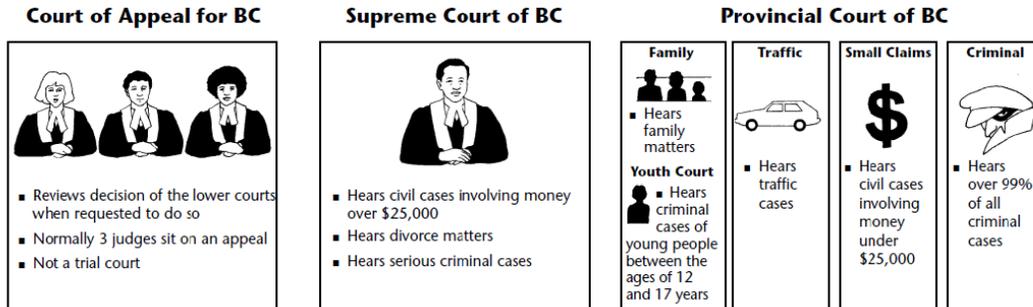


HANDOUT 1: Provincial Court of BC

BC's Law Courts



Jurisdiction of the Court

The majority of BC's court cases are heard in the Provincial Court of BC. Approximately 145 Provincial Court judges hear 130,000 civil and criminal cases each year in 88 locations around BC. The Provincial Court only hears certain types of cases as permitted by federal (such as the *Criminal Code*) and provincial legislation. These include:

- Criminal and Youth
- Family
- Small Claims
- Traffic and By-Law

Criminal and Youth

About 99% of all criminal cases in BC begin and end in Provincial Court. A much smaller number of criminal cases are heard in the Supreme Court. It is the Supreme Court that hears all the jury trials. Provincial Court judges sit alone, never with a jury. The Provincial Court hears all criminal matters, except murder committed by adults, and a few obscure offences, such as "alarming her majesty" and treason.

Adults

The court hears trials of crimes such as theft under \$5000 which is the formal name for shoplifting. It also hear trials for mischief, possession of small amounts of drugs, simple assaults and more serious crimes like aggravated sexual assault or kidnapping where the accused chooses to have his or her trial in this court. If the accused is proven guilty or pleads guilty, then the court does sentencing hearings

If the accused person is charged with a more serious crime such as manslaughter, break and enter or kidnapping, the accused has the right to choose to have a trial in Provincial Court or Supreme Court.

This is called an election. If the accused elects to have a trial in Supreme Court, then the Provincial Court conducts the preliminary inquiry to see if the Crown has enough evidence to hold a full trial.

In murder cases involving adult accused, the judge conducts a preliminary inquiry to decide if there is enough evidence to justify holding the full trial in Supreme Court.

The accused may want to have a trial in Supreme Court because they want a jury to hear their case, or they may believe the chance to have a preliminary inquiry will help them learn more about the case against them.

Youth

The Provincial Court hears virtually all criminal cases involving youth from ages 12 to 17, and that includes a charge of murder. Children under 12 cannot be charged with a criminal offence. However, if it is believed that a child under 12 may have committed a serious crime, the Family Court in Provincial Court can conduct a hearing to consider the child's safety and well-being and whether they are being cared for appropriately.

Family

The Provincial Court of BC hears about half of all family matters in the province. Family Court helps families solve problems when children have been neglected or abused or when there are issues arising from a family breakup.

If a case deals with divorce, adoptions or the division of family property it would be heard in Supreme Court.

If a case involves the custody and guardianship of, or access to, or child support of children of separated parents, the case can be heard in either trial court.

If it involves child protection – where the state alleges children have been neglected or abused - then the case is only heard in Provincial Court.

Very few family cases go to trial. The large majority of family disputes get resolved by an agreement between the parties that is developed with the help of lawyers and encouraged by court resources such as parenting education courses, meetings with Family Justice Counsellors and mediation services.

Small Claims

The Small Claims Court deals with civil cases that have a claim for \$25,000 or less in damages.

The name “Small Claims” fits for some of the cases, but can be kind of misleading in others. It applies to all Provincial Court civil cases, whether for minor amounts like \$200 or claims where the plaintiff is claiming up to \$25,000 in damages which isn’t exactly a small claim for most people.

Civil Cases

With a few exceptions, the Provincial Court hears most kinds of civil disputes, such as claims for debt or damages, construction disputes, personal injury claims, recovery of personal property or enforcement of agreements or contracts involving personal property or services.

You can sue for damages regarding the purchase or sale of a piece of land in Provincial Court if the dispute is about aspects of the sale which you claim to be a breach of the sale contract. But, you would need to go to the Supreme Court if you were seeking a change in the title to the land.

Claims such as builders’ liens, bankruptcy, wills and estates, libel or slander, or suing the federal government all have to be heard by a Supreme Court judge.

Citizens can sue the provincial government in either the Provincial Court of BC or the Supreme Court of BC.

Procedures

A large majority of cases settle without a trial, and can be settled at any time during the proceedings. In every case that is disputed by the respondent, Small Claims Court holds a settlement conference with a judge or a mediation session with a court appointed mediator who is not a judge. If the parties are unable to agree on a resolution, and the case has to go to trial, then there may be a pre-trial conference so that everyone is clear in advance about the legal issues and how the trial will proceed.

New Streams

In Vancouver and Richmond, for all cases filed after November 26, 2007, settlement conferences have been replaced with four new streams: summary hearing, simplified trial, mediation, trial and trial conference.

Traffic and By-Law

The most informal proceedings in Provincial Court involve traffic and bylaw matters. You can act as your own lawyer to dispute a traffic ticket for infractions like running a red light, speeding, or for parking violations. You can also dispute by-law offences such as walking a dog without a leash. Judicial Justices of the Peace will hear those cases. They are judicial officers of the court who also hear applications for search warrants and for bail.