



Provincial Court
of British Columbia

Annual Report 2012 - 2013



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MESSAGE FROM THE CHIEF JUDGE



Throughout this fiscal year, the Provincial Court of British Columbia continued to move forward in our commitment to provide timely, effective and equitable justice for all British Columbians.

In August 2012, Geoffrey Cowper, Q.C., Chair of the BC Justice Reform Initiative, released his report: *A Criminal Justice System for the 21st Century*. This report provided important information and perspective regarding the challenges that the justice system faces in the 21st century. I was encouraged to see that in his report, Mr. Cowper acknowledged the undertakings of the Court and the significant steps taken over the course of this past year. First and foremost is the Provincial Court Scheduling Project, which is a key

initiative within the Court.

The Provincial Court Scheduling Project, now in the developmental stage, is designed to make more effective use of available court resources in the scheduling of cases that come before the Court. The results of the work being done in this area will increase access to timely, effective and equitable justice for the people of British Columbia. In particular, it will enable the Court to focus resources where required, whether it is in the criminal, family, child protection or civil area of the Court's jurisdiction.

A second project undertaken by the Court focuses on the Court administration. The need for a more coordinated and responsive administrative structure had previously been identified by leaders of the Court. Based on consultation with the judges of the Court and input from experts in the field of administrative and organization structures, a decision was made to redesign the structure by which the Court is judicially administered. Implementation of the new administrative reorganization is targeted for April 1, 2013 with the transition to be completed by June 30, 2014. The restructuring is an internal initiative that will not impact the work being done in the courtroom, but will allow for more effective use of judicial resources and, as a result, enhance our ability to deliver on our commitment to timely and accessible justice.

During this fiscal year, 10 judges were appointed to the Provincial Court of British Columbia to replace those who had left the Court or elected to participate in the Senior Judges Program. One judge passed away while in office; Judge Agnes Krantz served the Court with honour and distinction. She was a pioneer in the true sense of the word and will be missed by her colleagues and the communities in the north where she served. With the appointment of judges to replace those who left the Court and the dedicated effort of those on the

Court, there has been an improvement in our ability to provide earlier dates for scheduling cases for trial. However, the challenge continues and our work in this area is not yet complete. I will continue to press for the timely appointment of judges to replace those who have retired or have elected to participate in the Senior Judges Program, as a full complement of judges is necessary for the Court to meet its goal of increased access to timely, effective and equitable justice for the people of British Columbia.

In this regard, the Court looks forward to the beneficial effect of the provincial government's commitment, expressed in *The White Paper on Justice Reform: Part One*, to identify the factors necessary to determine a fixed complement of judges to our Court, similar to the work done on the now fixed complement for both the Supreme Court and the Court of Appeal of this province. The determination of an appropriate complement of judges to serve the needs of the people of the province and the timely replacing of judges to maintain such a complement is integral to being able to administer the Court.

In this fiscal year, the Court has made significant progress in improving access to justice. Our commitment in this area remains strong and I look forward to the Court building on the achievements of this year.

In closing, I would like to express my appreciation to the judges and the judicial justices of the Court for their dedication to service and their commitment to the delivery of justice to the people of British Columbia through the 85 court locations in the province.

Thomas J. Crabtree
Chief Judge

OUR MISSION

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

OUR VISION

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

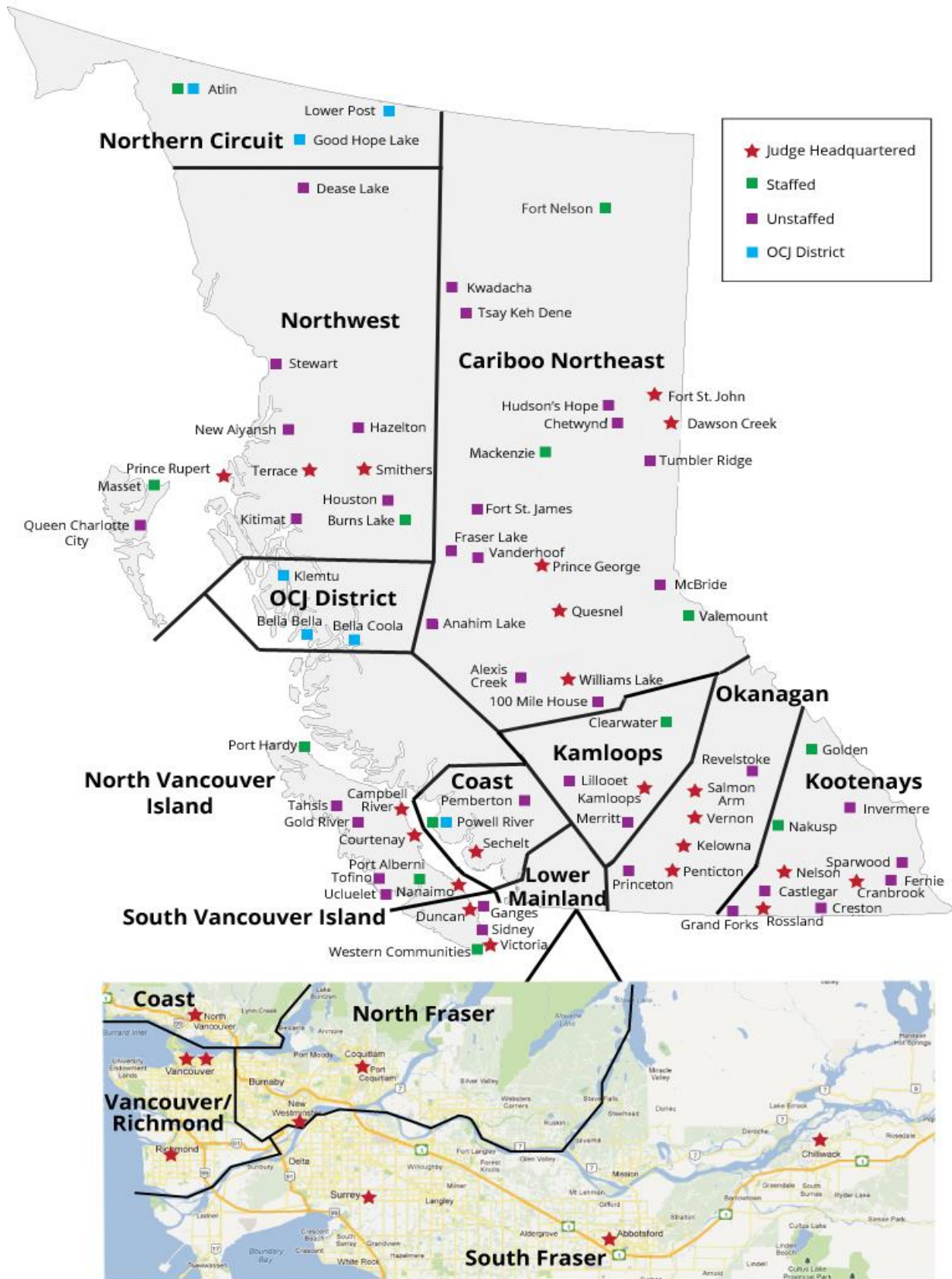
CORE VALUES

Independence
Fairness
Integrity
Excellence

GOALS

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

SITTING LOCATIONS OF THE PROVINCIAL COURT (BY DISTRICT)



JURISDICTION OF THE PROVINCIAL COURT

There are three courts in British Columbia. The Provincial Court of British Columbia is one of two trial courts in the province; the other is the Supreme Court of British Columbia. The Court of Appeal is the third court serving British Columbians.

The Provincial Court's jurisdiction includes the following: adult criminal, youth, civil, family, child protection, traffic and bylaw matters.

The Court's criminal jurisdiction extends to most matters set out in the *Criminal Code* heard by a judge alone. The Court does not have jurisdiction to conduct jury trials. The Court has exclusive jurisdiction in all summary conviction trials and hears all indictable matters where the accused does not elect to have their matter heard in the Supreme Court. In excess of 95% of all criminal cases in BC are dealt with in the Provincial Court.

The Court has jurisdiction to hear child protection matters under the *Child, Family and Community Services Act*. The Court has extensive jurisdiction under the new *Family Law Act*, including addressing matters involving child and spousal maintenance, parenting time and guardianship. The Court also has jurisdiction to hear civil claims involving a monetary claim of up to \$25,000.

Cases that are appealed from Provincial Court decisions are heard, depending on the nature of the case, in the Supreme Court of British Columbia or the British Columbia Court of Appeal. Appeals of some Provincial Court cases may be taken to the Supreme Court of Canada, following the decision of The Court of Appeal of British Columbia.

(For a glossary of many of the terms used in this report, please visit: <http://www.courtsofbc.ca/glossary.php>.)

THE JUDICIARY

Changes to the Judicial Complement

During this fiscal year:

- Ten new judges were appointed to the Provincial Court;
- Three judges elected to participate in the Senior Judge Program;
- Three judges retired;
- Two judges were appointed to the Supreme Court; and
- One judge passed away.

The following judges were appointed in this fiscal year:

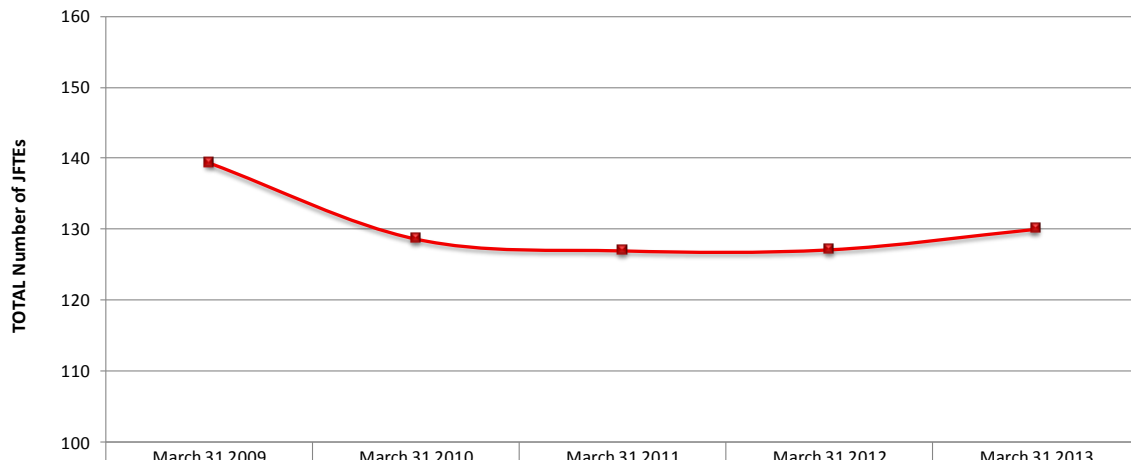
Judicial Appointments - 2012/13		
Judge	Judicial District	Appointment
Judge R. Callan	Cariboo Northeast	April-02-12
Judge G. Smith	North Fraser	December-07-12
Judge W. Jackson	Northwest	December-17-12
Judge A. Brownstone	Vancouver Richmond	January-02-13
Judge R. Cutler	South Fraser	January-03-13
Judge R. Lamperson	South Fraser	January-04-13
Judge K. Denhoff	Vancouver Richmond	January-04-13
Judge J. Oulton	South Fraser	January-07-13
Judge J. Sutherland	South Fraser	January-11-13
Judge B. Craig	North Fraser	January-23-13

The following judges retired, joined the Senior Judge program, or were appointed to the Supreme Court this fiscal year:

Reductions in Judicial Complement - 2012/13			
Judge	Judicial District	Date	Reason
Judge C. Baird Ellan	Coast	May-31-12	Retired from the Court
Judge J. Kay	South Vancouver Island	July-06-12	Retired from the Court
Judge M. Borowicz	South Fraser	September-30-12	Retired from the Court
Judge R. Baird	South Fraser	October-04-12	Appointed to Supreme Court
Judge A. Krantz	Northwest	October-23-2012	Deceased
Judge K. Ball	South Fraser	November-02-12	Appointed to Supreme Court
Judge T. Gove	OCJ	January-31-13	Senior Judge Program
Judge P. de Couto	North Fraser	January-31-13	Senior Judge Program
Judge J. Cartwright	Okanagan	March-31-13	Senior Judge Program

CHART 1

Provincial Court of British Columbia
Total Judge Complement and Judicial Full Time Equivalents (JFTE) (2009-2013)



	March 31 2009	March 31 2010	March 31 2011	March 31 2012	March 31 2013
Senior Judges	21	35	38	45	47
Full Time Judges	130	113	110	107	109
Judicial Full Time Equivalents (JFTE)	139.45	128.75	127.1	127.25	130.15

The complement is based on the total number of full-time and Senior Judges sitting as Provincial Court Judges. As of March 31, 2013, there were 109 full-time Judges and 47 Senior Judges, for a total of 130.15 judicial full-time equivalents (JFTEs). This is a slight increase over March 31, 2012, at which time there were 107 full-time and 45 Senior Judges, for a total of 127.25 JFTEs. The complement of judges of the Court fluctuates over any given year as judges retire, join the senior program, and as new judges are appointed. The year-end complement is the actual number of judges, both full-time and senior, at a particular point in time. Chart 1 provides an indication as to how the complement has fluctuated over the past four years. Similarly, the number of judges in the Court, at any given time, will fluctuate during the course of the year. A list of Provincial Court Judges can be found in [Appendix 2](#), and information regarding the current complement can be found [here](#).

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

GENDER DISTRIBUTION OF PROVINCIAL COURT JUDGES – 2012/13

	Male	%	Female	%	Total
Full-Time Judges	68	62	41	38	109
Senior Judges	36	77	11	23	47
TOTALS	104	66	52	33	156

AGE DISTRIBUTION OF PROVINCIAL COURT JUDGES – 2012/13*

Age	Male	%	Female	%	Total	%
Under 50	7	4.4	7	4.4	14	8.8
50-59	32	20.0	24	15.0	56	35.0
60-69	58	36.2	23	14.4	81	50.6
70-75	9	5.6	0	0	9	5.6
TOTALS	106	66.2	54	33.8	160	100

SENIORITY OF PROVINCIAL COURT JUDGES – 2012/13

Seniority	Male	Female	TOTAL	%
0-5 years	22	13	35	21.9
6-10 years	23	10	33	20.6
11-15 years	15	8	23	14.4
16-20 years	7	10	17	10.6
20+ years	2	4	6	3.7
Senior	37	9	46	28.8
TOTALS	106	54	160	100

*160 Judges includes full-time Judges, Senior Judges and four Judges on LTD.

Judicial Justices

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

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

The complement of Judicial Justices as at March 31, 2013 is 12 full-time (including one on long-term disability), five ad hoc, and 17 per diem Judicial Justices. A list of Judicial Justices can be found in [Appendix 2](#).

GENDER DISTRIBUTION OF JUDICIAL JUSTICES

	Male	Female	TOTAL
Regular	6	6	12
Adhoc	1	4	5
Per Diem	10	7	17
TOTALS	17	17	34

Justice of the Peace Adjudicators

Justice of the Peace Adjudicators are senior lawyers, appointed as Justices of the Peace, on a part-time (*per diem*) basis, to preside over simplified trials of civil matters at the Robson Square and Richmond court locations. As of April 1, 2012, there were 13 Justice of the Peace Adjudicators. Due to the passing of Justice of the Peace G. Urquhart in November 2012, as of March 31, 2013, there are 12.

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

Judicial Case Managers

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

As of March 31, 2013, there are 30 full-time and 12 part-time Judicial Case Managers. A list of Judicial Case Managers can be found in [Appendix 2](#).

ADMINISTRATION OF THE PROVINCIAL COURT

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

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

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

- Associate Chief Judge Nancy Phillips (Chair)
- Administrative Judge J. Challenger (Coast District)
- Administrative Judge D. Weatherly (Cariboo Northeast District)
- Administrative Judge S. Frame (Kamloops District)

- Administrative Judge R.J. Webb (Kootenay District)
- Administrative Judge M. Buller Bennett (North Fraser District)
- Acting Administrative Judge D. Cowling (North Vancouver Island District)
- Administrative Judge H. Seidemann III (Northwest District)
- Administrative Judge R. Smith (Okanagan District)
- Administrative Judge P. Gulbransen (South Fraser District)
- Administrative Judge A. Brooks (South Vancouver Island District)
- Administrative Judge R. Low (Vancouver Criminal District)
- Administrative Judge P. Chen (Robson/Richmond District)

THE COURT'S WEBSITE AND JUDGMENT DATABASE

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

As of March 31, 2013, there have been approximately 7,135 written judgments posted to the Court's database. The database also enables users to locate judgments that have been posted in the past seven days. A direct link is available for the decisions of all the courts in British Columbia at: www.courts.gov.bc.ca.

THE COURT'S CASELOAD

There were 143,403 new cases initiated in the Provincial Court this fiscal year, which were comprised as follows:

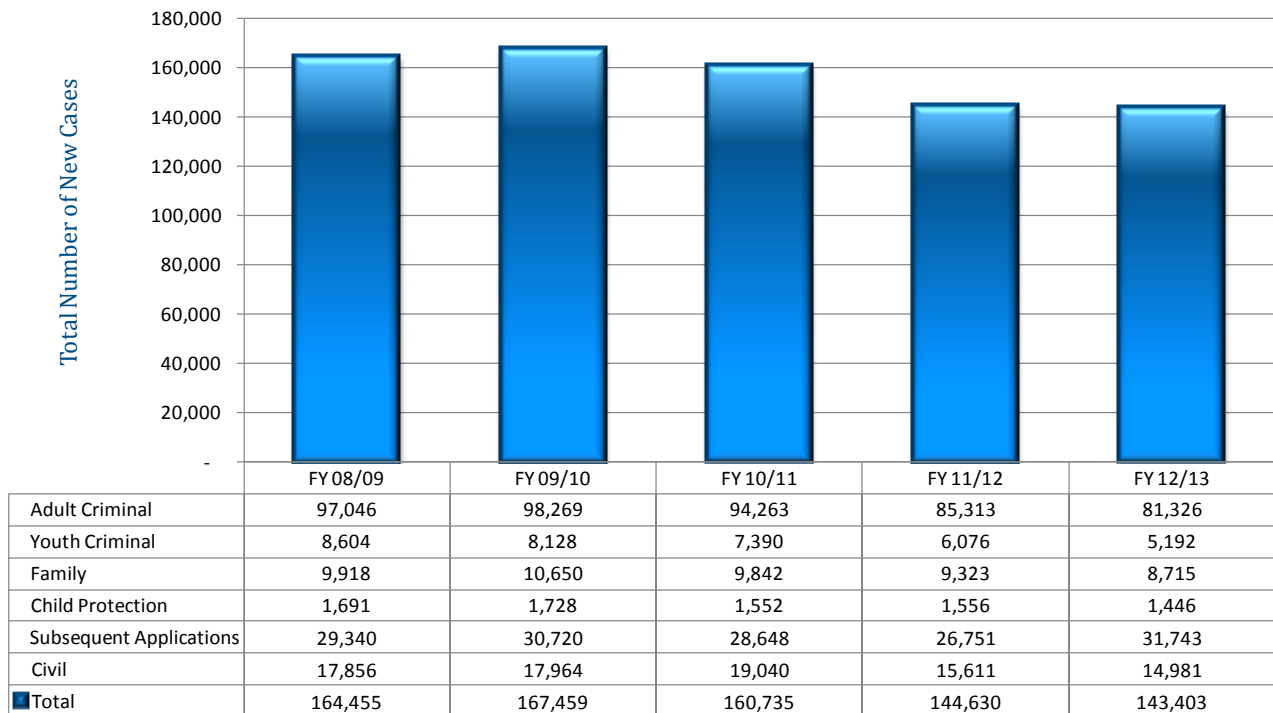
- 56.7% criminal;
- 3.6% youth;
- 22.1% subsequent applications;
- 10.4% civil;
- 6.1% family; and
- 1.0% child protection.

Traffic cases are not included in this total and are addressed later in this document. Please see Chart 2.

The total number of new cases is approximately 0.9% less than the previous year. Chart 2 (below) sets out the total number of cases in the fiscal year 2012/13, compared to previous years.

CHART 2

Provincial Court of British Columbia
New Cases by Division (2008/09 - 2012/13)



The Court also received a total of 88,887 new traffic and bylaw cases this fiscal year. These cases are routed through the Traffic Court scheduling office, which is operated by the Court Services Branch. While Judicial Justices preside over the majority of these matters, Provincial Court Judges occasionally hear traffic and bylaw cases in more remote locations and in the event a *Charter* remedy is sought. While the Court currently has a large enough Judicial Justice resource pool to keep up with the incoming volume, delays at the Traffic Court scheduling office have led to a backlog of traffic cases waiting to be scheduled for trial.

The charts that follow show new caseloads over the past five years, by area of the Court's jurisdiction.

CHART 3

**Adult & Youth Criminal Cases
(2008/09 - 2012/13)**

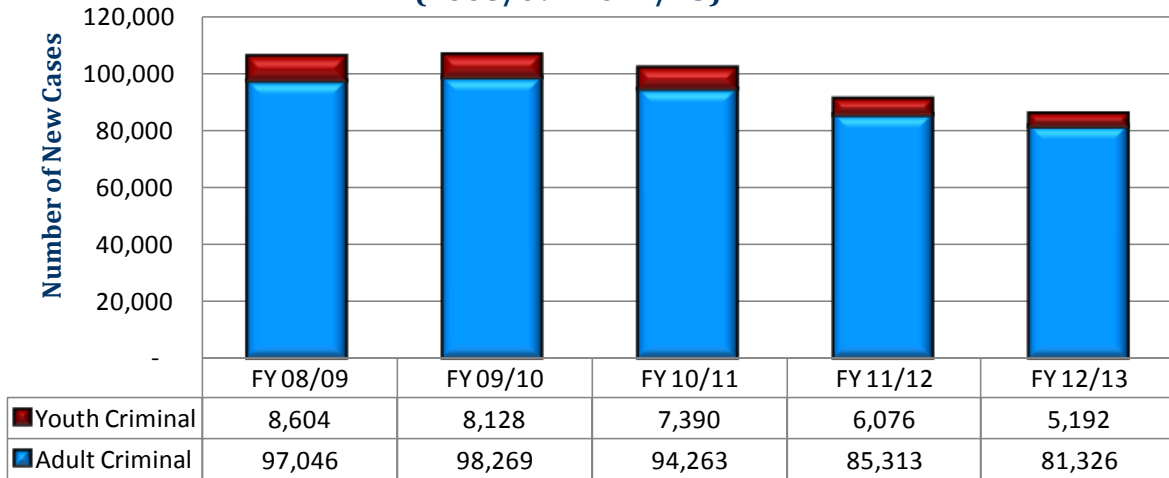


CHART 4

**Family & Child Protection Cases
(2008/09 - 2012/13)**

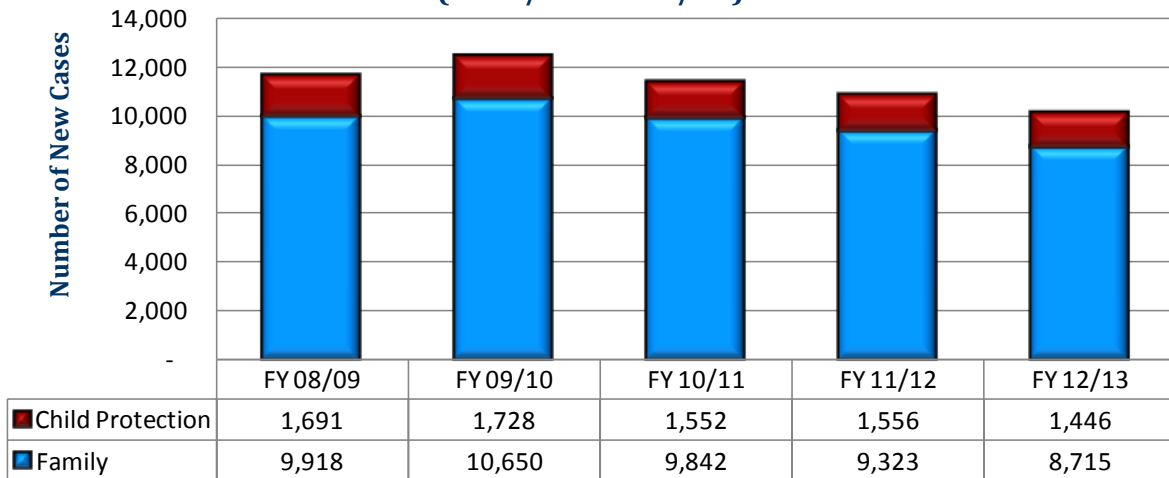
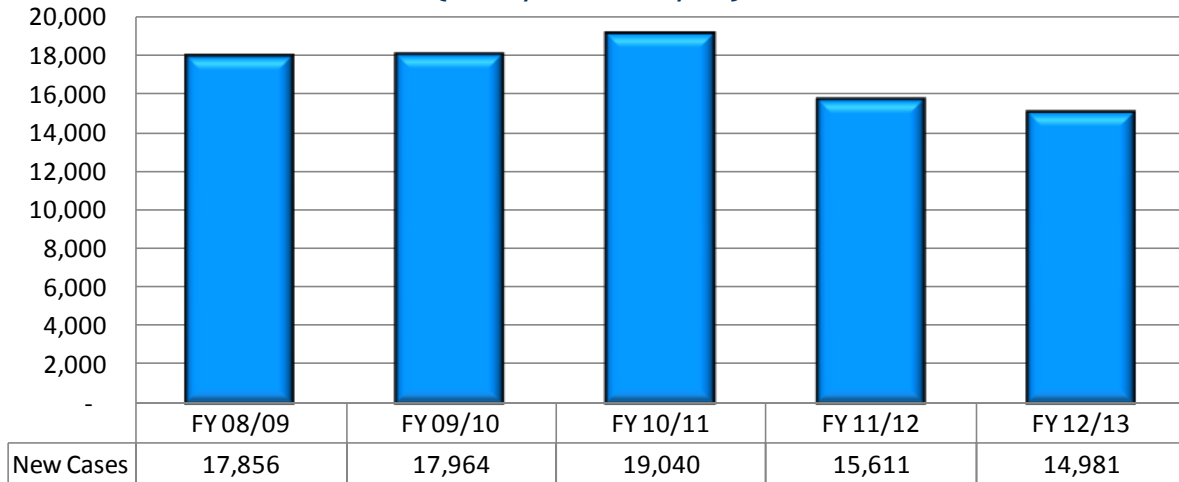


CHART 5

**Civil Cases (Small Claims)
(2008/09 - 2012/13)**



Pending Cases

The chart below shows the number of pending adult criminal cases in the Provincial Court System that exceed the Court’s standard for time to trial. A pending case is a case that has not yet been completed and for which a future appearance has been scheduled. The Court’s standard for time to trial is no more than 180 days from the arraignment hearing (during which a plea is entered for the accused and decisions are made as to how to proceed). The significance of these cases is that they may be vulnerable to a stay of proceedings (i.e. termination by the Crown or the Court due to excessive delays).

CHART 6

**Adult Criminal Caseloads Pending Over 180 Days
as at March 31, 2013**

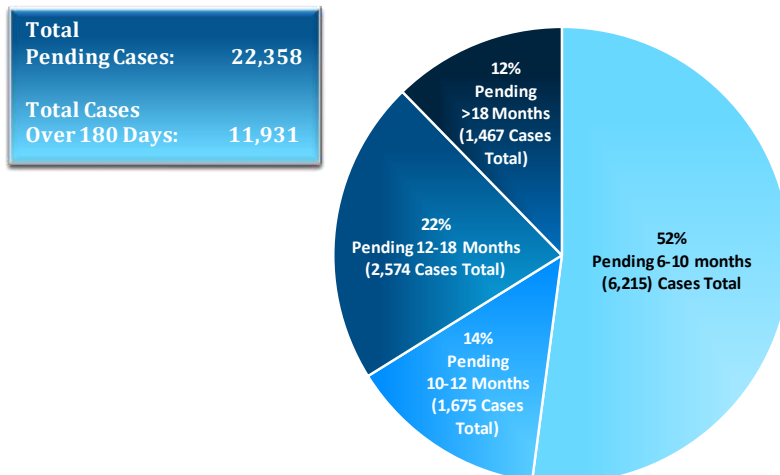


CHART 6

Adult Criminal Caseloads Pending Over 180 days as at March 31, 2013 (continued)

Date	Total Pending	Over 180 Days	6-10 Months	10-12 Months	12-18 Months	>18 Months
Sep-10	28,867	15,859	5,915	3,050	4,856	2,038
Sep-11	25,038	14,016	3,946	2,463	5,085	2,522
Mar-12	25,333	13,548	4,574	2,144	4,358	2,472
Sep-12	24,148	12,418	4,605	1,998	3,729	2,086
Mar-13	22,358	11,931	6,215	1,675	2,574	1,467

These cases are broken down into four different timelines: 6-10 months, 10-12 months, 12-18 months, and over 18 months. This data is as of the end of the fiscal year 2012/13, and represents a snapshot of the pending case inventory.

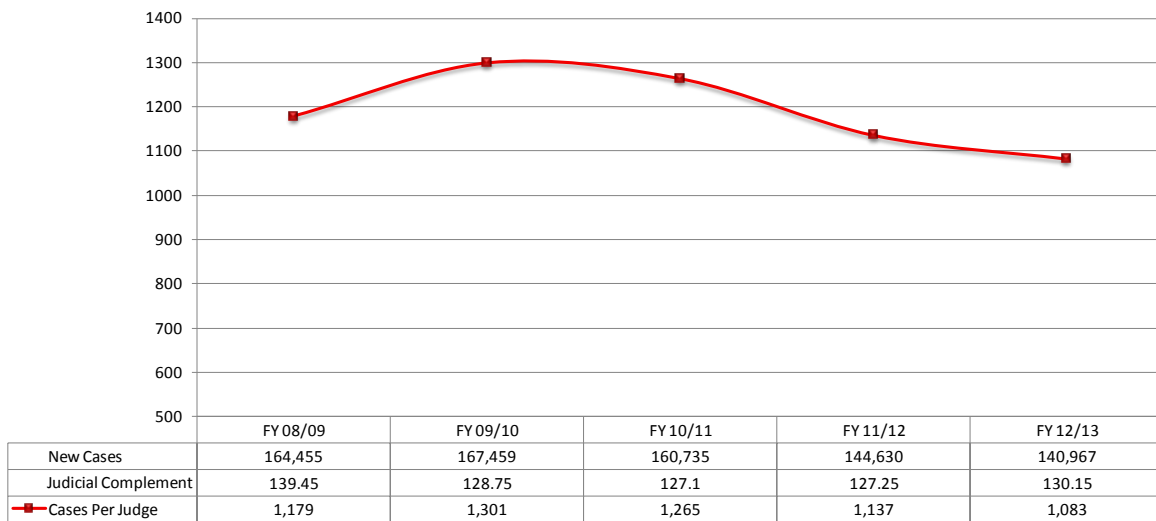
The Court's inventory of pending cases are on a decline, as shown by the table below. The biggest reductions are among the oldest cases (12 months and older). The number of cases pending over 180 days was 11,931 this year, compared to 13,548 last year – a reduction of 12%.

Judicial Resources

In 2010, a study of the judicial resources available to the Provincial Court was undertaken by the Office of the Chief Judge, producing a report entitled [Justice Delayed: A Report of the Provincial Court of British Columbia concerning Judicial Resources](#). This report outlined the challenges faced by the Provincial Court in providing timely, effective and equitable justice to the people of British Columbia. At the time this report was issued, the judicial complement was 126.30. As of March 31, 2013, it is 130.15. The total number of cases per judge has fallen since that time, as shown in the chart below.

CHART 7

Total Cases per Provincial Court Judge
2008/09 - 2012/13



PROVINCE-WIDE TIME TO TRIAL

The Court determines available hearing dates for each district through quarterly surveys of the “next available trial date.” The most recent survey is as of March 31, 2013, yielding data that has been used to generate weighted province-wide delays for each area of the Court’s jurisdiction.

In 2005, the Court endorsed a number of standards to measure whether cases were being scheduled for trial in a timely manner. To meet these standards, 90% of cases must be at or below the listed time to trial.

On average, time to trial in all divisions has continued to decrease since early 2011. However, most of the Court’s performance targets are not being met on a provincial basis. Case backlogs will continue to be monitored and assessed into the future. Regular updates can be viewed [here](#).

The charts below represent the average provincial time to trial (weighted by caseload), in months, from the time a request is made to the “first available date” for various types of proceedings. Wait times also take into account any cases currently waiting to be scheduled, factoring them into the delay estimates. The first chart provides a snapshot of wait times across divisions in the most recent survey period (as of March 31, 2013). The three

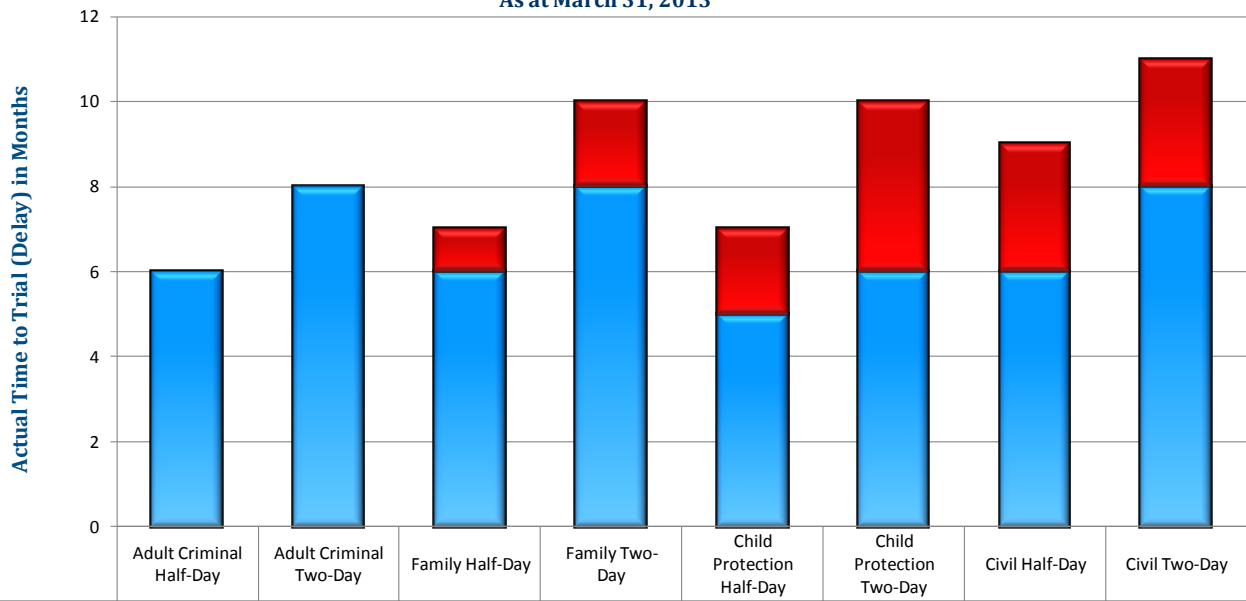
subsequent charts provide a five-year perspective on wait times by area of the Court’s jurisdiction (i.e. criminal, family and civil).

Results in Chart 8 are rounded to the nearest month. Results for the divisional charts (9-16) are rounded to the nearest 10th of a month.

CHART 8

Province-Wide Time to Trial by Division

As at March 31, 2013

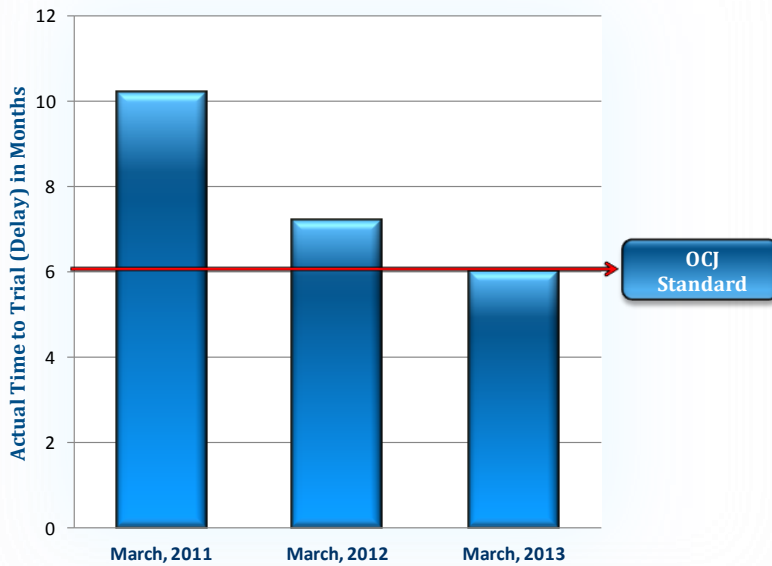


Delay (in months)	6	8	7	10	7	10	9	11
Current Backlog	0	0	1	2	2	4	3	3
OCJ Standard	6	8	6	8	5	6	6	8

Criminal Division

CHART 9

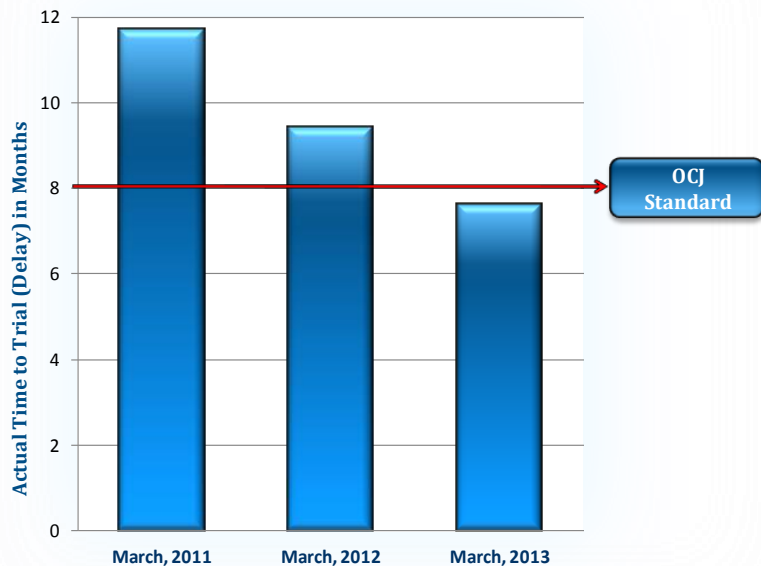
Province-Wide Time to Trial for Half-Day Adult Criminal Trials
Comparing March 2011 - 2013



The Court's standard for adult criminal half-day trials is six months from the setting of the trial date to the first available trial date. The average time to trial, as of March 31, 2013, is six months, a decrease of 1.3 months or 17.8% over last year.

CHART 10

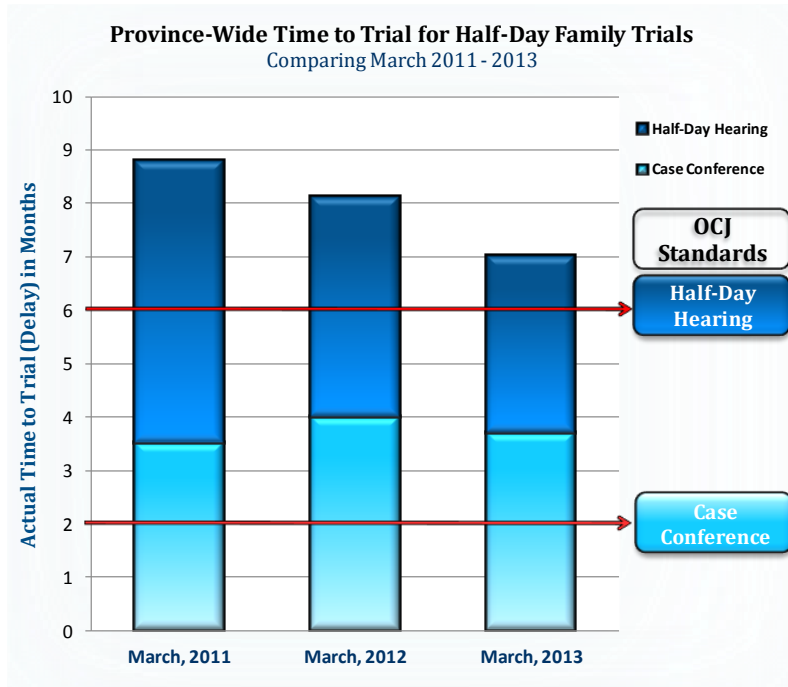
Province-Wide Time to Trial for Two-Day Adult Criminal Trials
Comparing March 2011 - 2013



The Court's standard for adult criminal two-day trials is eight months from the setting of the trial date to the first available trial date. The average time to trial, as of March 31, 2013, is 7.6 months, a decrease of 1.8 months or 19.1% over last year.

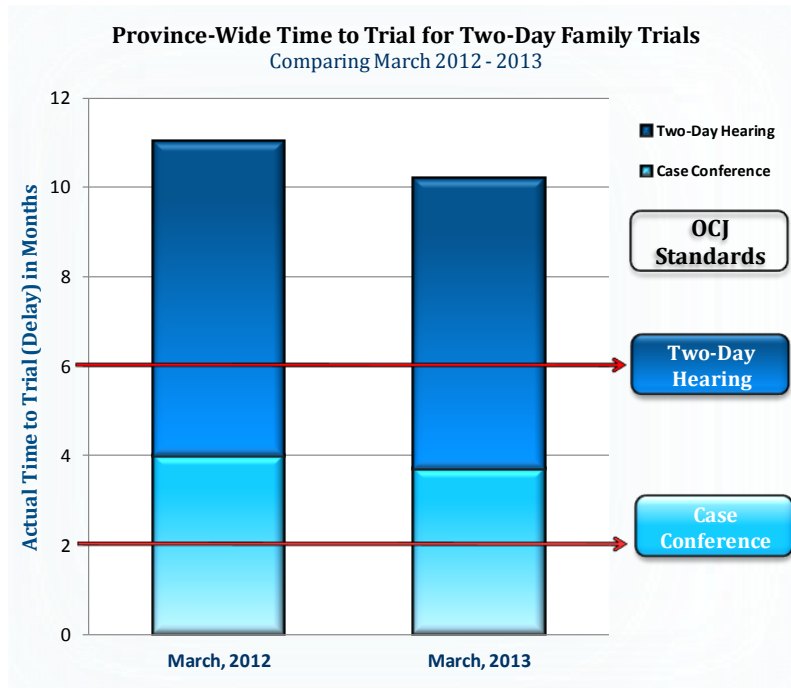
Family Division

CHART 11



The Court's standard for family half or two-day trials is six months from the initial filing to the first available trial date. For a half-day hearing, the delay, as of March 31, 2013, is seven months, a decrease of 1.1 months or 13.6% over last year.

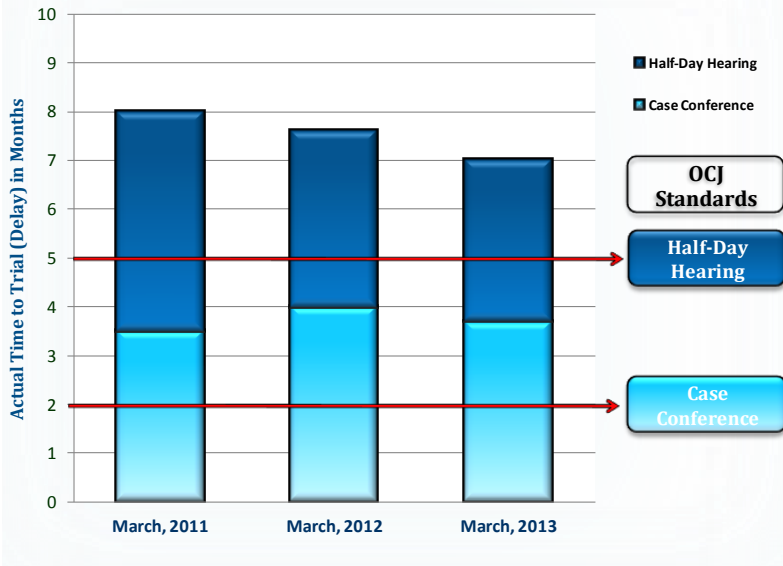
CHART 12



For a two-day hearing, the delay, as of March 31, 2013, is 10.2 months, a decrease of 0.8 months or 7.3% over last year. (Delay data is not available for March 2011).

CHART 13

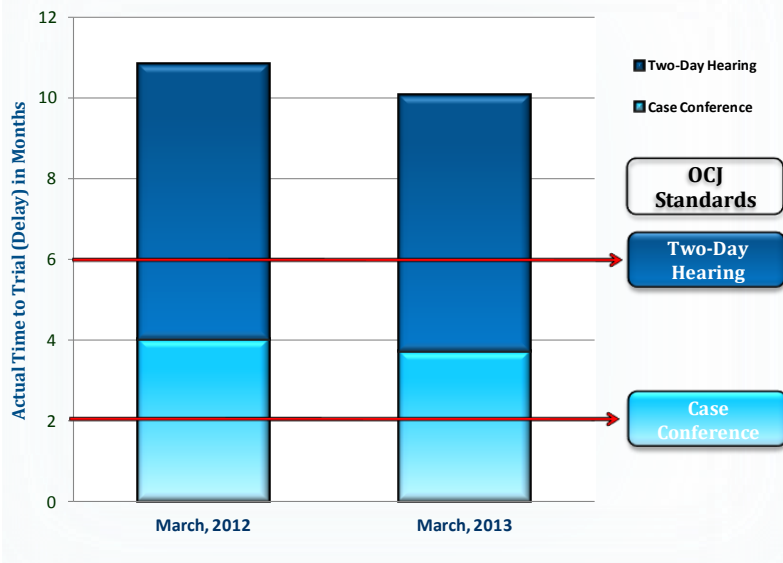
Province-Wide Time to Trial for Half-Day Child Protection Hearings
Comparing March 2011 - 2013



The Court's standard for child protection half-day trials is five months from the initial filing to the first available trial date. The time to trial, as of March 31, 2013, is seven months, a decrease of 0.4 months, or 5% over last year.

CHART 14

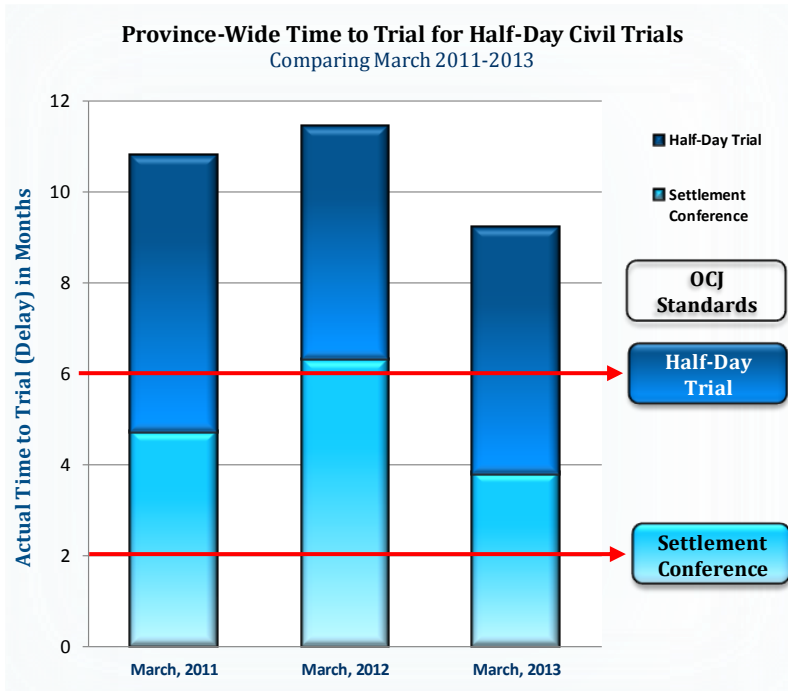
Province-Wide Time to Trial for Two-Day Child Protection Hearings
Comparing March 2011 - 2013



The Court's standard for child protection two-day trials is six months from the initial filing to the first available trial date. The time to trial, as of March 31, 2013, is 10 months, an increase of 0.8 months or 7.4% over last year.

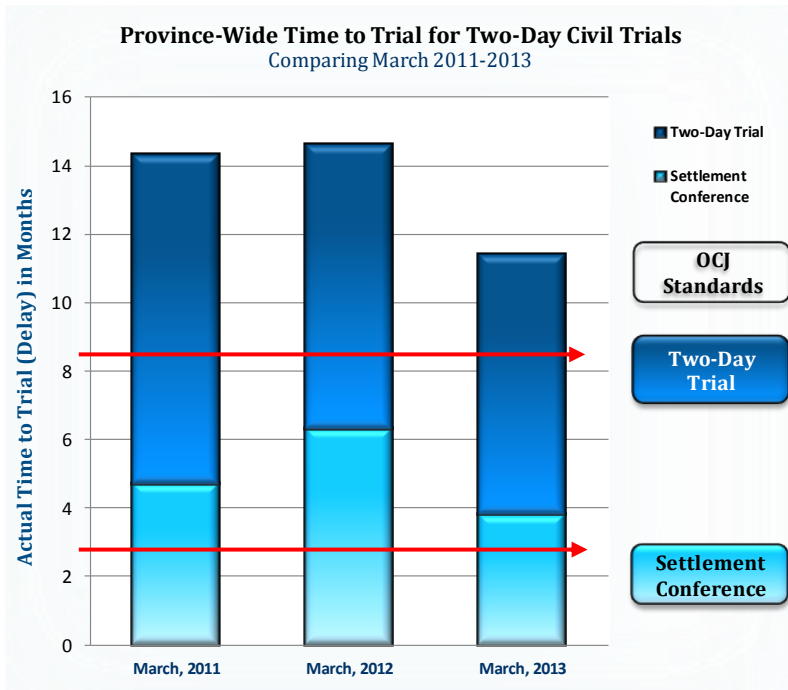
Civil Division

CHART 15



The Court’s standard for civil half-day trials is six months from the time the case is ready to proceed to the first available trial date. The time to trial, as of March 31, 2013, is 9.2 months, a decrease of 2.2 months or 19% over last year.

CHART 16



The Court’s standard for civil two-day trials is eight months. The time to trial, as of March 31, 2013, is 11.4 months, a decrease of 3.2 months or 22% over last year.

Provincial Court Locations with the Longest Times to Trial

The charts which follow represent the ten locations with the longest time to trial in each area of the Court’s jurisdiction. Results for Adult Criminal and Civil proceedings are broken down into delays for trials of different expected durations (“half-day” and “two or more day”). Smaller locations (i.e. those falling below the median provincial caseload) are screened out of these calculations, as they experience more volatility (thus, a long wait time in any given quarter is less likely to be indicative of a concerning trend). These tables also contain the OCJ standard.

CHART 17

**Adult Criminal Half-Day Trials
Locations with the Longest Time to Trial
As at March 31, 2013**

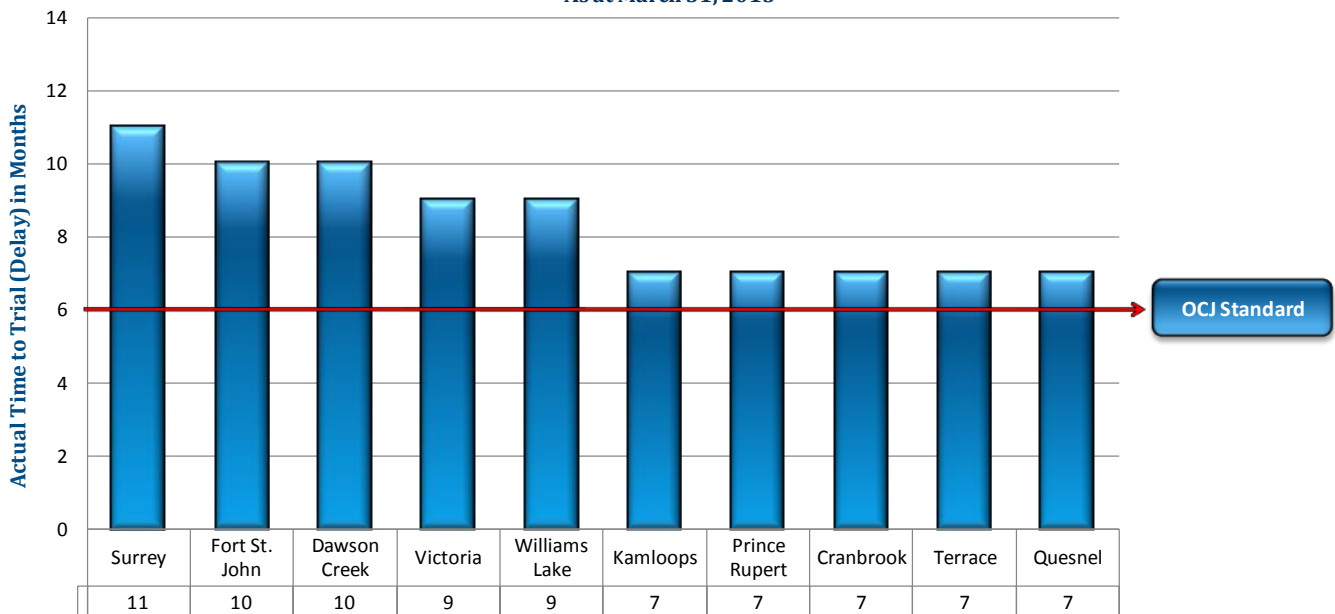


CHART 18

**Adult Criminal Two-Day Trials
Locations with the Longest Time to Trial
As at March 31, 2013**

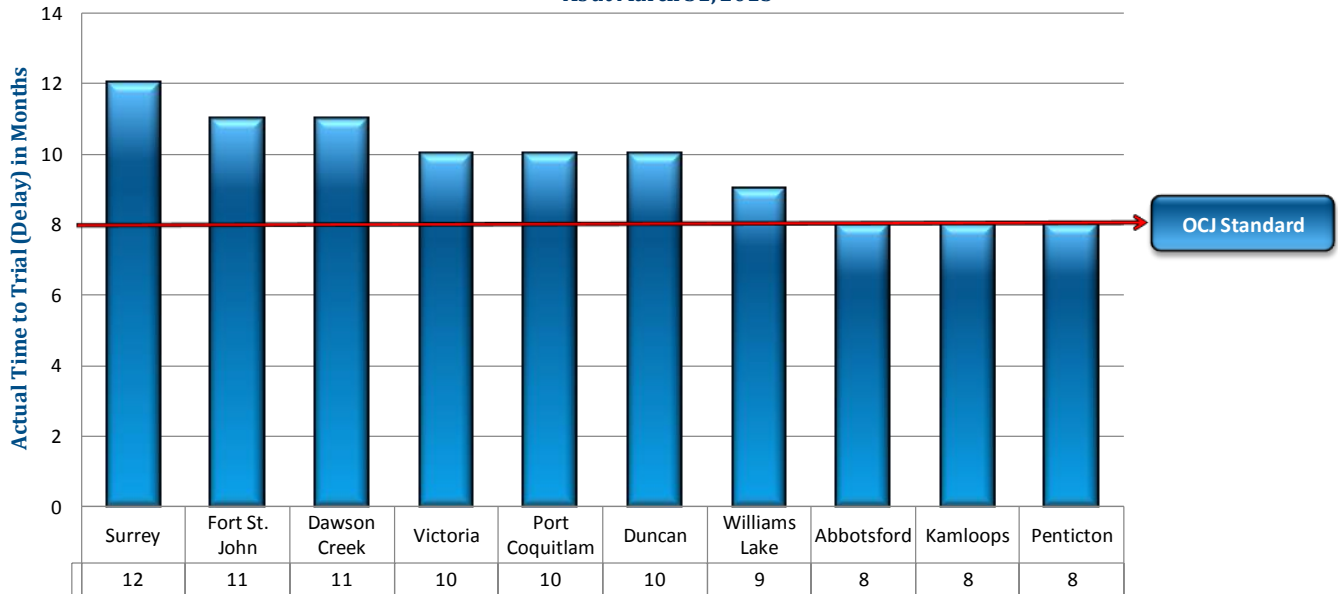


CHART 19

**Family: Locations with the Longest Time to Trial
As at March 31, 2013**

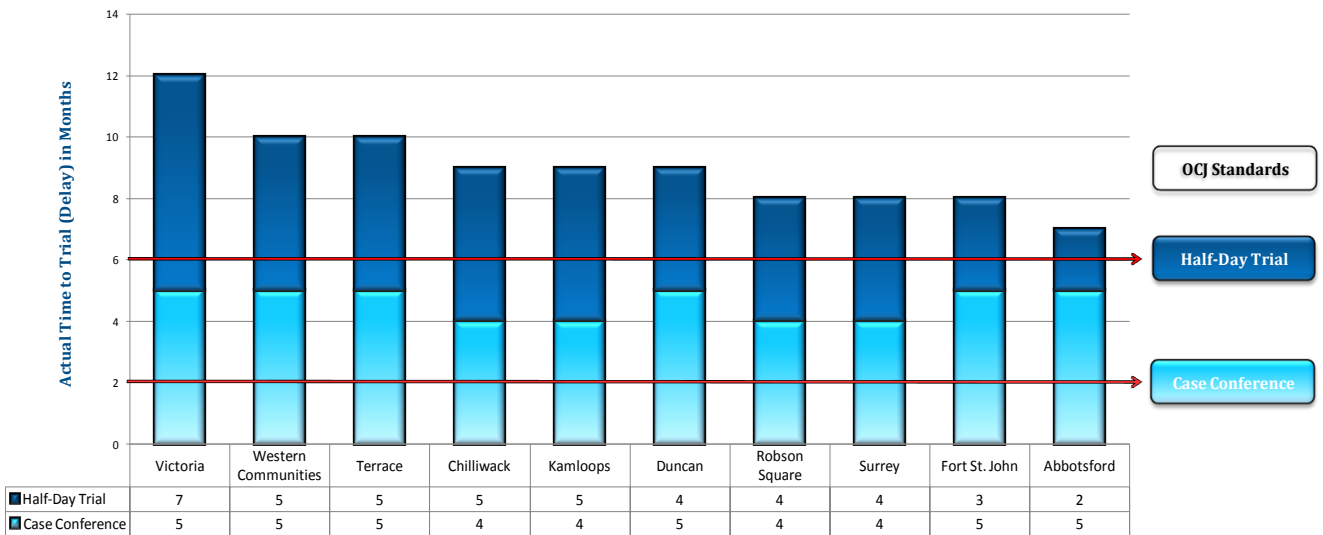


CHART 20

Child Protection: Locations with the Longest Time to Trial
As at March 31, 2013

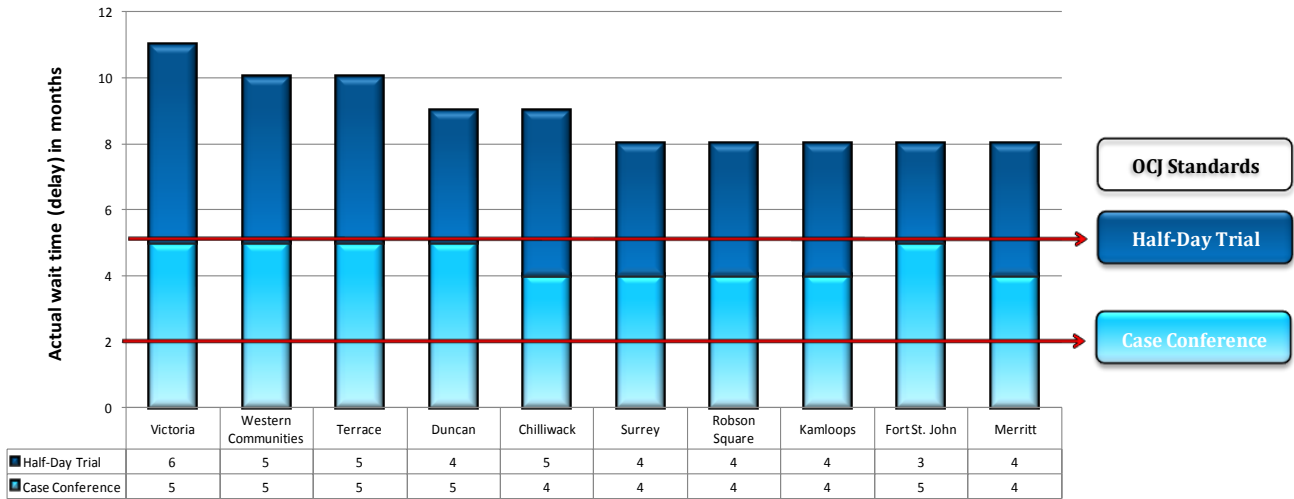


CHART 21

Civil Half-Day Trials
Locations with Longest Time to Trial
As at March 31, 2013

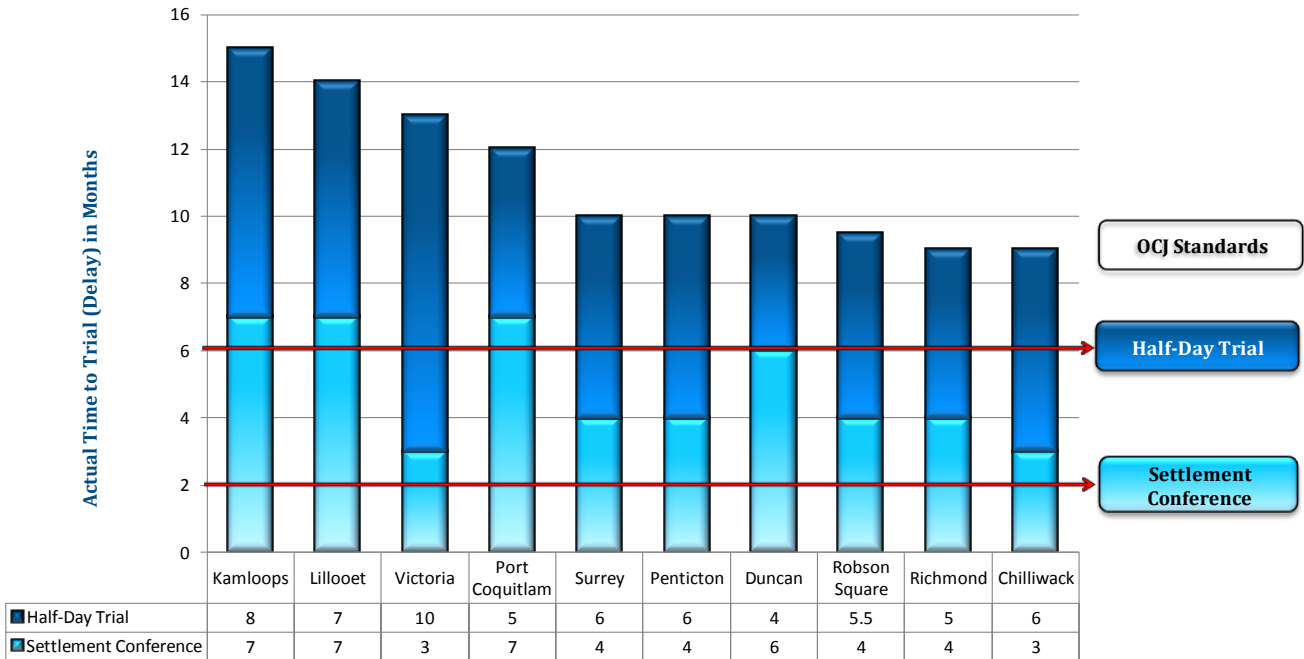
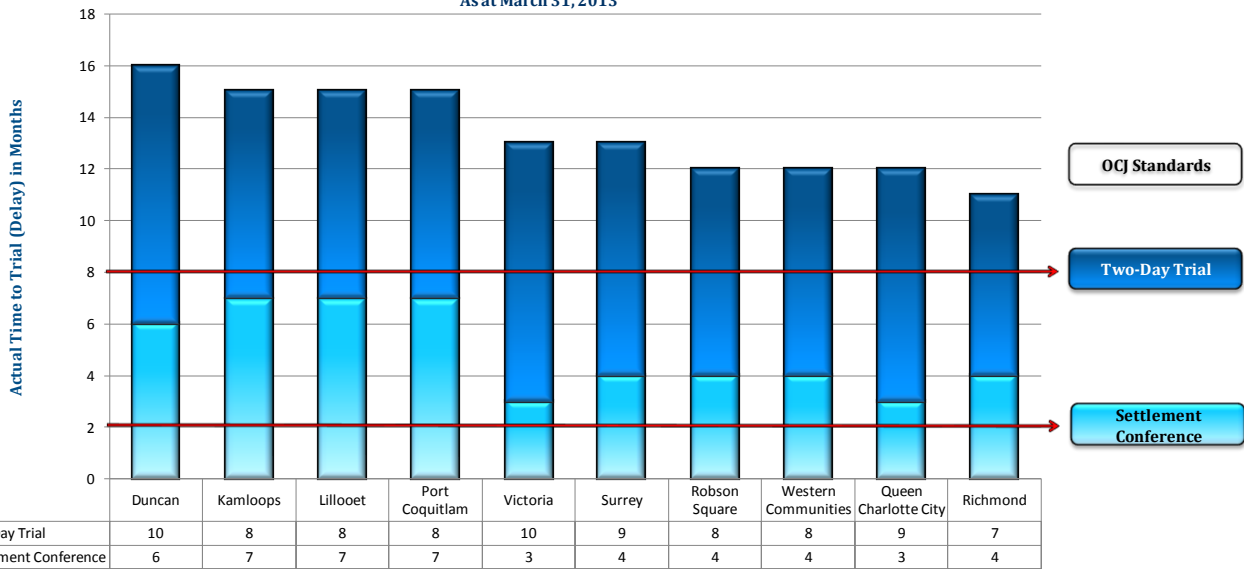


CHART 22

Civil Two-Day Trials
Locations with the Longest Time to Trial
As at March 31, 2013



ADDRESSING THE NEEDS OF THE PEOPLE OF BRITISH COLUMBIA

Updates on Key Justice Reform Initiatives and Court Innovation

A fully functioning justice system is an essential element of a free and democratic society governed by the rule of law. The Provincial Court of British Columbia is committed to continually improving the justice system with a focus on providing timely, effective and equitable justice for the citizens of the Province. Several key initiatives undertaken or moved forward during the fiscal year are:

Backlog Reduction Project

The Provincial Court Backlog Reduction Project is a joint effort between the Ministry of Justice and the Office of the Chief Judge to reduce current backlogs in criminal and child protection matters before the Provincial Court. One hundred and seventy days of judicial resources, divided equally, have been set aside for criminal and child protection matters (i.e. 85 days each). This project will operate between April 1, 2013 and March 31, 2014.

Site selection was based on a provincial review of current trial delays, as of December 31, 2012.

When allocating criminal backlog reduction days, priority was given to the four locations that will implement the new scheduling project that will be introduced by the Court in the fiscal year 2013-2014. Of those four locations, (Port Coquitlam, Kelowna, Robson Square and Prince George) Port Coquitlam was the only location that had trial delays beyond the standards established by the Court. They also had enough trial delays to fulfill the use of all 85 judicial days allocated to the Criminal Reduction portion of this project. When allocating child protection backlog reduction days, the key questions were: (a) Which locations have the greatest volume of new Child Protection Cases?; (b) Which locations have the longest delays to Child Protection trials?; and (c) Where would the concentration of backlog reduction efforts make a substantial change to a location’s delay?

Problem-Solving Courts

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

(*Problem-Solving Courts have been listed in alphabetical order.)

Cowichan Valley Domestic Violence Court Project

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

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

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

Drug Treatment Court of Vancouver (DTCV)

Created in 2001, the Drug Treatment Court of Vancouver (DTCV) is one of the busiest programs in Vancouver, with a fully integrated treatment program for all of its participants.

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

The goal of the program is to help offenders achieve:

- abstinence from drug use;
- reduced or eliminated future contact with the criminal justice system;
- improved overall well-being, including improved housing;
- employment and education; and
- pro-social use of their time.

For a minimum of 14 months, DTCV participants undergo a drug addiction treatment, which is supervised by a DTCV judge. The participants receive services from addiction counsellors, case managers, a psychologist, a physician who specializes in addictions medicine, a nurse and a financial assistance worker. Drug use is monitored through random urine screening. As the participants move through the four phases of the program (pre-treatment, recovery skills, stabilization and seniors group), at the end of that 14-month period, the participants may be eligible to “graduate” from the program and receive either a non-custodial sentence or have the Crown stay the charge.

The graduation criteria for participants are the following:

- abstained from consuming all intoxicants for the three-month period immediately prior to graduation;
- secured stable housing, approved of by the DTCV judge;
- have not been charged with a new criminal offence in the six months immediately preceding graduation; and
- have engaged in secure employment, training or volunteering for the three months immediately preceding graduation.

Recently, the DTCV program was evaluated by the Faculty of Health Sciences at Simon Fraser University¹. That study concluded that DTCV participants exhibited significantly greater reductions in offending and a significant decrease in drug-related offences.

First Nations Court

First Nations Court has now been established in several communities, including the first location in New Westminster (November 2006); North Vancouver's Coast District (First Nations Sentencing Court, February 2012), which includes offences occurring in Whistler, Squamish and the North Shore; and, most recently, in Kamloops (March 2013).

First Nations Court is developed in consultation with local First Nations, the community at large, the police, community corrections, Crown counsel, the defense bar, and many other support service groups such as The Native Courtworker and Counselling Association of British Columbia.

The focus of this approach is holistic in nature, recognizing the unique circumstances of First Nations offenders within the framework of existing laws. The Court provides support and healing to assist offenders in their rehabilitation and to reduce recidivism. It also seeks to acknowledge and repair the harm done to the victims and the community. The Court encourages local First Nations communities to contribute to the proceedings.

In this fiscal year, First Nations Court in New Westminster continued to welcome justice system professionals and academics from British Columbia and across Canada. Many of these visitors will use British Columbia's First Nations Court as a model for First Nations Courts in their own communities.

The recent openings of First Nations Courts in North Vancouver and Kamloops signifies the growing interest in this holistic approach for the First Nations communities in British Columbia.

Vancouver's Downtown Community Court

Many offenders in downtown Vancouver have health and social issues, including alcoholism, drug addiction, mental illness, homelessness and poverty. The Downtown Community Court opened in September 2008 and is a partnership between the Court and the Ministry of Justice, social, and health service agencies that work to address crime in downtown Vancouver, Chinatown, Coal Harbour, the Downtown Eastside, Gastown, Strathcona, Yaletown, the West End and Stanley Park. Its goal is to reduce crime, improve public safety, and

¹ Somers, Julian M. et al, Drug Treatment Court of Vancouver: *An Empirical Evaluation of Recidivism*, International Journal of Drug Policy, published online March 15, 2012.

provide integrated justice, health and social services to offenders in a timely way, while holding them accountable for their actions.

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

The BC Ministry of Justice is conducting an evaluation of the DCC, which is scheduled for completion in the fall of 2013.

Victoria's Integrated Court

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

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

At the VIC, community service is frequently ordered as part of a sentence. In 2012, two new community work service projects were undertaken: a mural and a community garden. The mural project saw clients of the various teams participate in creating the "Lady Justice" mural located at 533 Chatham Street in Victoria. Ground broke on the community garden in the spring of 2012, leading to a successful harvest of vegetables throughout the summer and fall. The opportunity to work in the garden is available to all clients, not just those completing court-ordered community work service. The garden is cosponsored by Vancouver Island Health Authority (VIHA) and the John Howard Society and is located at VIHA's Seven Oaks Tertiary Care Facility. The garden provides an opportunity for VIHA and Community Living British Columbia clients to learn gardening skills, to grow their own produce, and to share in any profits from produce sold. Both the mural project and the ongoing community garden are funded by donations from the local community, the bar and individual donors.

The Court issued a [report](#) after VIC's first year in operation. A progress [report](#) was issued in June 2012 and a further progress report is scheduled to be released in late 2013.

Provincial Court Scheduling Project

In the spring of 2012, Chief Judge Crabtree announced that the Court would undertake a project to make changes to the way cases are scheduled in the Provincial Court. The Provincial Court Scheduling Project (PCSP) seeks to simplify the Criminal Caseflow Management Rules, thereby reducing the number of appearances required before trial on criminal cases. The Scheduling Project will also make changes to the way judges are assigned to cases and trials are assigned to courtrooms to increase scheduling flexibility, which will enhance the

effective, efficient and equitable use of judicial resources. This latter component will apply to criminal, family and civil cases.

The new scheduling model requires computer software to support it and, in the summer of 2012, the Ministry of Justice secured the funding to enable the Court to build the required computer programs. Additionally, the Court recognized the need to develop a better Business Intelligence and Management Information System in order to be able to effectively monitor, evaluate and adjust court scheduling practices. Work on the computer software for the new scheduling model began in the fall of 2012 and continues to date.

The Court has built upon its tradition of working collaboratively with justice system stakeholders in the development and design of the new scheduling model. The Court engaged Ben Graham, a business process analysis firm with previous experience in court scheduling reform initiatives in other provinces, to work with the Court to help identify problems with existing practices and design new methods for scheduling. Additionally, in October 2012, the Court participated in a Ministry of Justice initiative with Fujitsu International to hold a week-long stakeholder engagement workshop to obtain the input of Crown and defence counsel, Court Services staff and sheriffs on changes to scheduling. The Court continues to seek the input of the criminal, family and civil bar to help inform the design of the new scheduling model. Moreover, the Court has met regularly with representatives from the Legal Services Society, the Canadian Bar Association, the Law Society of British Columbia and other organizations to keep them informed about developments in the project.

Work on this large project will continue into 2013/14, with the implementation of the new scheduling practices expected to begin by the end of 2013 and carry on into 2014. The Court has committed to a rigorous evaluation of the new model and will be working with government to ensure that there is support for that evaluation.

Reforms - Civil Division

In November 2007, the Court began piloting civil reforms at the Robson Square and Richmond courthouses. Small claims cases are tracked into one of three streams. In both locations, claims under \$5000 (other than personal injury and institutional debt) are scheduled for simplified trials, conducted by senior civil lawyers. At Robson Square, all small claims cases (regardless of the monetary amount) involving an institutional debt are scheduled for a 30-minute summary debt trial. And, at Robson Square, civil claims over \$5000 proceed through mediation and a trial conference before being set for trial.

Technology-Assisted Remote Appearances

The Justice Centre, located in Burnaby, continues to feature prominently in the delivery of bail hearing services conducted by remote appearance. Daytime, evening and weekend bail hearings are conducted from the Justice Centre to various video-linked locations throughout the Province, with regular evening and weekend lists for the locations of Vancouver, Surrey and Delta.

The Bail Reform Project in the Peace Region of the Province continues to conduct video-assisted bail hearings just as other areas in the Province; however, the scheduled list format has been suspended pending further analysis of the related resourcing co-ordination, needs and allocations.

In those rural areas where video technology has not yet been made available, bail hearings continue to be conducted, where possible, over the telephone.

Overall and province-wide, in the past fiscal year there were a total of 20,216 prisoner video remands that avoided the need for personal transport between a correctional facility and a court location. A total of 7,243 of these appearances occurred as in-custody video appearances at the Justice Centre while the remaining occurred before Provincial Court Judges throughout the Province. In addition to this, the Justice Centre received 11,197 appearances via telephone only.

The Court continues to seek expanded availability and use of video-facilitated appearances in order to reduce transport costs as well as to enhance the quality of the hearings.

University of British Columbia (UBC) Law School Intern Program

Since January 2007, the Court and the University of British Columbia Faculty of Law have partnered in the delivery of a judicial internship program that provides a unique opportunity (among Canadian universities) for third-year law students to spend an entire law school term working with the Provincial Court judiciary throughout the Province across an array of legal subject areas and issues.

The program is designed so that the students are exposed to all areas of the Court's work: criminal, family, youth, child protection and civil matters. The interns' work is comprised not only of legal research pertaining to issues which the judges request, but also to the observation of trials and other court processes and the discussion of issues with the judges of the Court.

Of particular note, and a very rewarding part of the Program for the student interns, is that each one accompanies a judge and a court party to a remote registry in British Columbia in order to witness the delivery of justice first-hand by the Court in regions throughout the Province (the "Circuit Court"). The Circuit Court program broadens the students' education, exposes them to legal practice outside the Lower Mainland, and offers insight into the Court as a "problem-solving" court that operates in geographic areas with significant variations in its extra-legal resources². The cost of the Circuit Court program is approximately \$15,000 per term. The Court has been very fortunate to receive ongoing funding from the Law Foundation of British Columbia to cover the costs of intern travel and accommodation, and gratefully acknowledges its contribution in that regard.

Public and Media Access to the Court

With the ever-increasing use of Smartphones and other mobile devices, the Provincial Court, together with the Supreme Court of British Columbia and the Court of Appeal of British Columbia, jointly developed and issued a ["Policy on Use of Electronic Devices in Courtrooms,"](#) effective September 17, 2012. The Policy sets out the permitted and prohibited use of electronic devices in the courtrooms of all three Courts in the Province.

The Policy generally prohibits the use of electronic devices in courtrooms to transmit and receive text or to take photos or videos. However, accredited media representatives and lawyers who are members of the Law Society of British Columbia may use electronic devices to transmit and receive text in a discreet manner that does not interfere with the proceedings. In addition, the Policy permits accredited media to use electronic devices to audio record a proceeding for the sole purpose of verifying their notes and for no other purpose, such as broadcasting. The Policy retains the discretion of the presiding Judge to determine what, if any, use can be made of electronic devices in their courtroom.

² The benefits of this program have been described by Professor Sutherland in an article in *The Advocate*, Vol. 67, Part 3, May 2009.

THE PROVINCIAL COURT'S COMMITTEE WORK

Judges' Education Committee

This committee of the Provincial Court Judges' Association is responsible for continuing education for the judges of the Court. In this fiscal year, the committee members were:

- Judge C. Birnie (Chair)
- Judge C. Bagnall
- Judge E. Blake (until November 2012)
- Judge A. Brooks (until November 2012)
- Chief Judge Thomas Crabtree
- Judge E. De Walle (until April 2012)
- Judge D. Potheary
- Judge R. Bowry
- Judge K. Skilnick (until June 2012)
- Judge T. Wood
- Judge Meg Shaw (as of September 2012)
- Judge Jim Bahen (as of September 2012)

The Committee designed and delivered two education conferences in 2012. The spring conference took place in April, in Victoria. The first day of presentations dealt with court management, amendments to the *Criminal Code*, and judicial ethics and social media.

The second day of the conference focused on social media and the courts, and on the new *Family Law Act* anticipated for early 2013. On the Saturday, a session on work-life balance was delivered by Dr. Fiore.

The fall conference took place in Vancouver, in November. This was a joint conference with the Supreme Court of British Columbia and was organized by a joint committee of the two Courts. Judges Bagnall, Blake, Brooks, Woods and Chief Judge Crabtree represented our committee. The theme of this conference was "Trial Courts and the Rule of Law." This theme was considered in the context of criminal trial management, the fact-finding process, dealing with conflict in the courtroom, preventing wrongful convictions, and the challenges of diversity. Over the two days, there were presentations by a number of senior practitioners, scholars and judges, including the Chief Justice of the Supreme Court of Canada, Beverley McLachlin, and Judge Marc Rosenberg of the Ontario Court of Appeal.

In September, the conference chair attended the meeting of the National Education Committee of the Canadian Association of Provincial Court Judges (CAPCJ). A one-day training session on group facilitation was also held, led by Professor Dawson from the National Judicial Institute (NJI), for members of the committee and other interested members of the Provincial Court bench. The goal of the session was to provide group facilitators from the Provincial Court of British Columbia to assist at future conferences. There are now 11 trained facilitators.

Judicial Justices' Education Committee

In conjunction with the Judicial Justices' Education Committee, the Provincial Court of British Columbia maintains a high quality continuing education program for its Judicial Justices. This includes semi-annual educational conferences, as well as a series of education nights conducted throughout the year. The programming provides regular opportunities for the Judicial Justices to remain current in topical and emerging areas in their work. The Judicial Justices may also participate in additional educational programming throughout the year, as supported by a professional development allowance.

Judicial Justice G. Hayes and Judicial Justice I. Blackstone comprised the Education Committee responsible for conference programming in this fiscal year. Judicial Justice K. Arlitt organized the evening educational sessions.

The conference held in the fall of 2012 focused on computer and legal research skills and trial scheduling practices. Sessions were also provided on the law relating to applications for search warrants under the *Criminal Code* and the *Controlled Drugs and Substances Act*. There was also a presentation by Justice Gary Trotter, a noted author of the publication "*The Law of Bail in Canada*." This presentation was followed by a panel discussion involving audience participation.

The conference held in the spring of 2013 included some of the more complex aspects of Judicial Interim Release, with a special emphasis on issues arising from allegations of domestic violence and in the context of protection orders under the newly proclaimed *Family Law Act*. The conference also included a group analysis of selected issues arising from search warrants and production orders.

The evening educational sessions included updates on recent Court of Appeal cases by Court of Appeal Justice David Frankel, as well as sessions by experts in the field of forensic DNA analysis, the underlying science, and its application in the investigation of particular types of offences, including sexual assaults.

Judicial Education Review Committee

The membership of the Judicial Education Review Committee was:

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

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

- Legislative amendments impacting the age of retirement for the judiciary;
- The extension of the Senior Judge program (enabling judges to sit part-time);
- Changing demographics of the Court;
- Increasing reliance on technology in delivering the work of the Court, including video appearances in court and the use of information technology;

- Scarcity of fiscal resources;
- Health and wellness challenges facing the Court;
- The need to meet the Strategic Plan of the Court; and
- Responsibility to the public for providing judicial services by a judiciary that meets a high standard of skill and knowledge.

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

Emergency Planning Committee

The Emergency Planning Committee was struck in 2008, and concluded its mandated tasks and delivered a full day of judicial education on emergency preparedness at the spring judicial conference in 2010.

In 2011, the Chief Judge instructed a subcommittee (Emergency Planning Implementation Committee, or EPIC) to develop a plan for implementing those aspects of the Emergency Planning Report that were within the control of the Court in the event of an emergency.

During this fiscal year, the EPIC discussed and prioritized the following tasks:

- a) The compiling and updating of a Court and Government Key Personnel list for all the communities around the Province. The JAAs around the Province gathered the information and forwarded the data to the OCJ. Associate Chief Judge Brecknell and the Executive Director developed a plan for regularly updating the information.
- b) The preparation and installation of the necessary IT Infrastructure at the Kelowna courthouse to permit that location to function as a backup Justice Centre in the event of a calamity.
- c) There were no provisions in the *Provincial Court Act* to provide for the appointment of an Interim Chief Judge in the event that the Chief Judge was incapacitated (by virtue of illness or a calamity). The EPIC recommended to the Chief Judge that this needed to be rectified and the Chief Judge made representations to Government on the issue. That resulted in consequential amendments to s.10 (6) and (7) of the *Provincial Court Act* by virtue of the passing of the *Justice Reform and Transparency Act* in March 2013, which provided an interim succession process.

Membership to the EPIC for the 2012-2013 fiscal year included Associate Chief Judge Brecknell, Judges Weatherly, Hogan and Brown, and Judicial Justice Edwards.

FINANCIAL REPORT

	Budget	Actual	Variance	
Salaries	\$38,798,000	\$35,597,941	\$3,200,059	(1)
Supp. Salaries	30,000	67,017	(37,017)	
Benefits	8,923,000	8,231,065	691,935	(2)
Judicial Council/Ad Hoc/Per Diem	1,803,000	1,651,388	151,612	(3)
Travel	1,288,000	1,329,851	(41,851)	
Professional Services	157,000	316,152	(159,152)	(4)
Information Services	207,000	556,019	(349,019)	(5)
Office Expenses	905,000	1,194,559	(289,559)	(6)
Advertising	3,000	0	3,000	
Court Attire and Supplies	74,000	91,352	(17,352)	(7)
Vehicles	66,000	105,185	(39,185)	(8)
Amortization	249,000	135,748	113,252	(9)
C.A.P.C.J. Grant	4,000	10,000	(6,000)	
Library	175,000	260,132	(85,132)	(10)
Interest on Capital Leases	9,000	60,586	(51,586)	(11)
General Expenses	0	0	0	
Total Operating Expenses	\$52,691,000	\$49,606,995	\$3,084,005	

Provincial Court Judges	130.63
Judicial Justices of the Peace (JJs)	11.14
Staff	87.66
Total FTE:	229.43

Capital Budget Variance (Systems and Furniture)	\$140,000	\$139,200	\$800
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- (1) Long-term disabilities, retirements and delays in replacements thereto
- (2) Related to salary savings
- (3) Savings in per diem expenses
- (4) Legal fees and contracts related to judicial resources
- (5) Maintenance and enhancements to information systems, computer software and licences
- (6) Education costs and meeting expenses
- (7) Replenishment of judicial attire
- (8) Vehicle repairs and fuel
- (9) Computer equipment reaching full amortization
- (10) Increased costs for judicial reference material
- (11) Maintenance and repair expenditures at facilities

MAINTAINING CONFIDENCE IN THE JUSTICE SYSTEM

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

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

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

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

The following chart captures information on complaints since 2004:

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Letters received	118	174	144	258	216	245	280	272	227
Non-complaints (those found not to be within Section 11)	95	137	123	205	169	207	225	239	206
Examinations of complaints performed to December 31, 2012 as summarized below or in previous Annual Reports	* 20	* 34	19	* 53	45	* 35	* 29	* 39	* 21
Investigations of complaints performed	* 3	2	1	0	0	0	0	0	0
Files unresolved by December 31, 2012	0	1	0	0	0	0	0	0	16

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

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

During the period from January 1, 2012 to December 31, 2012, 227 letters of complaint were received at the Office of the Chief Judge. On assessment, 206 matters were found not to be complaints within the authority of the Chief Judge. Examinations were commenced on the remaining matters. Including complaints carried over from 2011, 22 examinations were completed during 2012. Of the 21 completed examinations, all were resolved at the examination stage.

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

APPENDIX 1: JUDICIAL INDEPENDENCE



Court of Appeal of British Columbia



Supreme Court of British Columbia



Provincial Court of British Columbia

Judicial Independence (And What Everyone Should Know About It)

March 15, 2012

Introduction

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

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

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

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

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

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

What is Judicial Independence and Why is it Important?

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

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

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

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

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

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

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

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

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

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

³ *Seaton Report* at 60.

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

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

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

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

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

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

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

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

The adversarial system is one feature of the legal system that makes it an uneasy fit with the application of business analysis and systems management designed for a business or government enterprise. The judiciary of each Court has drawn upon such analysis to develop projects and systems to better serve the public in a manner that also recognizes the constitutional structures and rights that underpin the legal system.

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

Other Types of Independence

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

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

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

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

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

Conclusion

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

Chief Justice Lance Finch

Chief Justice Robert Bauman

Chief Judge Thomas Crabtree

Chief Justice of British Columbia

Chief Justice Supreme Court of British Columbia

Chief Judge Provincial Court of British Columbia

APPENDIX 2: JUDICIAL OFFICERS AS OF MARCH 31, 2013

Judges

District	Name	Status	District	Name	Status
Office of the Chief Judge	Crabtree, T.	Chief Judge	Kootenays	Mrozinski, L.	Full Time
	Brownstone, A.	Full Time		Sheard, G.	Full Time
	Denhoff, K.	Full Time		Sperry, D.	Senior
	Gove, T.	Senior	North Fraser	Buller Bennett, M.	Administrative Judge
	Pendleton, D.	Senior		Alexander, T.	Full Time
	Rae, M.	Senior		Craig, B.	Full Time
Cariboo Northeast	Brecknell, M.	Associate Chief Judge		de Couto, P.	Senior
	Weatherley, D.	Administrative Judge		Dossa, S.	Full Time
	Bayliff, E.	Full Time		Janzen, P.	Full Time
	Blaskovits, R.	Full Time		Pothecary, D.	Full Time
	Bowry, R.	Full Time		Smith, G.	Full Time
	Callan, R.	Full Time		Spence, A.	Senior
	Church, M.	Full Time		Steinberg, D.	Full Time
	Daley, B.	Full Time		Stone, D.	Senior
	Galbraith, V.	Full Time		Walters, R.	Full Time
	Gray, M.	Full Time	Woods, T.	Full Time	
	Morgan, D.	Full Time	North Vancouver Island	Cowling, D.	Administrative Judge
	O'Byrne, D.	Full Time		Doherty, P.	Senior
Coast	Challenger, J.	Administrative Judge		Dohm, T.	Senior
	Auxier, J.	Senior		Gouge, T.	Full Time
	Dyer, B.	Full Time		Gould, A.	Senior
	Gedye, J.	Senior		Iverson, E.	Senior
	Merrick, S.	Full Time		Joe, J.	Senior
	Milne, J.	Full Time		Klaver, B.	Senior
	Moss, D.	Senior		MacCarthy, P.	Full Time
	Rodgers, W.	Senior		Saunders, J.	Full Time
Kamloops	Frame, S.	Administrative Judge	Saunderson, B.	Senior	
	Cleaveley, C.	Full Time	Sutton, R.	Full Time	
	Dickey, R.	Full Time			
	Donegan, S. A.	Full Time			
	Harrison, S.	Full Time			
	Rohrmoser, H.	Senior			
Kootenays	Webb, R.	Administrative Judge			
	Fabbro, R.	Senior			

District	Name	Status	District	Name	Status
Northwest	Seidemann III, H.	Administrative Judge	South Fraser	Lenaghan, J.	Senior
	Birnie, C.	Full Time		Lytwyn, J.	Senior
	Jackson, W.	Full Time		MacDonald, W.	Senior
	Struyk, C.	Full Time		MacGregor, S.	Senior
	Wright, T.	Full Time		MacKay, R.	Full Time
Okanagan	Smith, R.	Administrative Judge		Miller, R.	Senior
	Burdett, E.	Full Time		Oulton, J.	Full Time
	Cartwright, J.	Senior		Raven, R.	Full Time
	Chapman, B.	Full Time		Romano, R.	Full Time
	de Walle, E.	Senior		Rounthwaite, A.	Senior
	Hogan, V.	Senior		Rounthwaite, J.	Full Time
	Klinger, W.	Senior		Skilnick, K.	Full Time
	Koturbash, G.	Full Time		Sutherland, J.	Full Time
	McKimm, M.	Full Time		Young, W.	Full Time
	Shaw, M.	Full Time		South Vancouver Island	Brooks, A.
	Sinclair, G.	Senior	Blake, E.		Full Time
	Takahashi, M.	Full Time	Chaperon, L.		Full Time
	Threlfall, J.	Senior	Harvey, J.		Senior
Wallace, A.	Full Time	Higginbotham, R.	Full Time		
South Fraser	Gill, G.	Associate Chief Judge	Hubbard, M.		Senior
	Gulbransen, P	Administrative Judge	Neal, B.		Senior
	Arthur- Leung, K.	Full Time	Palmer, A.		Senior
	Bond, P.	Full Time	Quantz, E.		Senior
	Brown, G.	Full Time	Smith, W.		Senior
	Caryer, R.	Full Time	Wishart, S.	Full Time	
	Cohen, G.	Full Time	Wood, J.	Full Time	
	Cutler, R.	Full Time	Vancouver Criminal	Low, R.	Administrative Judge
	Dohm, P.	Full Time		Bagnall, C.	Full Time
	Field, H.	Senior		Bahen, J.	Full Time
	Gardner, D.	Full Time		Bastin, B.	Senior
	Gillespie, M.	Full Time		Burgess, E.	Full Time
	Gordon, E.	Full Time		Galati, J.	Full Time
	Hamilton, R.	Full Time		Giardini, M.	Full Time
	Hicks, M.	Full Time		Harris, R.	Full Time
	Hoy, B.	Full Time		Howard, F.	Full Time
	Hyde, P.	Senior		Kitchen, W.	Senior
	Jardine, J.	Senior		MacLean, M.	Full Time
Lamperson, R.	Full Time	McMillan, M.		Full Time	
		Palmer, J.		Full Time	
		Rideout, G.	Full Time		

District	Name	Status
Vancouver Criminal	Senniw, D.	Full Time
	St. Pierre, D.	Full Time
	Walker, K.	Full Time
Vancouver Richmond	Philips, N.	Associate Chief Judge
	Chen, P.	Administrative Judge
	Dhillon, H.	Full Time
	Ehrcke, A.	Senior
	Fratkin, R.	Senior
	Gallagher, R.	Senior
	McKinnon, J.	Full Time
	Meyers, P.	Full Time
	Romilly, V.	Full Time
	Schmidt, D.	Senior
	Werier, J.	Full Time
	Wingham, J.	Full Time
Yee, W.	Full Time	

Judicial Justices

Division	Name	Location
Long-Term Disability	Kobiljski, M.	Office of the Chief Judge
Sitting Division (Full Time)	Hayes, G. (Administrative JJ)	Justice Centre
	Schwartz, P. (Administrative JJ)	Violation Ticket Centre
	Arlitt, K.	Justice Centre
	Blackstone, I.	Abbotsford
	Chellappan, J.	Justice Centre
	Cyr, B.	Justice Centre
	Dodwell, P.	Richmond
	Hughes, J.	Kamloops
	Joseph-Tiwary, S.	Port Coquitlam
	Lim, P.	North Vancouver
	Makhdoom, Z.	Robson/Richmond
Per Diem	Adair, B.	Justice Centre/Traffic
	Beer, B.	Justice Centre
	Bowes, E.	Justice Centre
	Brecknell, E.	Traffic - Salmon Arm
	Brown, A.	Justice Centre
	Burgess, B.	Traffic – Vernon
	Callegaro, N.	Justice Centre
	Campbell, A.	Justice Centre
	Edwards, B.	Justice Centre
	Gordon, H.	Traffic – Victoria
	Hodge, F.	Justice Centre
	Holmes, T.	Justice Centre
	Langford, L.	Traffic – Nelson
	Lindsey, H.	Justice Centre
	Padron, D.	Justice Centre
	Roberts, C.	Justice Centre
Schwartz, D.	Justice Centre	
Ad Hoc	Harvey, C.	Justice Centre
	Maihara, D.	Justice Centre
	Mayner, L.	Traffic
	Rogers, C.	Justice Centre
	Wakefield, J.	Justice Centre

Justice of the Peace Adjudicators

Name	Name
Baynham, B.	Roberts, D.
Borowicz, F.	Saunderson, D.
Cornish, B.	Urquhart, G. (passed away November 2012)
Glasner, K.	Wallace, B.
Kahn, L.	Warner, K.
Nordlinger, K.	Yule, D.
Pratchett, M.	

Judicial Case Managers

District	Name	District	Name
Office of the Chief Judge	North, D. (Administrative JCM)	Kootenays	Hadikin, S.
Vancouver Criminal	Butler, K. E.	Okanagan	McCormack, A
	Caporale, L.		Bullach, K.
	Hill, T. L.		Darke, A.
	Johnstone, C. J.		Krenz, D.
	Mihic, J.		Warwick, M. K.
	Stokes, L.	Kamloops	Paul, S.
Vancouver Richmond	Brown, B.	Cariboo Northeast	Bigras, D.
	Goodrich, C.		Campbell, F.
	Norton, J.		Jasper, S.
North Fraser	deKeruzec, M. L.		Coast
	MacDonald, L.	S.I. McLarty	
	Scott, M.	C.M. Foerster, C. M.	
	Steele, S.	Northwest	Leonardes, L.
South Fraser	Hodge, D.		MacGregor, S.
	Holt, H.		
	Lockyer, L.		
	Mitchell, A.		
	Schulz, A.		
	Thorne, S.		
	Willock, J.		
	West, B.		
South Vancouver Island	Bruce, A.		
	Cole, S. L.		
	Henry, D.		
	Locke, Y.		
North Vancouver Island	Ballman, C.		
	Mitchell, V.		

APPENDIX 3: | NOTES FOR CHARTS

Chart 1 – Total Judge Complement and Judicial Full Time Equivalent (JFTE) (2009 – 2013)

Data Source: Rota6

Provincial Court Judge Complements are as of March 31 of each fiscal year. JFTE = Judicial Full-Time Equivalent positions. This includes all full-time Judge positions (1 JFTE) + all Senior Judge positions (0.45 JFTE) province-wide. This total does not include any Adhoc Judge positions or Judges on Long-Term Disability. Information regarding the current complement can be found [here](#).

There is a management information system latency factor which exists for approximately three months after the data is extracted from the case management systems. In order to maintain consistency, the Court Services Branch Strategic Information and Business Application group creates periodic frozen datasets on a three-month delay. This data is used for all data requests for the period covered by the frozen dataset (e.g. calendar year 2012).

Charts 2 through 5 – New Cases by Division (2008/09 – 2012/13)

Data Source: CORIN Database

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

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

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

There is a management information system latency factor which exists for approximately three months after the data is extracted from the case management systems. In order to maintain consistency, the Court Services Branch Strategic Information and Business Application group creates periodic frozen datasets on a three-month delay. This data is used for all data requests for the period covered by the frozen dataset (e.g. calendar year 2012).

Chart 6 – Adult Criminal Caseloads Pending over 180 Days

Data Source: CORIN Database

Provincial Court Pending Case: A case that has not been completed, where the number of days between the first appearance and the next scheduled appearance is over 180 days.

The current report is as of the end of the last calendar year, and represents a snapshot of the pending case inventory for all cases over 180 days.

There is a management information system latency factor, which exists for approximately three months after the data is extracted from the case management systems. In order to maintain consistency, the Court Services Branch Strategic Information and Business Application group creates periodic frozen datasets on a three-month delay. This data is used for all data requests for the period covered by the frozen dataset (e.g. calendar year 2012).

Chart 7 – Total Cases per Provincial Court Judge (2008/09 – 2012/13)

Number of New Cases – Data Source: CORIN Database

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

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

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

Provincial Court Judge Complement – Data Source: Rota6

Provincial Court Judge Complements are as of March 31 of each fiscal year. JFTE = Judicial Full-Time Equivalent positions. This includes all full-time Judge positions (1 JFTE) + all Senior Judge positions (0.45 JFTE) province-wide. This total does not include any ad hoc Judge positions or Judges on long-term disability. Information regarding the current complement can be found [here](#).

There is a management information system latency factor which exists for approximately three months after the data is extracted from the case management systems. In order to maintain consistency, the Court Services Branch Strategic Information and Business Application group creates periodic frozen datasets on a three-month delay. This data is used for all data requests for the period covered by the frozen dataset (e.g. calendar year 2012).

Chart 4 breaks these cases into four different timelines: 6 -10 months, 10-12 months, 12-18 months, and over 18 months. These results are preliminary. Pending cases are likely to adjust upwards due to data latency issues.

Charts 8 through 16 – Province-Wide Time to Trial by Division & Charts 17 through 22 – Locations with the Longest Time to Trial

Data Source: Judicial (Quarterly) Next Available Date Surveys

All locations in the province were weighted based on calendar year 2012 new caseloads as a percentage of the provincial total. The current reported delays are as of March 31, 2013.

This chart represents weighted province-wide delays for each area of the Court’s jurisdiction. They set out the average provincial wait time in months, from the time a request is made to the “first available date” for various types of proceedings. First available dates do not include those that have opened up due to cancellations, since this is not when the Court would normally schedule the matter. Wait times also take into account any cases currently waiting to be scheduled, factoring them into the delay estimates.

For Adult Criminal Trials, this wait time represents the number of months between an Arraignment Hearing/Fix Date and the first available court date that a typical half-day or two-day Adult Criminal Trial can be scheduled into.

For Family Hearings, this wait time represents the number of months between the initiating document and first appearance PLUS the number of months between the first appearance and the first available court date for a case conference PLUS the number of months between the case conference and the first available court date that a typical half-day or two-day Family Hearing can be scheduled into.

For Child Protection Hearings, this wait time represents the number of months between the initiating document and first appearance PLUS the number of months between the first appearance and the first available court date for a case conference PLUS the number of months between the case conference and the first available court date that a typical half-day or two-day child protection case can be scheduled into.

For Civil trials, this wait time represents the number of months between the final document filing and the first available court date that a typical settlement conference can be scheduled into PLUS the number of months between a settlement conference and the first available court date that a typical half-day or two-day trial can be scheduled into.

The chart also includes the Office of the Chief Judge (OCJ) standard for wait times. In order to meet the OCJ standard, 90% of cases must meet the listed time to trial. These standards are reflected as the lower portion of a set of stacked columns, with delays in excess of the standard represented above.

OCJ Standard for Adult Criminal Trials
Six-month delay to criminal half-day trial availability
Eight-month delay to criminal two-day trial availability

OCJ Standard for Family Hearings
One-month delay to first appearance
One-month delay from first appearance to case conference

Four-month delay from case conference to half or two-day trial

OCJ Standard for Child Protection Hearings

One-month delay to first appearance

One-month delay from first appearance to case conference

Three-month delay from case conference to half-day trial

Four-month delay from case conference to two-day trial

OCJ Standard for Civil Trials

Two-month delay to settlement conference availability

Four-month delay from settlement conference to half-day trial

Six-month delay from settlement conference to two-day trial

Charts 17 to 22 represent the ten locations with the longest delays to trial in each area of the Court's jurisdiction. Results for Adult Criminal and Civil proceedings are broken down into delays for trials of different expected durations ("half-day" and "two or more day" trials). Smaller locations (i.e. those falling below the median provincial caseload) are screened out of these calculations, as they experience more volatility – and thus, a long wait time in any given quarter is less likely to be indicative of a concerning trend. These tables also contain the OCJ standard, depicted visually as an arrow.

APPENDIX 4: COMPLAINTS

Complaints against Judges

Complaint: Despite the Judge recusing himself due to a conflict of interest, he also made directions binding on the parties.

Review: The Judge provided a thorough response explaining that he advised the parties that he would be unable to preside over the settlement conference as a party was represented by the Judge's former law firm. At that point, counsel for both parties sought and were provided a consent direction for further conduct of the proceedings. The circumstances did not raise any suggestion of judicial misconduct.

Complaint: Judge was "angry" from beginning to end of a settlement conference and "interrupted rudely" a party who tried to express their opinions. The Judge also shouted at the party.

Review: The presiding Judge and court clerk present at the settlement conference were canvassed. The Judge's and the clerk's recollection of events was very different from the complainant's and indicated the Judge was not angry nor rude. The complainant had been disappointed that the Judge had dismissed his claim at the settlement conference. The complainant was unable, at the settlement conference, to establish any cause of action against the defendants. Judicial misconduct was not established.

Complaint: Judge was "belittling" and sought to intimidate the complainant. The Judge and the other party called each other by their first names and exchanged pleasantries. The complainant believed the two were friends.

Review: Settlement conferences are not routinely audio recorded. The complaint was made more than a year after the settlement conference. Thus, it was extremely difficult to determine exactly what occurred. The court clerk was consulted and she had no recollection of anything unusual about the 15-minute settlement conference. The Judge had not met either the complainant nor the defendant before the settlement conference. The Judge indicated he would not be surprised if he was anything but plain-spoken and direct in advising the complainant that her case had little or no chance of success. He was confident he did not do so in a rude or demeaning way. It is to be noted that a settlement conference Judge is expected to express a view about the merits of the case in an evaluative way. Judicial misconduct was not established.

Complaint: The Judge presiding over a family case was "good friends" with the other party to the proceeding and should have recused himself.

Review: The audio recording of proceedings was reviewed, as well as a response from the Judge who indicated that he did not know the other party prior to the proceeding, although it was possible that he may have encountered this person in the community in some capacity. Out of an abundance of caution, the Judge had recused himself once he became aware of the concerns relayed by court staff. Judicial misconduct was not established. The complainant had also alleged that the Judge had presided over his case during a period when, in fact, the Judge had not yet been appointed to the Bench.

Complaint: The Judge in a payment hearing unduly favoured counsel for the other parties and made derogatory statements to, and scolded, the self-represented complainant. The Judge suggested the complainant had not done her homework and that she should "stop bellyaching."

Review: Review of the audio recording and a response from the Judge indicated that, as the Judge had stated on the record in the proceeding, his tone may have been brusque, conversational and less formal than the complainant had expected, but he was seeking to assist the complainant who had wrongfully obtained a garnishing order against a non-party. While a different term than “bellyaching” may have been preferable, the comment occurred within a discussion where the Judge was trying in good faith to be helpful to the complainant. Judicial misconduct was not established.

Complaint: A Judge was presiding in Court in a small British Columbia town. The Judge referred to this town as a “godforsaken” place. The complainant felt that this improper comment insulted him and the residents of that town.

Review: Review of the audio recording available (which was not a full audio recording of the proceedings) did not indicate that such a comment had been made. The Judge responded to the complaint by indicating that if she had used such a description, she should not have done so and she regrets any hurt feelings on the complainant's part. On the basis of the Judge's apology, examination concluded.

Complaint: The Judge acted “with attitude” and used a “loud and demeaning voice” in dealing with the complainant's family case.

Review: The Judge was seeking to deal with this case with dispatch in a busy courtroom, but the Judge acknowledged, in responding to the complaint, that more explanation could have been properly provided to the complainant. In light of the Judge's acknowledgment, further examination of the matter was not necessary.

Complaint: The Judge loudly berated the complainant in a civil case and complained about an error another judicial officer was said to have made in the case. The Judge was not respectful of people simply wanting to have their case heard.

Review: A Judge dealing with self-represented litigants must exercise significant discretion to ensure trials remain focused on issues the Judge believes must be decided. Generally, the Judge's conduct did not go beyond what would be expected of a presiding Judge in similar circumstances. However, there was a brief outburst by the Judge, directed towards another judicial officer who, the Judge concluded, had wrongly dealt with the case. The Judge's strong reaction could be seen as inconsistent with the serenity to which all Judges aspire. The Judge was so informed and the complaint was resolved on that basis.

Complaint: A trial concluded in January 2011 and a decision had not yet been delivered by November 2011. A complaint of excessive delay was received.

Review: Excessive delay by a Judge in preparing reasons for judgment can, at some point, become a conduct issue over which the Chief Judge has a supervisory responsibility. As a matter of judicial independence, within reason, it is inappropriate for a Chief Judge to interfere with the actions of a specific trial Judge as she or he completes preparation of reasons for judgment. At some point, however, the delay becomes excessive and thus becomes a conduct issue. The Judge was provided an additional 45 days to issue reasons. Examination of this complaint brought forward a number of other delayed judgments. The Chief Judge's Office worked with the Judge who had been experiencing a number of personal issues during the relevant period. The personal issues had since resolved and outstanding judgments were brought up to date and a plan established going forward.

Complaints against Judicial Justices

Complaint: A part-time Judicial Justice (JJ) was the subject of discipline by the Law Society of British Columbia for actions in his private practice. A hearing panel of the Law Society imposed a fine of \$3,000 and the costs to the Law Society in the amount of \$1,500 with respect to a breach of an undertaking related to acting in a conflict of interest.

Review: The JJ remained unassigned any judicial duties, during examination of the matter, until January 2012. Part-time JJs are only paid when they preside. Examination by the Office of the Chief Judge proceeded after the Law Society case concluded in June 2011. The events giving rise to the Law Society discipline had occurred several years before and prior to the lawyer becoming a JJ. The JJ had been disciplined in a formal and public way by the Law Society. During judicial conduct examination, the JJ provided strong assurance that he had become highly sensitized to any possible conflicts of interest in the future. The JJ, on his own initiative, engaged in a continuing legal education program on ethics. The experience gained through the Law Society disciplinary process and the Office of the Chief Judge's examination process stressed for the JJ the importance of being alive to potential conflicts of interest and the necessity to scrupulously avoid any reasonable suggestions of conflict. The *de facto* suspension from paid assigned judicial duties for 11 months also focused the JJ's attention on the significance of these issues. The JJ was required to meet with an Associate Chief Judge and the Court's Legal Officer to review this matter and steps going forward. The complaint file was accordingly closed.

Complaint: The JJ was a "judicial bully" who subjected a disputant to a lengthy humiliating diatribe in open court, using unwarranted harsh and rude words.

Review: Review of the audio recording of the proceedings showed that during the delivery of the JJ's Reasons for Judgment, the JJ concluded that the disputant had been travelling 44 kilometres per hour over the posted speed limit and was guilty of excessive speeding. In the course of her Reasons, the JJ expressed concern about the excessive nature of the speeding. There was no suggestion from the audio recording that the JJ subjected the disputant to a lengthy humiliating diatribe. The JJ concluded that the disputant was not taking the matter as seriously as the JJ thought the disputant should and it was open to the JJ to reach that conclusion. There was no support for a suggestion that the JJ acted as a "judicial bully."

Complaint: A JJ acting in their capacity as a practicing lawyer conducted an employment investigation and adjudication. The subject of that investigation made a complaint to the Law Society of British Columbia about the investigation, suggesting the lawyer exhibited bias, could not provide a fair hearing, and had a history of poor investigations.

Review: The Law Society closed its file without taking any action against the JJ. The JJ, in her capacity as a lawyer, had found that allegations against the complainant were substantiated. There was no history of complaints about investigations conducted by the lawyer. The complaint against the JJ had no basis.

Complaint: A JJ in a violation ticket proceeding was "yelling" at a respondent and also "yelled" at the complainant to take their coffee outside the courtroom. The JJ used a "loud abrasive verbal command" and the complainant was "absolutely appalled by how abusive" the JJ was in Court.

Review: Review of the audio recording showed that the JJ has a manner that may be perceived by listeners as being unduly aggressive. The JJ was informed of this and as he does not wish to be perceived in this way, he will take this into account in the future. With respect to the comment about coffee in the courtroom, a judicial

officer may properly maintain the decorum of a courtroom by requiring that food and drink not be brought into the courtroom during proceedings. However, the JJ ought to have avoided words suggesting a degree of sarcasm. The JJ apologized. On that basis, the complaint file was closed.

Complaint: A senior member of a police organization complained about the merits of a specific judicial decision to provide judicial interim release to an accused person on specific conditions.

Review: JJs are constitutionally independent decision-makers. If a party disagrees with a decision, they need to pursue such objections through any available avenue of appeal to, or review by, a higher court.

Complaints against Judicial Case Managers

Complaint: A Judicial Case Manager (JCM) presiding in the Initial Appearance Room prevented a Native Court Worker from representing a First Nations' person and rebuked the Native Court Worker when she tried.

Review: The JCM responded to the complaint quickly and respectfully acknowledging the necessity, even in frustrating circumstances, for judicial officers to maintain a level of serenity and courtesy to those appearing before them. In light of the JCM's frank and insightful response to the complaint, the examination was concluded on the basis that such an event would unlikely be repeated. The JCM also apologized to the Native Court Worker.