public, on a regular basis.

#### *Judicial Justice Education*

When first appointed, Judicial Justices are provided with training and orientation specific to their assignments and experience levels. Generally, this takes the form of courses in law and criminal procedure as well as observation and on-the-job training, in relation to the conduct of bail hearings and determining applications for search warrants and other judicial authorizations, and in relation to the conduct of traffic and payment hearings. Judicial Justices also attend semi-annual education seminars presented by the JJ Association Education Committee and the Office of the Chief Judge. Together the Committee and the Office of the Chief Judge arrange presentations by judges, JJs, members of the bar, and other expert speakers.



In 2011, presentations were made to judicial justices by guest speakers, including Chief Judge Crabtree, Associate Chief Judge Gill, Justice Frankel, Professor Ed Berry, JJ Proctor; Ms. Mitchell-Banks, Crown Counsel; Mr. Scanlan, Author/Crown Counsel; Ms. Nelson, Crown Counsel; Vancouver Police Department Inspector Sorge; Superintendent McKenna, Ministry of Justice; Cpl. MacDonald Messr.s Layton and Morrison.

Topics covered at the spring and fall conferences included:

1. Effective oral judgments
2. Simplifying judicial language
3. Review of non-verbal language
4. Organizing a judgment
5. Oral judgments in traffic court
6. Guns, gangs and bail
7. Tertiary grounds in a bail hearing - s.515(10) (3)
8. Judicial Ethics
9. The Complaint process under the *Provincial Court Act*
10. Digital evidence in criminal law/search warrants
11. Con Air/movement of prisoners program
12. Police errors and oversight

In addition to the semi-annual conferences, the JJ Education Committee hosts regular “Education Nights” at the Justice Centre. In 2011, sessions were held on various topics relating to bail and search warrants at which various experts in the field made presentations to the JJs who attended either in person or by telephone.

From time to time, Judicial Justices are also approved to attend educational conferences presented by other agencies on topics relevant to their jurisdiction.

#### *Court Services Justice of the Peace Education*

Court Services JPs receive training through a basic JP course prior to their appointment, and then receive ongoing on-the-job training and experience in the conduct of their duties, as well as support in the form of a JP manual issued by the Office of the Chief Judge and available assistance from a legal officer to the Chief Judge.

In 2011, JP basic training programs were held in June and November at the Office of the Chief Judge.

#### *Judicial Case Manager Education*

The JCMs of the Court generally have an annual conference presented by the Office of the Chief Judge under the supervision of the Administrative JCM. Ongoing, on-the-job training and support is also provided by the Administrative JCM.

## **Vancouver (Office of the Chief Judge) - April 15, 2011 (one day)**

A meeting was held at the OCJ for 10 JCM's to discuss case scheduling models, Rota design, and proposal for new PCSS (Provincial Court Scheduling System). Discussion topics included: current scheduling practices; challenges to the effective use of judge time; value of delayed assignments; and prioritization in case scheduling.

## **Burnaby JCM Conference - November 17 and 18, 2011**

The focus of this two-day conference, attended by all of the Court's JCMs, was to focus on the effective scheduling of judges and cases and to look at simplified processes for criminal case management. Presentation topics included: PCSS workflow and project update; an e-Court project update; Senior Judge scheduling; and a review of scheduling models from other provinces. Workshops and small group exercises focused on the development of updated scheduling priorities and identification of "best practices" in terms of the effective use of resources. Speakers included Chief Judge Crabtree; Associate Chief Judge Phillips; Jan Rossley, Executive Director of Judicial Administration; Nick Chan, Manager, IT Services & Strategic Planning; Grant Marchand, Manager of Judicial Resource Analysis and Management Information; Kevin Purdy, Judicial Justice Administrator; Andrew Clark, Crown Counsel; and Mike Smith.

## **8. Complaints**

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

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

Judicial Council's role with respect to public complaints involving judicial officers is twofold: first, Council has a statutory object of improving the quality of judicial service and, second, in the event the Chief Judge or the Attorney General orders an inquiry into the fitness for office of a Judicial Officer, the Judicial Officer may elect, under section 24 of the *Act*, to have Council act as the tribunal for that inquiry. The alternative tribunal is a judge of the Supreme Court to be designated by the Chief Justice of the Supreme Court.

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

## 9. Public Access to the Judicial Council

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

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



# APPENDICES

## APPENDIX "A": Procedure Bylaw

In this bylaw:

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

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

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

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

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

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

### PROVINCIAL COURT ACT

#### [RSBC 1996] CHAPTER 379

#### Judicial council

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



## Object of council

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

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