

**Submission of the Government of British Columbia
to the 2022 Judicial Compensation Commission**

Submitted January 12, 2023

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Introduction and Principles Animating the Government’s Approach

1. These are the Government of British Columbia’s written submissions to the 2022 Judicial Compensation Commission (the “Commission”) in respect of remuneration, allowances and benefits for Provincial Court Judges and Judicial Justices for the period of April 1, 2023 to March 31, 2027 (the “2022 cycle”). The Government provides these submissions to assist the Commission with its statutory mandate to make recommendations respecting reasonable compensation over the 2022 cycle.
2. The Government is committed to engaging fully and meaningfully in this distinct and constitutionally-mandated process. The Government appreciates the time, energy and work of the Commission. The Government also appreciates the collaboration and efforts of the other participants to ensure the Commission has access to the information it needs to fulfill its mandate.
3. The Government recognizes and respects the unique and important work that Provincial Court Judges and Judicial Justices do for the residents of British Columbia and others who interact with the provincial court system in this province. That recognition and respect informs these submissions and will continue to inform the Government’s participation throughout this process.
4. While the concept of compensation encompasses various elements, the Government’s position outlined below focuses on salaries. This is primarily because Government, the Provincial Court Judges and the Judicial Justices are exchanging submissions at the same time, and Government does not yet know the full scope of, or rationale for, requests that may be made in relation to other elements of compensation.
5. The Government looks forward to reviewing any submissions in respect of other elements of compensation that the Provincial Court Judges and Judicial Justices may advance. The Government will provide its response to any such proposals in its reply submissions on February 3, 2023.

6. Consistent with the framework under the *Judicial Compensation Act* (the “Act”),¹ these submissions are based on consideration of all six statutory factors the Commission must take into account in making its recommendations. The Government accepts that, when applied globally to the current circumstances in British Columbia, those factors support increases to the salaries of Provincial Court Judges and Judicial Justices over the 2022 cycle.

Executive Summary of the Government’s Position

7. As of April 1, 2022, Provincial Court Judges in British Columbia earn an annual salary of \$288,500 and receive total annual compensation of \$371,098. Full-time judicial Justices earn an annual salary of \$133,501, and receive total annual compensation of \$153,836.
8. The Government submits this Commission should recommend that, over the 2022 cycle, Provincial Court Judges and Judicial Justices receive average annual increases to salary of 4.1% and 3.48%, respectively. The table below provides a breakdown of the Government’s position by year, for a total increase in salary of 16.4% for Provincial Court Judges and 13.9% for Judicial Justices:

For Provincial Court Judges

Fiscal Year (FY)	Salary	% increase from Previous FY
2022/23	\$282,500	N/A
2023/24	~\$311,000	7.8%
2024/25	~\$323,000	3.9%
2025/26	~\$332,000	2.7%
2026/27	~\$338,000	2.0%
Total Increase	~\$55,500	16.4%

For Judicial Justices

Fiscal Year (FY)	Salary	% increase from Previous FY
2022/23	\$133,501	N/A
2023/24	~\$141,000	5.3%
2024/25	~\$146,000	3.9%
2025/26	~\$150,000	2.7%
2026/27	~\$153,000	2.0%
Total	~\$19,499	13.9%

¹ S.B.C. 2003, c. 59.

9. The position outlined above is based on the Government’s global assessment of the evidence regarding the six statutory factors under the *Act* and incorporates the following:
 - a. a level of catch-up in the first year of the 2022 cycle as judicial salaries did not keep pace with inflation over the 2019 cycle, especially in 2022/23 (the last year of the previous commission’s cycle); and
 - b. increases to address anticipated inflation over the 2022 cycle, including buffer amounts in the second and third years of the cycle in case it takes longer than anticipated for inflation to return to expected levels.
10. The Government does not propose any changes to other elements of compensation for Provincial Court Judges or Judicial Justices. It may do so after review of those parties’ initial submissions.

The Legal Framework for the 2022 JCC Process in British Columbia

Legal Rationale for Judicial Compensation Commissions

11. Judicial independence is a foundational principle of the Canadian constitution, embodied in unwritten constitutional norms, the preamble to the *Constitution Act, 1867* and in s. 11(d) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”).² It requires that courts be and be seen to be independent of government and private actors, in order to maintain public confidence in the impartiality of the judiciary and to maintain the rule of law. The Supreme Court of Canada has recognized three core characteristics of judicial independence: security of tenure, financial security and administrative independence.³
12. In relation to financial security, the current Canadian framework for setting judicial compensation in Canada was established as a result of the Supreme Court of Canada’s 1997 decision in the *PEI Reference*. The majority of the Court held that to preserve judicial

² *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5.; *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

See also *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3 [*PEI Reference*] at para. 109.

³ *PEI Reference* at paras. 115-118.

independence, judicial compensation must not become the subject of negotiation between the judiciary and government. The Court recognized a constitutional obligation on the part of provinces (and territories) to interpose independent, objective and effective judicial compensation commissions between the judiciary and the legislative and executive branches of government, to ensure their relationships are depoliticized.

13. The function of such commissions is to make recommendations on judicial compensation, therefore avoiding the possibility or appearance of political interference with the judiciary through economic manipulation.⁴ As a result, every federal, provincial and territorial jurisdiction in Canada now has some form of independent administrative body that is responsible for making recommendations on judicial compensation. Each is governed by its own legislative framework, and each reflects the policy choices made by the government of the jurisdiction.
14. In the *PEI Reference*, the Supreme Court of Canada identified three main components that underlie financial security for the courts as an institution:
 - a. First, the Court confirmed that judicial salaries (and pensions and benefits) can be reduced, increased or frozen either as part of an overall economic measure that affects all persons paid by public funds or as part of a measure directed specifically at judges as a class. Any such changes must, however, be made through recourse to an independent, effective and objective body (often a commission) to avoid concerns of improper interference. Further, governments are constitutionally required to go through the commission process. While the commission's recommendations are not binding on the executive or legislative branches of government, they should not be set aside lightly. The executive or legislative branch must justify any departure through public reasons.
 - b. Second, it is not permissible for the judiciary – collectively or individually – to engage in negotiations over remuneration with the executive or legislative branches of government.

⁴ *PEI Reference* at para. 166.

- c. Third, any reduction of salaries, including a *de facto* reduction as a result of inflation, must not take salaries below a basic minimum level of remuneration required for the particular judicial office. Public confidence in judicial independence could be undermined if judicial officers were paid at a rate low enough to make them susceptible to political pressure through economic manipulation. This applies for equally for pensions and other benefits.⁵
15. The Supreme Court of Canada has emphasized that a commission’s recommendations must have “meaningful effect” on the setting of judicial compensation.⁶ In its subsequent decision in *Bodner*, the Supreme Court of Canada confirmed that having a meaningful effect does not mean the recommendations must have a binding effect; a commission’s recommendations remain consultative.⁷ The legislatures of each province and territory retain the exclusive jurisdiction to allocate public resources amongst competing priorities and to set judicial compensation.⁸ Accordingly, there is no legal presumption that a commission’s recommendations are generally to prevail.⁹
16. While “government retains the ability to depart from [a] commission’s recommendation”, if it chooses to do so, it must justify that decision with specific reasons contained in a formal public response.¹⁰ Government’s response can then be subject to a limited form of judicial review on the standard of “rationality”.¹¹

The Judicial Compensation Act

17. In British Columbia, the judicial compensation commission process is governed by the *Act*, which first came into effect in October 2003, and has been amended several times since. The *Act* provides for the appointment of a judicial compensation commission to make recommendations concerning “all matters respecting the remuneration, allowances and

⁵ *PEI Reference* at paras. 133-136.

⁶ *PEI Reference* at paras. 175-176; *Provincial Court Judges’ Association of British Columbia v. British Columbia (Attorney General)*, 2021 BCCA 295 at para. 2, leave to appeal ref’d 2022 CanLII 16715 (SCC) [*PCJA v. BC*].

⁷ *Bodner v. Alberta*, 2005 SCC 44 [*Bodner*] at paras. 20-21 and 40; see also *British Columbia (Attorney General) v. Provincial Court Judges’ Association of British Columbia*, 2020 SCC 20 at para. 34.

⁸ *Bodner* at para. 42.

⁹ *PCJA v. BC* at paras. 84-85.

¹⁰ *Bodner* at para. 21.

¹¹ *Bodner* at para. 29.

benefits of judges and judicial justices.”¹² Commissions were originally appointed every three years to make recommendations on compensation for the following three fiscal years.

18. The *Act* originally established separate compensation commissions for Provincial Court Judges and Judicial Justices. The *Act* was amended in 2015 to combine those separate processes into the current judicial compensation commission, which makes recommendations on compensation for both Provincial Court Judges and Judicial Justices. The 2015 amendments also modified the statutory factors that a judicial compensation commission must consider and added a formula for reimbursement of participatory costs.¹³ The 2016 Judicial Compensation Commission was the first commission to operate under the new combined statutory framework and to apply the *Act*'s current statutory factors.
19. In November 2021, the *Act* was amended again, including to extend the timeframe for each judicial compensation commission to four years.¹⁴ As a result, this Commission is the first that must make recommendations for the following four fiscal years – from April 1, 2023 to March 31, 2027.¹⁵
20. In making its recommendations, the *Act* requires this Commission to be “guided by the need to provide reasonable compensation for judges and judicial justices [...] over the 4 fiscal years that are the subject of [this Commission’s] report”.¹⁶ To determine what constitutes reasonable compensation over those four years, the *Act* requires this Commission to take into account all six statutory factors enumerated in s. 5(5):

- (a) the need to maintain a strong court by attracting highly qualified applicants;
- (b) changes, if any, to the jurisdiction of judges or judicial justices;
- (c) compensation provided in respect of similar judicial positions in Canada, having regard to the differences between those jurisdictions and British Columbia;

¹² *Act*, ss. 2 and 5(1).

¹³ *Judicial Compensation Act*, S.B.C. 2003, c. 59, as it appeared on October 1, 2015; *Judicial Compensation Act*, S.B.C. 2003, c. 59, as it appeared on July 14, 2021.

¹⁴ Bill 30, *Attorney General Statutes Amendment Act, 2021*, 2nd Sess., 42nd Parl., 2021 (assented to 25 November 2021), S.B.C. 2021, c. 34 [Bill 30]: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/42nd-parliament/2nd-session/bills/third-reading/gov30-3>.

¹⁵ *Act*, ss. 5(1)(b) and 5(5).

¹⁶ *Act*, s. 5(5).

- (d) changes in the compensation of others paid by provincial public funds in British Columbia;
 - (e) the generally accepted current and expected economic conditions in British Columbia;
 - (f) the current and expected financial position of the government over the 4 fiscal years that are the subject of the report.
21. This Commission may also consider other relevant factors not expressly included in s. 5(5) of the *Act*, provided it explains the relevance of those factors.¹⁷ Should this Commission wish to consider another factor, the Government submits it would be prudent to advise the Government, the Provincial Court Judges’ Association of British Columbia, and the Judicial Justices’ Association of British Columbia. It may also be prudent to provide an opportunity for these parties to provide evidence and make submissions in relation to any other factor to be considered.
22. Previous judicial compensation commissions, including the most recent commission in 2019 (the “2019 Commission”), have expressly recognized that “each Commission must look at what is reasonable on the unique facts and context before it”.¹⁸ In other words, while this Commission may of course consider the work of previous commissions, it must undertake a fresh analysis, based on the evidence and positions that are specifically advanced before it.
23. In relation to the statutory factors, the 2019 Commission also recognized that “no one factor is necessarily more important than the others” and that, given their factually-specific nature, “the importance of each statutory factor will vary from Commission to Commission”.¹⁹ Section 5(5) of the *Act* expressly requires this Commission to take “all” of the statutory factors when determining its recommendations on reasonable compensation. The legislature’s clear intent was for this Commission to base its recommendations on a global assessment of the six factors in their totality. The intent is not for this Commission to

¹⁷ *Act*, s. 5(5.2).

¹⁸ Report of the 2019 Judicial Compensation Commission, p. 15: Joint Book of Documents of the Parties [JBD], Vol. 1, Tab 18. All references to page numbers of documents in the JBD are to the original numbers on the documents unless otherwise indicated.

¹⁹ Report of the 2019 Judicial Compensation Commission, p. 15: JBD, Vol. 1, Tab 18. To similar effect, see also Report of the 2016 Judicial Compensation Commission, p. 42: JBD, Vol. 1, Tab 21.

determine whether each factor on its own warrants a change, or to focus one or two factors to the exclusion of the others.

24. The *Act* requires this Commission to communicate its recommendations to the Attorney General of British Columbia (the “Attorney General”) and to the Chief Judge of the Provincial Court (the “Chief Judge”) in the form of a written report. As a result of the November 2021 amendments, this Commission’s preliminary report is due April 1, 2023. The Attorney General and Chief Judge may apply to this Commission for clarification of a matter addressed or not addressed in the report. If a request for clarification is made, this Commission must provide its final report by April 30, 2023. If no such request is made, the preliminary report is deemed to be the final report.²⁰
25. Pursuant to s. 7.1 of the *Act*, the Government may pay the reasonable costs incurred by the associations representing the Provincial Court Judges and the Judicial Justices for participating in this Commission. Section 7.1(2) of the *Act* prescribes the maximum amount of costs payable by the Government to each association as follows:
 - a. the first \$30,000 in costs; and
 - b. 2/3 of the costs over \$30,000 but under \$150,000.
26. Section 7.1(3) grants the Lieutenant Governor in Council discretion, by regulation, to set a higher amount than that prescribed in s. 7.1(2). No such regulation has been enacted.
27. As discussed above, while the critical role of a judicial compensation commission is to make recommendations respecting reasonable compensation, the authority to make decisions in relation to the ultimate expenditure of public funds rests with the Legislative Assembly. Within 15 days of receipt of this Commission’s final report, the Attorney General must either lay the report before the Legislative Assembly if it is sitting, or file the report with the Clerk of the Legislative Assembly if it is not sitting. The Lieutenant Government in Council may then choose to accept all of the recommendations set out in the commission’s final report; the deadline to do so is July 31, 2023.²¹

²⁰ *Act*, ss. 5(1)-(4); Bill 30, ss. 9(2)(a)-(b).

²¹ *Act*, s. 5.1 and Bill 30, s. 9(2)(c).

28. If the Lieutenant Governor in Council does not choose to accept all the recommendations, the Attorney General must, within 7 sitting days after July 31, 2023, lay the final report before the Legislative Assembly again.²² The Legislative Assembly then has 16 sitting days²³ to pass a resolution rejecting one or more of the report’s recommendations and substituting different remuneration, allowances or benefits. If it does not pass such a resolution, the recommendations in the final report go into effect.²⁴

The Factual Framework for the 2022 JCC: the Justice System in British Columbia

The Provincial Court: Context and Jurisdiction

29. The Provincial Court of British Columbia is one of the three courts in the province, along with the British Columbia Supreme Court and the British Columbia Court of Appeal. The Provincial Court and the British Columbia Supreme Court are the two trial courts in the province.
30. The Provincial Court is a statutory court. It was originally established in 1969 and is continued under s. 2 of the current *Provincial Court Act*.²⁵ The *Provincial Court Act* sets out the jurisdiction of the court, the powers and duties of the chief judge, the requirements for appointment to the bench and the term of office for judges. The *Provincial Court Act* also establishes and defines the role of the Judicial Council of British Columbia (the “Judicial Council”).
31. While it does not have inherent jurisdiction, the Provincial Court has a very broad statutory jurisdiction. It hears the majority of court cases in British Columbia, dealing with cases in five main categories: criminal matters, family matters, youth court matters, most small claims matters involving dollar amounts between \$5,001 and \$35,000, and traffic, ticket and bylaw matters.

²² *Act*, ss. 5.1(6) and 6; Bill 30, s. 9(2)(d).

²³ If the Legislative Assembly is prorogued or dissolved within 16 sitting days after the report is laid before it, and before the Legislative has passed a resolution, the Attorney General must re-tabled the report within 7 sitting days after the opening of the next session and the 16-day timeframe for a resolution starts over.

²⁴ *Act*, ss. 6(2)-(3).

²⁵ R.S.B.C. 1996, c. 379.

32. The British Columbia Supreme Court is a court of inherent jurisdiction, established under s. 96 of the *Constitution Act, 1867*, meaning it can hear any type of civil or criminal case. The British Columbia Supreme Court shares jurisdiction with the Provincial Court in relation to criminal and family matters, excluding child protection matters. It also hears judicial reviews from many administrative decision-makers, as well as appeals from the Provincial Court, from arbitrations and from certain other administrative decision-makers.
33. The British Columbia Court of Appeal is this province's highest court, and it is continued under the *Court of Appeal Act*.²⁶ It hears appeals from the British Columbia Supreme Court, from the Provincial Court on some criminal matters, and from judicial reviews involving administrative decision-makers. For certain administrative decision-makers, there is a direct right of appeal to the British Columbia Court of Appeal.
34. In addition, the Provincial court operates a variety of specialized courts, which, as of March 31, 2022, included:
 - a. eight Indigenous sentencing courts;
 - b. an Aboriginal Family Health Court;
 - c. the Downtown Community Court (Vancouver);
 - d. two integrated sentencing courts (Victoria Integrated Court and Kelowna Integrated Court);
 - e. the Drug Treatment Court of Vancouver; and
 - f. local courts dealing with domestic violence.²⁷

²⁶ S.B.C. 2021, c. 6.

²⁷ Provincial Court of British Columbia, Annual Report 2021-22, p. 22:
<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

The Role and Work of Provincial Court Judges

Qualifications and Criteria for appointment as a Provincial Court Judge

35. In British Columbia, pursuant to s. 6 of the *Provincial Court Act*, Provincial Court Judges are appointed by Order in Council of the Lieutenant Governor in Council, following a recommendation by the Judicial Council.
36. Section 6(2) of the *Provincial Court Act* sets the basic requirement that candidates for appointment to the Provincial Court must have been a member in good standing of the Law Society of British Columbia for at least five years. It also provides the Judicial Council with responsibility for determining what other “legal or judicial experience” is required. The Judicial Council has published a list of “Criteria and Competencies for Appointment” as a Provincial Court Judge. The criteria are as follows:
- a. at least 10 years in the practice of law (those with less legal practice experience are considered if they have a range of related experience);
 - b. superb legal reputation and a professional record review from the Law Society of British Columbia;
 - c. experience in mediation or alternative dispute resolution;
 - d. respect in the community;
 - e. good health;
 - f. appreciation of and experience with diversity; and
 - g. willingness to travel and to sit in all subject areas.²⁸
37. Consistent with its mandate under s. 22 of the *Provincial Court Act* to “improve the quality of judicial service”, the Judicial Council conducts a rigorous screening process to ensure that only the most exceptional applicants are recommended for appointment. Candidates recommended for appointment are added to a roster, where their names remain for three years from the date of their interview. When a vacancy arises, or when the Lieutenant

²⁸ Judicial Council of British Columbia, Annual Report 2021, p. 14: JBD, Vol. 1, Tab 2. See also Criteria and Competencies for Appointment – Provincial Court Judge: JBD, Vol. 1, Tab 10.

Governor in Council consider an appointment necessary, the Attorney General may select a candidate from the roster to make a recommendation for appointment.

Current complement of Provincial Court Judges

38. The Provincial Court currently has approximately 150 Provincial Court Judges in more than 80 locations throughout the province. As of December 31, 2022, the complement of Provincial Court Judges was as follows:

- a. 131 full-time judges (this includes the Chief Judge, the two Associate Chief Judges and the five Regional Administrative Judges); and
- b. 16 senior (part-time) judges.²⁹

39. In addition, there is also one judge currently sitting part-time, and there are four full-time judges not sitting due to long-term disability conditions.³⁰

40. As reflected in the following table, the average daily judicial complement³¹ has grown each year since fiscal year 2017/18:

Fiscal Year	Average Daily Judicial Complement (JFTEs)
2017/18	126.56
2018/19	130.76
2019/20	133.04
2021/22	134.82
2021/22	139.10

²⁹ Provincial Court Judge Complement as of December 31, 2022: <https://www.provinciacourt.bc.ca/downloads/pdf/Provincial%20Court%20Judge%20Complement.pdf>. Note that this document does not include the one judge who is currently sitting part-time. The judge sitting

³⁰ Provincial Court website, “About the Court: Judges and Justices”: <https://www.provinciacourt.bc.ca/about-the-court/judicial-officers/judges-court/by-district> (accessed January 11, 2023).

³¹ The judicial complement refers to the number of judicial full-time equivalents (JFTEs) available to the Provincial Court, taking into account that some judges work part-time. It does not include judges on long-term disability. Provincial Court of British Columbia, Annual Report 2021-22, p. 24: <https://www.provinciacourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

The average daily complement for 2021/22 reflects, in part, an increase in judicial complement following construction of new courtrooms in Surrey and Fort St. John in 2019, and in Abbotsford in 2021.³² As of December 31, 2022, the current complement is 138.53 JFTEs³³.

The Work of Provincial Court Judges

41. Under s. 2(3) of the *Provincial Court Act*, Provincial Court Judges have jurisdiction throughout the province and can exercise the powers and perform the duties given to them under provincial and federal laws.
42. As noted above, Provincial Court Judges hear cases in four main categories:³⁴
 - a. **Criminal matters:** Provincial Court Judges hear over 95% of criminal cases in British Columbia, including bail hearings, preliminary inquiries, trials and sentencing hearings in all criminal matters, except for adults charged with murder and certain specific offences like treason and piracy.
 - b. **Family matters:** Provincial Court Judges deal with two main areas of family law. They conduct trials and mediation conferences under the *Family Law Act*³⁵ and other statutes in relation to disputes about guardianship of children, parenting arrangements, and child and spousal support. This jurisdiction is shared with the British Columbia Supreme Court. Provincial Court Judges have almost exclusive jurisdiction over child protection matters under the *Child, Family and Community Service Act*,³⁶ except for protective intervention orders and restraining orders.

³² Provincial Court of British Columbia, Annual Report 2021-22, p. 24:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

³³ Provincial Court Judge Complement as of December 31, 2022:

<https://www.provincialcourt.bc.ca/downloads/pdf/Provincial%20Court%20Judge%20Complement.pdf>.

³⁴ Provincial Court of British Columbia, Annual Report 2021-22, p. 5:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>. See also Report of the 2019 Judicial Compensation Commission, p. 11: JBD, Vol. 1, Tab 18.

³⁵ S.B.C. 2011, c. 25.

³⁶ R.S.B.C. 1996, c. 46.

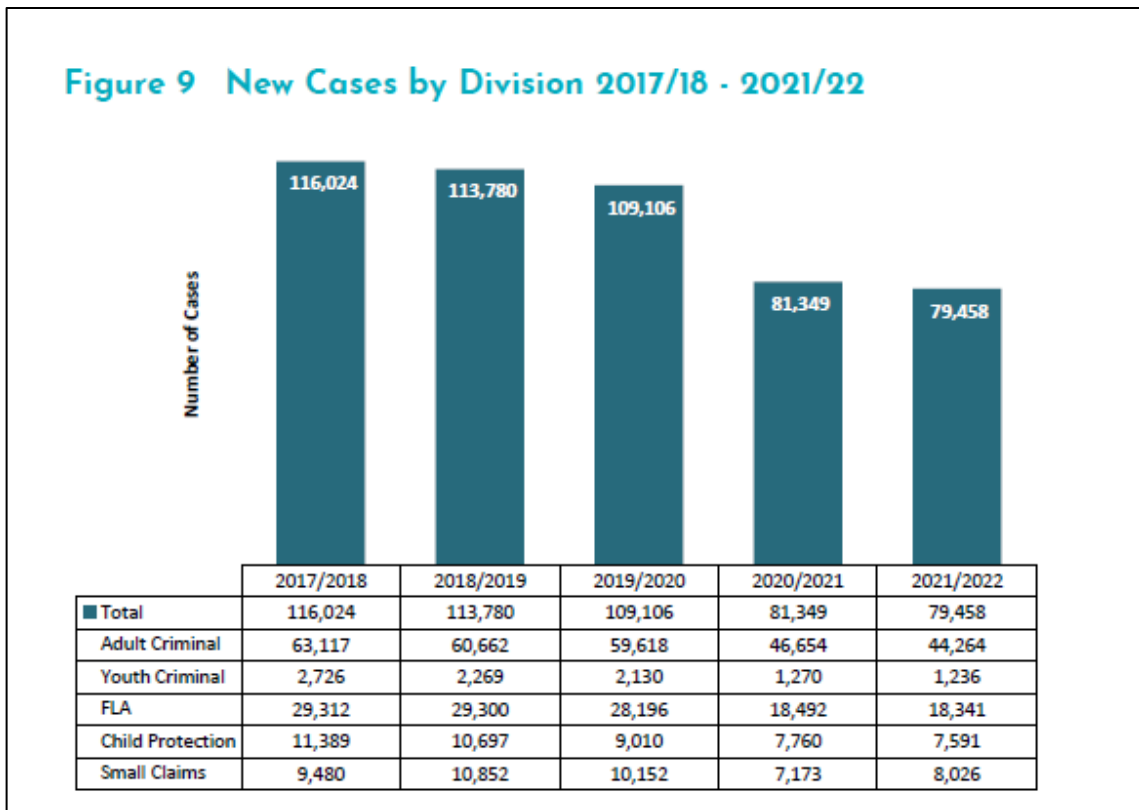
- c. **Youth Court matters:** Provincial Court Judges have exclusive jurisdiction to deal with young persons aged 12 through 17 who are charged with criminal offences under the *Youth Criminal Justice Act*.³⁷
 - d. **Small Claims matters:** with certain exceptions, such as matters involving strata property disputes, residential tenancies, and wills and estates, Provincial Court Judges deal with civil cases where the dollar amounts involved are between \$5,001 and \$35,000. Provincial Court Judges conduct trials and settlement conferences.
43. In addition to their courtroom work, Provincial Court Judges research, write reserved judgments and other materials, read about developments in the law, and volunteer their time for court committees, public speaking and other community engagements.³⁸
44. In 2021/22, there were 148,804 new cases initiated in the Provincial Court, which includes:
- a. 79,458 new cases in the five “divisions” heard by Provincial Court Judges: adult criminal matters; youth criminal matters; family matters; child protection matters; and small claims matters; and
 - b. 69,346 new traffic, ticket and bylaw offences dealt with by Judicial Justices.³⁹
45. The 79,458 new cases in 2021/22 represents a 2% decrease from the number of new cases initiated in 2020/21. As illustrated in the following table,⁴⁰ between 2017/18 and 2021/22, caseload volumes over the five divisions heard by Provincial Court Judges have declined in each division to their lowest points in five years, except for small claims (which increased over the past year):

³⁷ S.C. 2002, c. 1.

³⁸ Provincial Court of British Columbia, Annual Report 2021-22, pp. 16, 20:
<https://www.provinciacourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

³⁹ Provincial Court of British Columbia, Annual Report 2021-22, p. 8:
<https://www.provinciacourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

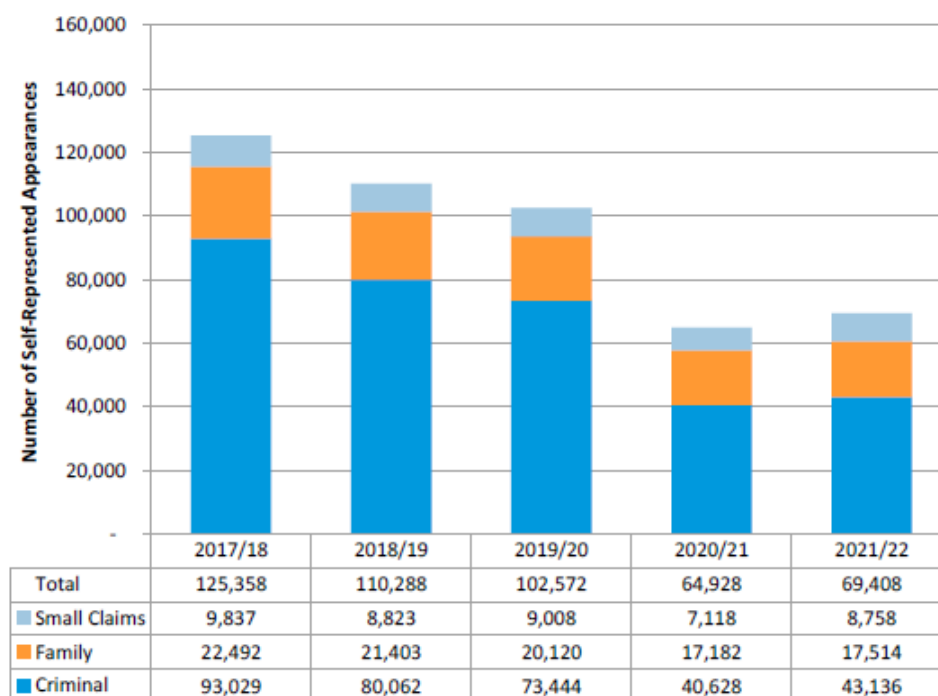
⁴⁰ Reproduced from Provincial Court of British Columbia, Annual Report 2021-22, p. 31:
<https://www.provinciacourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.



46. New small claims cases have decreased 15% overall since 2017/18, when the Civil Resolution Tribunal was given jurisdiction over small claims cases up to \$5,000. The number of new small claims cases has increased by 12% since 2020/21, which may, in part, be as a result of the suspension of new small claims filings for three months in 2020/21 due to the pandemic.⁴¹
47. In 2021/22, there were a total of 69,408 self-represented appearances (where at least one party on the appearance was not represented by counsel). Although this is a 7% increase from 2020/21, as shown in the following table, overall the instances of self-represented appearances have declined since 2017/18:

⁴¹ Provincial Court of British Columbia, Annual Report 2021-22, p. 32:
<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

Figure 13 Number of Self-Represented Appearances by Division, 2017/18 - 2021/22



48. However, given the temporary shutdowns and modifications made to court operations as a result of the COVID-19 pandemic, statistics from 2020/21 and from 2021/22 should be interpreted with caution.⁴²

The Role and Work of Judicial Justices

Qualifications and Criteria for appointment as a Judicial Justice

49. Similar to Provincial Court Judges, in British Columbia, pursuant to s. 30.2 of the *Provincial Court Act*, the Lieutenant Governor in Council appoints Judicial Justices “by Commission under the Great Seal”, following a recommendation by the Judicial Council.
50. Section 30.2 of the *Provincial Court Act* provides for two types of Judicial Justices: full-time Judicial Justices and part-time (or per diem) Judicial Justices. The role of part-time

⁴² Provincial Court of British Columbia, Annual Report 2020-21, pp. 42-43: JBD, Vol. 1, Tab 1; Provincial Court of British Columbia, Annual Report 2021-22, p. 31-32, 37-38:
<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

Judicial Justices was created in 2007. Prior to 2007, Judicial Justices were not required to have a law degree.

51. All Judicial Justices appointed since 2007 have been appointed as part-time or per diem Judicial Justices. Under s. 30.2(3) of the *Provincial Court Act*, part-time Judicial Justices are appointed for a term of ten years. A part-time Judicial Justice whose term has or will soon expire, or who resigned, may be reappointed once on the recommendation of the Judicial Council for a further term of 10 years. Full-time Judicial Justices, including those who have resigned within one year, may also seek to be reappointed as a part-time Judicial Justice for a term of ten years.⁴³
52. The Judicial Council has established the minimum eligibility requirement for appointment as a part-time Judicial Justice as five years as an active practicing lawyer in Canada.⁴⁴ The Judicial Council has also published a list “Criteria and Competencies for Appointment” as a Judicial Justice. The criteria are as follows:
 - a. at least five years having practiced law in Canada (those with less legal practice experience may be considered if they have a range of related experience);
 - b. superb legal reputation and applicable professional record review(s), including from the applicable Law Society;
 - c. experience in mediation or alternative dispute resolution;
 - d. respected and valued member of the community;
 - e. good health;
 - f. appreciation of and experience with diversity; and
 - g. willingness to travel and to sit in all subject areas.⁴⁵
53. Similar to the process for Provincial Court Judges, the Judicial Council conducts a rigorous screening process to ensure that only qualified applicants are recommended for appointment.

⁴³ *Provincial Court Act*, ss. 30(3.2)-(3.4).

⁴⁴ Judicial Council of BC, Notice to the Profession and Public – Call for Applications for Judicial Appointments as Part Time Judicial Justice of the Provincial Court of BC, November 17, 2022: JBD, Vol. 1, Tab 16.

⁴⁵ Criteria and Competencies for Appointment – Judicial Justice: JBD, Vol. 1, Tab 13.

Candidates recommended for appointment are added to a roster, where their names remain for three years from the date of their interview. As with Provincial Court Judges, when an appointment is needed, the Attorney General may select a candidate from that roster to make a recommendation for appointment to the Lieutenant Governor in Council.⁴⁶

Current complement of Judicial Justices

54. As of November 2022, the complement of Judicial Justices was as follows:
- a. five full-time Judicial Justices (one of whom is currently sitting part-time); and
 - b. 28 Judicial Justices appointed to serve on a part-time or per diem basis.⁴⁷
55. As of March 31, 2022, there were three judicial justices on long-term disability. These individuals are not included in the numbers above.⁴⁸
56. The complement of Judicial Justices includes two Administrative Judicial Justices (one full-time and one part-time). One Administrative Judicial Justice is responsible for criminal matters at the Justice Centre and the other Administrative Judicial Justice is responsible for the Traffic Division.⁴⁹

The Work of Judicial Justices

57. The jurisdiction of Judicial Justices is established under the *Provincial Court Act* and through the assignment of duties by the Chief Judge pursuant to s. 11 of the *Provincial Court Act*.
58. Section 2.1 of the *Provincial Court Act* identifies the matters that are within the exclusive jurisdiction of Provincial Court Judges. This includes committals for contempt, matters for

⁴⁶ Judicial Council of BC, Judicial Justice Candidate Process Summary, pp. 2-3: JBD, Vol. 1, Tab 14.

⁴⁷ Provincial Court website, “About the Court: Judges and Justices: Judicial Justices”: <https://www.provincialcourt.bc.ca/about-the-court/judicial-officers/judicial-justices>. See also Provincial Court of British Columbia, Annual Report 2021-22, pp. 7, 28: <https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

⁴⁸ Provincial Court of British Columbia, Annual Report 2021-22, p. 28: <https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

⁴⁹ Provincial Court of British Columbia, Annual Report 2021-22, p. 16: <https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

which notice under the *Constitutional Question Act*⁵⁰ is required, and matters involving the determination of Aboriginal or treaty rights or claims.

59. Section 31 of the *Provincial Court Act* sets out the jurisdiction of a Judicial Justice, and specifies that where a Judicial Justice is hearing a case or matter that the Chief Judge has assigned to Judicial Justices under s. 11, the Judicial Justice has “all the powers and jurisdiction of the court under an enactment respecting the case or matter”.
60. Pursuant to s. 11 of the *Provincial Court Act*, the Chief Judge has assigned Judicial Justices a variety of duties, including:
 - a. matters assigned to Court Services branch justices of the peace and Judicial Case Managers;
 - b. all bail and detention hearings other than those exclusively assigned to or under the exclusive jurisdiction of Provincial Court Judges;
 - c. all applications under federal and provincial enactments for search warrants, production orders and tracking applications, and warrants or authorizations to enter a dwelling house, premises or other place (including telewarrants);
 - d. payment hearings under the *Small Claims Act* and *Small Claims Rules*;
 - e. with certain exceptions, all hearings in respect of provincial offences and federal *Contravention Act* offences commenced by violation ticket (this includes traffic matters);
 - f. hearings in respect of all municipal bylaw offences; and
 - g. hearings respecting traffic-related offences under the federal *Government Property Traffic Regulations* and *Airport Traffic Regulations*.⁵¹

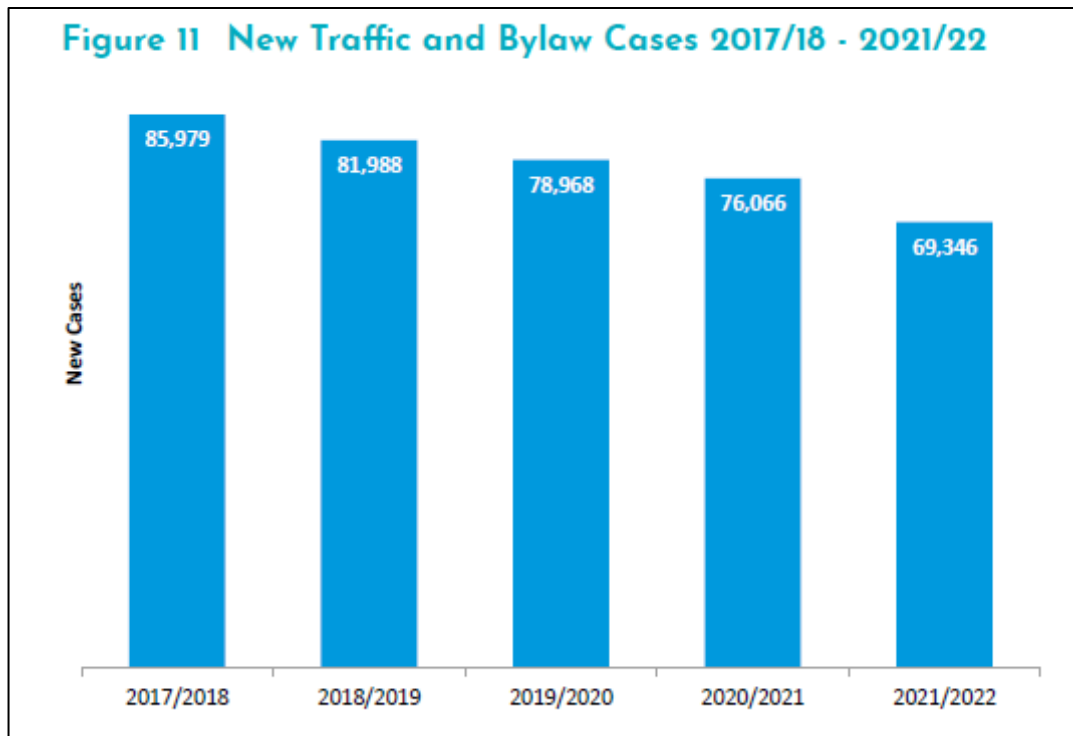
⁵⁰ R.S.B.C. 1996, c. 68.

⁵¹ August 5, 2021 Notice to the Profession and Public, entitled “Judicial Justices – Assignment of Duties Pursuant to s. 11 of the *Provincial Court Act*”: JBD, Vol. 1, Tab 6.

61. Judicial Justices perform their functions in a variety of locations, but have the same jurisdiction regardless of where they work. Their work is divided into two areas, although some Judicial Justices work in both:
- a. **Traffic Division:** these Judicial Justices sit in courthouses around the province, hearing disputed violation tickets, small claims payment hearings, disputed municipal bylaw tickets and applications for judicial authorizations brought in-person before the court. These Judicial Justices work weekdays when the courthouses are open.
 - b. **Justice Centre:** located in Burnaby, the Justice Centre provides access to Judicial Justices from anywhere in the province using telephone and video conferencing. 23 Judicial Justices work through the Justice Centre, either on site or remotely (those working remotely will “sit” at home). These Judicial Justices conduct bail hearings from 8 a.m. to 11 p.m. daily, including on weekends. They also consider applications for search warrants and production orders 24 hours a day, seven days a week.⁵²
62. As noted above, there were 69,346 new traffic and bylaw cases in 2021/22, representing a 9% decrease from 2020/21. The following table⁵³ illustrates that between 2017/18 and 2021/22, caseload volumes for new traffic and bylaw cases have declined each year and are currently at their lowest point in five years:

⁵² Provincial Court of British Columbia, Annual Report 2021-22, p. 33: <https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>. See also Provincial Court website, “About the Court: Judges and Justices: Judicial Justices”: <https://www.provincialcourt.bc.ca/about-the-court/judicial-officers/judicial-justices>.

⁵³ Reproduced from Provincial Court of British Columbia, Annual Report 2021-22, p. 33: <https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.



63. In 2021/22, the Justice Centre conducted 18,068 bail hearings and considered 18,711 applications for search warrants and production orders.⁵⁴ In 2020/21, the Justice Centre conducted 17,682 bail hearings and considered 24,803 applications for search warrants and production orders.⁵⁵

The Factual Framework for the 2022 JCC: Compensation for Provincial Court Judges and Judicial Justices

Previous Judicial Compensation Commissions in British Columbia: 2010 to 2019

64. As indicated above, prior to the 2016 Judicial Compensation Commission, there were two separate commission processes in British Columbia: one for Provincial Court Judges and another for Judicial Justices. As of 2016, they were combined into one commission process that makes recommendations for both.

65. While this Commission is required to approach its analysis based on the evidence and submissions about the application of the statutory factors in light of the current

⁵⁴ Provincial Court of British Columbia, Annual Report 2021-22, p. 33:
<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>

⁵⁵ Provincial Court of British Columbia, Annual Report 2020-21, p. 44: JBD, Vol. 1, Tab 1.

circumstances in British Columbia, an understanding of the work of previous commissions may provide helpful context.

Judicial Compensation Commissions – Provincial Court Judges

66. The history of the last four judicial compensation commission cycles for Provincial Court Judges is summarized in the following table. The focus is on salary outcomes; not all recommendations are captured.⁵⁶

Year	JCC Recommendations (Provincial Court Judges)	Government (Govt) Initial Response	Further Developments
2010	<ul style="list-style-type: none"> • 2011/12: 0% • 2012/13: 0% • 2013/14: cumulative CPI over prior 3 years 	<ul style="list-style-type: none"> • Rejected salary (and pension) • Substituted 0% salary increase (consistent with net-zero public sector mandate) 	<ul style="list-style-type: none"> • Response challenged • BCSC set aside initial response; remitted back⁵⁷ • Second response substituted 1.5% increase for 2013/14 • Second response set aside by BCCA and Govt ordered to accept 2010 JCC recommendations, resulting in 2013/14 salary of \$242,464⁵⁸
2013	<ul style="list-style-type: none"> • 2014/15: \$241,500 • 2015/16: \$245,122 • 2016/17: \$250,024 <p>As 2010 litigation still outstanding, JCC used Govt’s second response to 2010 JCC as starting point (\$234,605)</p>	<ul style="list-style-type: none"> • Rejected salary (and pension) • Substituted: <ul style="list-style-type: none"> • 2014/15: \$236,950 • 2015/16: \$240,504 • 2016/17: \$244,112 	<ul style="list-style-type: none"> • Response challenged • BCSC set aside initial response; remitted back⁵⁹ • Govt appealed; Judges cross-appealed • BCCA dismissed appeal; ordered Govt to reconsider response without attributing fault to any party or the legislature (as outcome of

⁵⁶ See also Summary Chart of Salary Outcomes from Past JCCs 2010 to 2019: JBD, Vol. 1, Tab 17. This chart also reflects the parties’ positions, in addition to the commission’s recommendations and the Government’s response, for both Provincial Court Judges and Judicial Justices.

⁵⁷ See *Provincial Court Judges’ Association of British Columbia v. British Columbia (Attorney General)*, 2012 BCSC 1022. Macaulay J. held applying the public sector net-zero mandate did not meet the *Bodner* test.

⁵⁸ The Government’s second response was initially upheld by the BC Supreme Court: *Provincial Court Judges’ Association of British Columbia v. British Columbia (Attorney General)*, 2014 BCSC 336 per Savage J. The BC Court of Appeal overturned that decision (2015 BCCA 136), finding the Government was not entitled to rely on updated economic circumstances of 2015 that post-dated its first response, or to advance new reasons for rejecting the recommendations. The Government’s application for leave to appeal to the Supreme Court of Canada was dismissed (2015 S.C.C.A. No. 199).

⁵⁹ *Provincial Court Judges’ Association of British Columbia v. British Columbia (Attorney General)*, 2016 BCSC 1420 per Grauer J.

			2010 litigation changed the starting point) ⁶⁰ <ul style="list-style-type: none"> • Second response not challenged; salaries set at: <ul style="list-style-type: none"> • 2014/15: \$244,889 • 2015/16: \$248,562 • 2016/17: \$252,290
2016	<ul style="list-style-type: none"> • 2017/18: \$273,000 • 2018/19: \$277,095 • 2019/20: \$281,251 • 100% of reasonable costs 	<ul style="list-style-type: none"> • Rejected salary (and costs) • Substituted: <ul style="list-style-type: none"> • 2014/15: \$262,000 • 2015/16: \$266,000 • 2016/17: \$270,000 	<ul style="list-style-type: none"> • Response challenged • BCSC set aside initial response on salaries but upheld rejection of costs; remitted back⁶¹ • Govt appealed on salaries • BCCA allowed appeal, upholding Govt’s initial response⁶²
2019	<ul style="list-style-type: none"> • 2020/21: \$287,000 • 2021/22: \$297,000 • 2021/23: \$307,000 • Regulation be enacted to permit 100% of reasonable costs 	<ul style="list-style-type: none"> • Rejected salary (and costs) • Substituted: <ul style="list-style-type: none"> • 2020/21: \$276,000 • 2021/22: \$282,250 • 2022/23: \$288,500 	<ul style="list-style-type: none"> • Response challenged • Litigation ongoing – petition argued September 2022 and decision reserved

Ongoing Litigation in relation to 2019 Judicial Compensation Commission

67. As noted in the above table, the Provincial Court Judges have challenged the rationality of the Government’s response to the recommendations of the 2019 Commission. The petition was heard September 20-22, 2023 before Justice Sharma and judgment remains reserved.
68. The petition asks the British Columbia Supreme Court to rule on a number of issues. The Provincial Court Judges challenge both the Government’s reliance on the intervening COVID-19 pandemic as one of its reasons for rejecting the salary recommendations, as well as the Government’s reweighing of the fifth statutory factor – the changes in the

⁶⁰ *Provincial Court Judges’ Association of British Columbia v. British Columbia (Attorney General)*, 2017 BCCA 63. The BC Court of Appeal found that, because the 2010 salaries were not settled when the Government tabled its response, the practical effect of the response was to reduce salaries from the 2010 levels ordered by the Court in 2015. As that was not the intention, the matter was remitted back. The Government’s second response was not challenged.

⁶¹ *Provincial Court Judges’ Association v. British Columbia (Attorney General)*, 2020 BCSC 1264 per Hinkson CJ.

⁶² *PCJA v. BC*. The Court of Appeal found the Government was entitled to reweigh the statutory factors and had provided rational and supported reasons for doing so. The Provincial Court Judges’ Association’s appeal to the Supreme Court of Canada was dismissed: 2022 CanLII 16715.

compensation paid to others out of public funds. The petition also alleges that, viewed globally, the Government's response does not respect the process of the 2019 Commission.

69. In addition, the petition challenges the Government's response respecting costs. The 2019 Commission recommended the Lieutenant Governor in Council pass a regulation under s. 7.1(3) of the *Act* that would allow Government to pay 100% of the Provincial Court Judges' reasonable participation costs.⁶³ The costs challenge has two elements: first, that the Government's response on costs was not rational and second that, to the extent the 2020 decision of Chief Justice Hinkson should be read as precluding a commission from recommending a change to the costs formula by regulation, s. 7.1 of the *Act* is unconstitutional because it infringes the s. 11(d) *Charter* guarantee of judicial independence and is not saved by s. 1.
70. Chief Justice Hinkson upheld the Government's rejection of the 2016 Judicial Compensation Commission's recommendation that the Government pay 100% of the reasonable participation costs for that commission. In doing so, Chief Justice Hinkson said the following:

[99] I am unable to find that the Legislative Assembly's rejection of the 2016 JCC's recommendation with respect to costs fails to meet the standard of rationality set out in *Bodner*. While the statutory formula can be overridden by the government through regulation, that represents an exception to the norm created by the legislation. To depart from the legislated norm is a step which, in my view, is a matter for the legislative branch of government to consider, and not a matter into which the judicial branch of government should intrude.⁶⁴

71. As the issue of participation costs, and critically, the constitutionality of the statutory costs formula in s. 7.1 of the *Act*, are matters directly in issue before the British Columbia Supreme Court, the Government is not articulating a position with respect to participation costs at this time.

⁶³ Report of the 2019 Judicial Compensation Commission, p. 33: JBD, Vol. 1, Tab 18.

⁶⁴ *Provincial Court Judges' Association v. British Columbia (Attorney General)*, 2020 BCSC 1264.

Judicial Compensation Commissions – Judicial Justices

72. The history of the last four judicial compensation commission cycles for Judicial Justices is summarized in the following table. The focus is again on salary outcomes; not all recommendations are captured.

Year	JCC Recommendations (Judicial Justices)	Government (Govt) Initial Response	Further Developments
2010	<ul style="list-style-type: none"> • 2011/12: 0% • 2012/13: 0% • 2013/14: 8% (\$107,487) • Change to per diem formula⁶⁵ 	<ul style="list-style-type: none"> • Rejected salary and per diem • Substituted 0% salary increase (consistent with net-zero public sector mandate) 	<ul style="list-style-type: none"> • Response to 2010 and 2013 challenged • Govt later agreed to place motion before legislature to increase salary by 4.9% from previous fiscal⁶⁶ • Legislature adopted motion in July 2016, resulting in 2013/14 salary of \$104,402 • Court case discontinued
2013	<ul style="list-style-type: none"> • 2014/15: \$104,501 • 2015/16: \$106,591 • 2016/17: \$108,723 • Change to per diem formula⁶⁷ 	<ul style="list-style-type: none"> • Rejected salary; accepted per diem change • Substituted: <ul style="list-style-type: none"> • 2014/15: \$101,018 • 2015/16: \$103,038 • 2016/17: \$105,099 	<ul style="list-style-type: none"> • Resulting motion of legislature in July 2016; salaries set at: <ul style="list-style-type: none"> • 2014/15: \$105,968 • 2015/16: \$108,087 • 2016/17: \$110,249
2016	<ul style="list-style-type: none"> • 2017/18: \$125,000 • 2018/19: \$126,875 • 2019/20: \$128,778 • 100% of reasonable costs 	<ul style="list-style-type: none"> • Rejected salary (and costs) • Substituted: <ul style="list-style-type: none"> • 2014/15: \$118,000 • 2015/16: \$120,000 • 2016/17: \$122,000 	<ul style="list-style-type: none"> • Salaries implemented per Govt response • Costs paid per statutory formula
2019	<ul style="list-style-type: none"> • 2020/21: \$138,000 • 2021/22: \$142,000 • 2021/23: \$146,000 • Regulation be enacted to permit 100% of reasonable costs 	<ul style="list-style-type: none"> • Rejected salary (and costs) • Substituted: <ul style="list-style-type: none"> • 2020/21: \$125,750 • 2021/22: \$129,500 • 2022/23: \$133,500 	<ul style="list-style-type: none"> • Salaries implemented per Govt response • Costs paid per statutory formula

⁶⁵ The Commission recommended the formula be: full time Judicial Justice salary / 219 (days of work) + 24.5% (in lieu of benefits) + \$80 (office overhead): Report of the 2010 Judicial Justices of the Peace Compensation Commission, p. 40, para. 106: JBD, Vol. 1, Tab 32.

⁶⁶ See Summary Chart of Salary Outcomes from Past JCCs 2010 to 2019: JBD, Vol. 1, Tab 17.

⁶⁷ The Commission recommended the formula be amended to divide the full-time Judicial Justice salary by 207 days of work, in recognition of chambers days available to full-time Judicial Justices but not to those appointed part-time.

Compensation for Provincial Court Judges

73. The compensation paid to Provincial Court Judges includes salary, as well as pension and other benefits. The current employer-paid compensation for Provincial Court Judges with single status for benefits coverage as of April 1, 2022 is as follows:⁶⁸

Salary	\$288,500
Employer Pension Contributions	\$72,558
Other Benefits (Coverage for CPP, Health Benefits, Disability Benefits)	\$10,040
Total Compensation	\$371,098

Compensation for Judicial Justices

74. The compensation paid to full-time Judicial Justices includes salary, as well as pension and benefits. The current employer-paid compensation for full-time Judicial Justices with single status for benefits coverage as of April 1, 2022 is as follows:⁶⁹

Salary	\$133,501
Employer Pension Contributions	\$13,150
Other Benefits (Coverage for CPP, Health Benefits, Disability Benefits)	\$7,185
Total Compensation	\$153,836

75. Part-time Judicial Justices are paid a per diem according to a formula based on the compensation paid to full-time Judicial Justices. It is calculated as follows:

$$\begin{aligned} & \text{Full-time Judicial Justice Salary} / 207 \text{ (days of work)} \\ & + 20\% \text{ [of the first line] (in lieu of benefits)} \\ & + \$75 \text{ (office overhead)} \end{aligned}$$

76. As of April 1, 2022, the per diem rate for part-time Judicial Justices was \$848.91.
77. Under s. 30.2(4) of the *Provincial Court Act*, the Chief Judge must offer a part-time Judicial Justice a minimum of 40 working days in each 12-month period. Part-time Judicial Justices

⁶⁸ Total Compensation, Provincial Court Judges – April 1, 2022: JBD, Vol. 2, Tab 40.

⁶⁹ Total Compensation, Judicial Justices – April 1, 2022: JBD, Vol. 2, Tab 41.

select the number of days and types of shifts they would like to work. Further, under s. 30.4(2) of the *Provincial Court Act*, part-time Judicial Justices are permitted to hold other employment on days when they are not working as Judicial Justices. This includes employment related to the practice of law, other than criminal law.

Applying the Statutory Factors in light of the Current Circumstances in British Columbia

78. This Commission ought to base its recommendations on a global assessment of the *Act*'s six factors in their totality. This approach ensures that no one factor or consideration overrides others when the Commission is making recommendations on reasonable compensation for the judiciary. Each factor is discussed in turn below.

The Need to Maintain a Strong Court by Attracting Qualified Applicants

79. The first statutory factor requires this Commission to consider the “need to maintain a strong court by attracting highly qualified applicants”.⁷⁰

80. It is in the interest of all British Columbians to maintain a strong court. This does not mean simply ensuring that there are adequate qualified applicants and sufficient appointments from those who are recommended. As the Judicial Council notes, it also means attempting to ensure that the diversity of the bench reflects the population of British Columbia by considering factors such as age, gender, ethnicity, residential region and type of practice.⁷¹

81. To assess whether the Provincial Court continues to attract sufficient highly qualified applicants for it to remain strong, this Commission should consider information for both the Provincial Court Judges and Judicial Justices, to the extent it is available, about the following trends:

- a. the number of applications and appointments;
- b. statistics regarding age, gender, regional distribution and type of practice of applicants;

⁷⁰ *Act*, s. 5(5)(a)

⁷¹ Judicial Council of British Columbia Annual Report 2021, pp. 14, 19: JBD, Vol. 1, Tab 2.

- c. ethnic and cultural backgrounds of applicants; and
- d. for Provincial Court Judges, the extent to which there is movement to the Supreme Court of British Columbia.

Provincial Court Judges – Appointments and Applications

82. There were 11 Provincial Court Judges appointed in 2021 (seven women and four men). This represents an increase from the six appointments made in each of 2019 and 2020, but is in line with the larger number of appointments made in the years 2015-2019.⁷² There have been 12 judges appointed since the start of 2022, although there have also been a number of retirements.⁷³ Over the ten-year period from 2012 to 2022, there was an average of ten appointments per year.⁷⁴
83. With respect to applications, the Judicial Council provides statistics regarding the numbers of applications received, reviewed, approved for interviews, interviewed and recommended for appointment. However, it is important to note that except for the number of applications received in a given year, the other figures reported may reflect candidates who applied in previous years and whose applications were carried over. As a result, the Judicial Council may, for example, report having interviewed a greater number of applicants than it approved for interviews in a given year.⁷⁵
84. In 2021, the Judicial Council received 24 applications for appointment and reviewed 15. It approved ten applicants for interviews, and interviewed 22 applicants in total (some carried over from 2020). The Judicial Council recommended 15 of those interviewed for appointment.⁷⁶
85. As reflected in Figure A.1 below,⁷⁷ the 24 applications received by the Judicial Council in 2021 is lower than the ten-year average of 38 applications per year, and the lowest number

⁷² Judicial Council of British Columbia Annual Report 2021, pp. 15, 29: JBD, Vol. 1, Tab 2.

⁷³ See *News & Announcements* of the Provincial Court of British Columbia, online: <https://www.provincialcourt.bc.ca/news-reports/news-releases>. See also archived *News & Announcements*: <https://www.provincialcourt.bc.ca/archive#ARA>. Note that the figure of 12 appointments does not include the appointment of one judge announced November 28, 2022 as that judge was sworn in January 3, 2023.

⁷⁴ Judicial Council of British Columbia Annual Report 2021, p. 15: JBD, Vol. 1, Tab 2.

⁷⁵ Judicial Council of British Columbia Annual Report 2021, p. 15: JBD, Vol. 1, Tab 2.

⁷⁶ Judicial Council of British Columbia Annual Report 2021, p. 15: JBD, Vol. 1, Tab 2.

⁷⁷ Judicial Council of British Columbia Annual Report 2021, p. 29: JBD, Vol. 1, Tab 2.

received in the last ten years. The Judicial Council notes that the 2021 totals for applications reviewed, approved for interviews and interviewed also fell below the ten-year averages.⁷⁸ In addition, the number of female applicants fell below the number of male applicants in 2021 for the first time since 2018.⁷⁹ Despite this, the number of applicants recommended for appointment (15), and the number of actual appointments (11) were slightly above the ten-year averages of 14 and 10, respectively.⁸⁰

Figure A.1: Applications for Appointment as a Provincial Court Judge (2012 – 2021)⁶

YEAR	APPLICATIONS RECEIVED			APPLICATIONS REVIEWED			APPLICANTS APPROVED FOR INTERVIEW			APPLICANTS INTERVIEWED			APPLICANTS APPOINTED		
	TOTAL	M	F	TOTAL	M	F	TOTAL	M	F	TOTAL	M	F	TOTAL	M	F
2021	24	14	10	15	11	4	10	7	3	22	12	10	11	4	7
2020	30	13	17	38	17	21	19	7	12	9	2	7	6	2	4
2019	37	18	19	26	15	11	16	9	7	21	10	11	6	5	1
2018	27	14	13	46	25	21	29	12	17	34	19	15	15	7	8
2017	63	41	22	57	31	26	36	20	16	27	14	13	14	4	10
2016	43	23	20	30	19	11	24	14	10	24	15	9	9	6	3
2015	27	13	14	35	13	22	23	9	14	27	9	18	13	6	7
2014	50	24	26	40	24	16	31	18	13	33	23	10	6	2	4
2013	46	33	13	39	28	11	29	18	11	24	11	13	10	5	5
2012	35	19	16	39	20	19	22	9	13	21	9	12	11	8	3
AVERAGE	38	21	17	37	20	16	24	12	12	24	12	12	10	5	5

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

86. The names of recommended candidates remain on the roster for three years from the date of their interview.⁸¹ In 2021, there was an average of 20 candidates each month on the list of applicants recommended for appointment.⁸²
87. Given an average of ten appointments per year over the last ten years, the available data indicates that the lower number of applications received by the Judicial Council in 2021 is not having an impact on the Provincial Court's pool of qualified candidates. At present, there are still more than sufficient numbers of highly qualified applicants to fill the vacancies on the Provincial Court.

⁷⁸ Judicial Council of British Columbia Annual Report 2021, p. 29: JBD, Vol. 1, Tab 2.

⁷⁹ Judicial Council of British Columbia Annual Report 2021, p. 29: JBD, Vol. 1, Tab 2.

⁸⁰ Judicial Council of British Columbia Annual Report 2021, p. 15: JBD, Vol. 1, Tab 2.

⁸¹ Judicial Candidate Application Worksheet, p. 3: JBD, Vol. 1 Tab 11.

⁸² Judicial Council of British Columbia Annual Report 2021, p. 16: JBD, Vol. 1, Tab 2

Provincial Court Judges – Age, Gender⁸³, Regional Distribution and Legal Experience

88. The average age of applicants to the Provincial Court in 2021 was 51 years for women, and 54 years for men. The applicants had an average of 23 years in the practice of law. Both of these figures are consistent with the averages over the ten-year period from 2012-2022.⁸⁴
89. In 2021, the number of applications from women reviewed, approved for interview and interviewed was below the ten-year averages. In contrast, the number of women recommended for appointment was equal to the ten-year average (seven), and the number of women appointed (seven) was higher than the 10-year average (five).
90. The number of applications from men increased in 2021 to 14, but was still lower than the ten-year average of 21. The number of applications from men reviewed, approved for interview and interviewed was either below or equal to the ten-year average. The number of men recommended (eight) was higher than the ten-year average (seven), but the number of men appointed (four) was lower than the ten-year average (five).⁸⁵
91. As of March 31, 2022, 52.7% of full-time Provincial Court Judges were women, and of the 54 judges appointed during the previous five fiscal years, just over half (29) were women. This indicates that the proportion of women appointed to the Provincial Court has increased in recent years.⁸⁶
92. In terms of regional distribution, the following table⁸⁷ illustrates the number of applications received and Provincial Court Judges appointed from each of the Provincial Court's five regions over the last five years:

⁸³ The available data on gender for the Provincial Court is currently based on binary statistics of men and women; it does not yet include those who identify in a different manner, such as non-binary.

⁸⁴ Judicial Council of British Columbia Annual Report 2021, p. 18: JBD, Vol. 1, Tab 2. Note that the average years of practice over the 10-year period was 22, rather than 23.

⁸⁵ Judicial Council of British Columbia Annual Report 2021, pp. 16-17: JBD, Vol. 1, Tab 2.

⁸⁶ Provincial Court of British Columbia, Annual Report 2021-22, pp. 27-28:
<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>. See also Judicial Council of British Columbia Annual Report 2021, p. 30: JBD, Vol. 1, Tab 2.

⁸⁷ See also Judicial Council of British Columbia Annual Report 2021, p. 18: JBD, Vol. 1, Tab 2.

Region	Applications received from	Judges Appointed from
Vancouver Island	36	3
Fraser	41	22
Interior	23	10
Northern	23	13
Vancouver	55	3
Office of the Chief Judge	0	1

93. With respect to legal experience, the 2021 applicants were distributed as follows:
- a. 50% came from private practice;
 - b. 37% came from Crown counsel; and
 - c. 13% from other areas of law (this includes public law other than Crown Counsel of applicants is roughly consistent with the distribution across areas of law since 2015.⁸⁸ The following table shows the distributions by percentages since 2015:

Year	Private Practice	Crown Counsel	Other
2015⁸⁹	46%	35%	19%
2016⁹⁰	62%	29%	9%
2017⁹¹	52%	33%	15%
2018	52%	37%	11%
2019	49%	38%	13%
2020	50%	40%	10%
2021	50%	37%	13%

94. However, the statistics above are based on where the applicant works at the time they apply to the Provincial Court. They do not reflect any previous employment history. As reflected

⁸⁸ Judicial Council of British Columbia Annual Report 2021, p. 32: JBD, Vol. 1, Tab 2.

⁸⁹ See Judicial Council of British Columbia Annual Report 2015:
<https://www.provincialcourt.bc.ca/downloads/judicialCouncil/JudicialCouncilAnnualReport2015.pdf>

⁹⁰ See Judicial Council of British Columbia Annual Report 2016:
<https://www.provincialcourt.bc.ca/downloads/judicialCouncil/JudicialCouncilAnnualReport2016.pdf>

⁹¹ Percentages calculated based on total numbers reported in Judicial Council of British Columbia Annual Report 2021, p. 32: JBD, Vol. 1, Tab 2.

in the bios of several recent 2022 appointees to the Provincial Court,⁹² some applicants will have legal experience over their careers that crosses more than one of these areas.

Provincial Court Judges – Ethnic and Cultural Background

95. The Judicial Council began inviting applicants to voluntarily provide information on their ethnic and cultural backgrounds in 2014. In 2021, 10 of 24 applicants, or about 40%, chose to provide this information. This is approximately the same as the percentage of applicants that did so in 2019, but is a decrease from the more than 60% who chose to provide this information in 2020. In 2021, two applicants indicated they were of Indigenous heritage, four indicated an ethnic or visible minority background (which may include LGBTQ+), and four identified as being part of a diverse group (which may also include LGBTQ+).⁹³
96. It is difficult to adequately compare the statistics year to year. The information is provided on a voluntary basis, and an applicant may belong to more than one diversity group. However, on the whole, the Provincial Court continues to attract applicants from diverse backgrounds.

Provincial Court Judges – Movement and Stability

97. There have been no appointments from the Provincial Court to the British Columbia Supreme Court since 2019, and only two in the last five years (one in each of 2017 and 2018). By comparison, eight judges from the British Columbia Supreme Court have been elevated to the British Columbia Court of Appeal over that same timeframe.⁹⁴
98. This demonstrates that it is more common for judges to move between different levels of the Superior Court than to move from the Provincial Court to the Superior Courts. The complement of Provincial Court Judges is stable in this regard.

⁹² See for example, Provincial Court of British Columbia Announcement, November 8, 2022: <https://www.provincialcourt.bc.ca/downloads/Announcements/2022/Announcement%2008-11-2022%20Judicial%20Appointments.pdf>.

⁹³ Judicial Council of British Columbia Annual Report 2021, p. 19: JBD, Vol. 1, Tab 2

⁹⁴ See Supreme Court of British Columbia, *About the Supreme Court – Annual Reports*: https://www.bccourts.ca/supreme_court/about_the_supreme_court/annual_reports/.

The Provincial Court continues to attract highly qualified applicants

99. At present, the Provincial Court continues to attract a sufficient number of highly qualified applicants to support the average number of appointments made each year. The applicant pool continues to include diversity with respect to gender, regional distribution and areas of legal experience, and to the extent information is voluntarily provided by applicants, it appears to reflect at least some diversity of ethnic and cultural backgrounds.
100. The Government recognizes that there was a decrease in the number of applicants in 2021 and that the total number was at its lowest point in ten years. The Government also accepts that compensation may be one factor that influences a person's decision to apply to the Provincial Court.
101. However, it is difficult to determine the reasons for variations in the number of applicants.⁹⁵ There may be multiple reasons; over the past few years, this may have included the impact of the COVID-19 pandemic and the widespread shift to working from home. Historically, the number of applications received has fluctuated from year to year, and sometimes much more significantly than the most recent decrease.⁹⁶ It will be important to continue to monitor the number of applications going forward. However, it is premature to draw any conclusions with respect to whether the decline in applicants has any relationship to judicial compensation.

Judicial Justices – Available Data on Applications and Appointments

102. The Judicial Council does not publish as much data with respect to applications and appointments of Judicial Justices. For example, while the Judicial Council's annual reports for each year indicate the number of applications received, the number interviewed, the number recommended and the number appointed in that particular year, the annual reports do not include comparisons to the previous year's statistics or to longer-term trends as is

⁹⁵ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 7: JBD, Vol. 1, Tab 3.

⁹⁶ For example, applications fell from 50 in 2014 to 27 in 2015. They rose again to 43 in 2016 and to a high of 63 in 2017, before dropping to 27 in 2018. See Judicial Council of British Columbia Annual Report 2021, p. 29: JBD, Vol. 1, Tab 2.

provided for Provincial Court Judges. Similarly, statistics regarding gender, age, legal experience and ethnic and cultural backgrounds is not provided for Judicial Justices.

103. However, in its 50th Anniversary Edition Annual Report for 2020, the Judicial Council provided some historical information on longer-term application and appointment trends for Judicial Justices.
104. Between 2002 and 2020, the Judicial Council received a total of 157 applications for appointment. The Judicial Council reported that it receives an average of eight applications per year and interviews three, with an average of two Judicial Justices being appointed per year. However, the Judicial Council also noted that “the volume of applications tends to fluctuate, rising significantly when the Judicial Council issues a call for applications.”⁹⁷
105. Most years see fewer than five applications, but there have been a number of years where applications have spiked, which impacts the average. For example, in 2003, applications spiked to 48 after the assignment of search warrant applications and bail hearings to Judicial Justices led to an increased need and the Judicial Council advertised for applicants. The next increase occurred from 2007 to 2009, after the creation of the part-time Judicial Justice role in 2007. This, in turn, led the Judicial Council to advertise for lawyers who met the new application criteria for that role.⁹⁸
106. The Judicial Council reports that “the number of applications plummeted in 2010 following the appointment of 17 part-time judicial justices in 2007 and 2008.”⁹⁹ The volume of applications rose again in 2018 and 2019, reflecting both applications for re-appointment (after the *Provincial Court Act* was amended in 2019 to allow for re-appointment) and a response to the Judicial Council’s call for applications across Canada.¹⁰⁰ The following table¹⁰¹ depicts these fluctuations:

⁹⁷ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 13: JBD, Vol. 1, Tab 3.

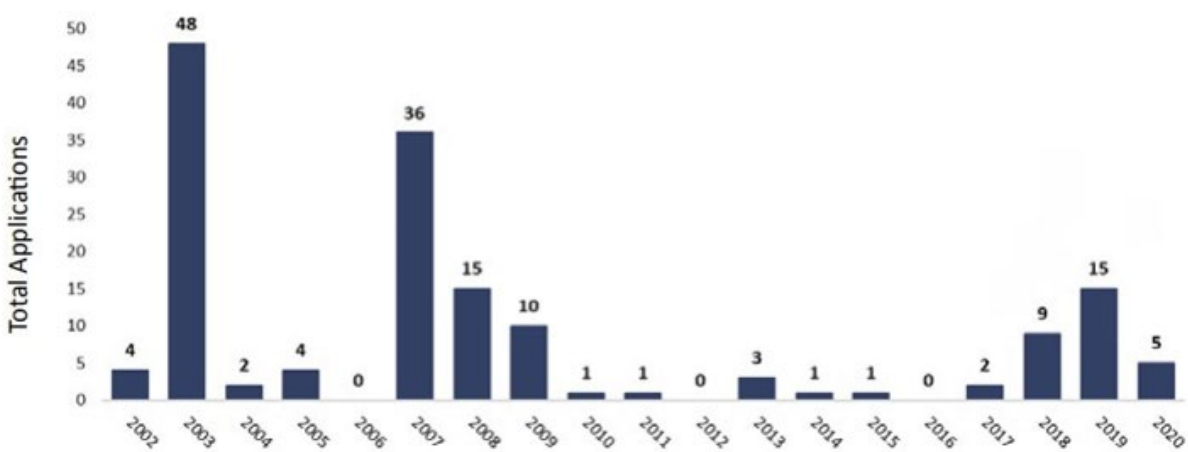
⁹⁸ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 13: JBD, Vol. 1, Tab 3.

⁹⁹ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 13: JBD, Vol. 1, Tab 3.

¹⁰⁰ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 13: JBD, Vol. 1, Tab 3.

¹⁰¹ Reproduced from Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, p. 13: JBD, Vol. 1, Tab 3.

Figure 12: Judicial Justice Applications (2002 - 2020)



Judicial Justices – Report of the 2019 Commission and Subsequent Changes

107. The Report of the 2019 Commission stated that there were only 11 applicants from 2010 until the hearings in July 2019 and only five Judicial Justices appointed during that time. On that basis of that finding and other evidence, the 2019 Commission identified a need for adjustments to the compensation of Judicial Justices to address recruitment and retention issues.¹⁰²
108. Recognizing that the 2019 Commission could only address the evidence before it, the Judicial Council’s Annual Report for 2020 suggests some of that evidence may have been incomplete. Based on the information in Figure 12 above, the Judicial Council reported a total of 18 applications between 2010 and the end of 2018, as well as an additional 15 applications in 2019 alone. The Judicial Council also suggests that the significant decrease in applications after 2010 is likely tied to the much larger than average number of appointments made in 2007 and 2008.
109. The Government’s Response to the Report of the 2019 Commission in respect of Judicial Justices accepted that there was a need to support modest increases to respond to recruitment and retention issues for Judicial Justices. For the reasons stated in that response, Government

¹⁰² Report of the 2019 Judicial Compensation Commission, p. 18: JBD, Vol. 1, Tab 18.

substituted a lower percentage increase in salaries than was recommended by the 2019 Commission.¹⁰³

110. In addition, as mentioned by the 2019 Commission, and at the request of the Provincial Court, in late October 2019, the *Provincial Court Act* was amended to allow part-time Judicial Justices to be re-appointed for a subsequent ten-year term. This amendment also permits full-time Judicial Justices who retire to be re-appointed as part-time Judicial Justices for a further ten-year term.¹⁰⁴

Judicial Justices – Current statistics and Conclusion

111. The following table shows the statistics on Judicial Justice applications and appointments since 2017:

Year	Applications Received	Interviews Conducted	Applicants Recommended	Applicants Appointed
2017 ¹⁰⁵	2	0	0	0
2018 ¹⁰⁶	9	2	4	0
2019 ¹⁰⁷	15	4	3	3
2020 ¹⁰⁸	5	3	2	3
2021 ¹⁰⁹	8	6	2	3

112. In 2022, there was one Judicial Justice appointed.¹¹⁰ Statistics on the number of applications received in 2022 are not yet available.

¹⁰³ Government’s Proposed Response to the Judicial Compensation Commission 2019 Final Report in Respect of Provincial Court Judicial Justices, pp. 6 and 14: JBD Vol. 1, Tab 20.

¹⁰⁴ *Provincial Court Act*, s. 30.2. Note that these amendments also reduced the initial term of appointment for a part-time Judicial Justice from 12 years to 10 years.

¹⁰⁵ Judicial Council of British Columbia Annual Report 2017, p. 29, online <https://www.provincialcourt.bc.ca/downloads/judicialCouncil/JudicialCouncilAnnualReport2017.pdf>.

¹⁰⁶ Judicial Council of British Columbia Annual Report 2018, p. 31, online: <https://www.provincialcourt.bc.ca/downloads/judicialCouncil/JudicialCouncilAnnualReport2018.pdf>.

¹⁰⁷ Judicial Council of British Columbia Annual Report 2019, p. 24, online: <https://www.provincialcourt.bc.ca/downloads/judicialCouncil/JudicialCouncilAnnualReport2019.pdf>.

¹⁰⁸ Judicial Council of British Columbia Annual Report 2020, 50th Anniversary Edition, pp. 15 and 41: JBD, Vol. 1, Tab 3. Note that, similar to the situation with Provincial Court Judges, candidates for appointment as Judicial Justices may apply in one year, but their application may be addressed the following year.

¹⁰⁹ Judicial Council of British Columbia Annual Report 2021, p. 21: JBD, Vol. 1, Tab 2.

¹¹⁰ See Provincial Court of British Columbia Announcement, July 11, 2022: <https://www.provincialcourt.bc.ca/downloads/Announcements/2022/Announcement%2011-07-2022%20Judicial%20Appointments.pdf>

113. The evidence indicates that the number of applications for Judicial Justice positions has increased since the 2019 Commission issued its report. Further, the statistics for applications and appointments are now back in line with the averages reported by the Judicial Council in 2020. The Government submits that, at present, the changes following the 2019 Commission – including salary increases and legislative amendments – appear to be addressing the previous recruitment and retention concerns.

Changes to the Jurisdiction of the Court

114. Section 5(5)(b) of the *Act* required this Commission to consider “changes, if any, to the jurisdiction of judges or judicial justices.” Understandably, previous commissions have primarily been concerned with jurisdictional changes that result in workload or operational increases or decreases.

115. In relation to this factor, the 2019 Commission considered that it was too early to determine if the 2017 shift of small claims files below \$5,000 to the Civil Resolution Tribunal (“CRT”) and the corresponding increase in the Provincial Court small claims limit to \$35,000 would have “any significant impact” on the work of Provincial Court Judges. The 2019 Commission similarly found it was too early to determine if the changes to the number of hybrid offences in the *Criminal Code* would impact the work of Provincial Court Judges. There were no jurisdictional changes for Judicial Justices.¹¹¹

Jurisdiction of Provincial Court Judges

116. On April 1, 2019, the CRT assumed jurisdiction over minor motor vehicle injury disputes¹¹² for accidents occurring on or after that date. However, the majority of such claims were previously filed in the BC Supreme Court. As such, the Government submits this change has likely not had a measurable impact on the work of the Provincial Court to date.

117. In its Annual Report for 2020-21, the Provincial Court reported that the number of new small claims cases decreased by 43% from 2016-17, indicating that the above-noted changes to the jurisdiction of the Provincial Court “likely contributed to the decrease in small claims

¹¹¹ Report of the 2019 Judicial Compensation Commission, p. 19: JBD, Vol. 1, Tab 18.

¹¹² Minor injury disputes are those involving accident benefits as well as damages and fault up to \$50,000.

cases”.¹¹³ While there was an increase in 2021-22, that may have been due to the suspension of filings for new small claims the previous year.¹¹⁴ Similarly, the number of new adult and youth criminal cases also declined in both 2020-21 and again in 2021-22, bringing them to their lowest point in the last five years.¹¹⁵ The number of new cases in all areas declined in 2020-21, as did overall number of new cases.¹¹⁶ In 2021-22, and with the exception of small claims cases, those trends continued.¹¹⁷

118. However, as the last two annual reports note, given the temporary suspension of some court operations during the COVID-19 pandemic, all of the case statistics from 2020-21 and 2021-22 should be interpreted with caution.¹¹⁸ The Government accepts this, and submits that, until it is possible to compare caseloads in a purely post-COVID-19 pandemic environment, it may be difficult to draw conclusions about whether the current trends reflect impacts from COVID-19, or the previous jurisdictional changes, or something else entirely.
119. Since 2020, there have been a number of new offences created under various provincial statutes and regulations as a result of the COVID-19 pandemic – such as offences under the *COVID-19 Related Measures Act*,¹¹⁹ the *Emergency Program Act*,¹²⁰ and the *Access to Services (COVID-19) Act*.¹²¹ However, the temporary shutdowns of court operations makes case statistics hard to compare. It is difficult to determine the extent to which the creation of any of those new offences translated into increased disputes before the Provincial Court, thus impacting its workload. Further, as the COVID-19 legislative responses are generally anticipated to be temporary in nature, there may not be any long-term impacts.

¹¹³ Provincial Court of British Columbia, Annual Report 2020-21, p. 43: JBD, Vol. 1, Tab 1.

¹¹⁴ Provincial Court of British Columbia, Annual Report 2021-22, p. 32:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

¹¹⁵ Provincial Court of British Columbia, Annual Report 2021-22, p. 32:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

¹¹⁶ Provincial Court of British Columbia, Annual Report 2020-21, pp. 42-43: JBD, Vol. 1, Tab 1.

¹¹⁷ Provincial Court of British Columbia, Annual Report 2021-22, p. 32:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

¹¹⁸ Provincial Court of British Columbia, Annual Report 2020-21, pp. 42-43: JBD, Vol. 1, Tab 1; Provincial Court of British Columbia, Annual Report 2021-22, p. 32:

<https://www.provincialcourt.bc.ca/downloads/pdf/AnnualReport2021-2022.pdf>.

¹¹⁹ S.B.C. 2020, c. 8.

¹²⁰ R.S.B.C. 1996, c. 111.

¹²¹ S.B.C. 2021, c. 32.

120. The Government acknowledges that the Provincial Court had to make certain temporary adjustments to its operations to be able to continue to function safely during the COVID-19 pandemic, and that the Provincial Court made significant efforts to preserve and restore access in creative ways.¹²² The Government also acknowledges that the suspension of in-person applications for search warrants and other judicial authorizations in April 2020 resulted in a direct increase to the number of faxed applications being handled by Judicial Justices at the Justice Centre.¹²³
121. Without detracting from the critical work of the Provincial Court in any way, these types of burdens were not unique to the Provincial Court. All courts and indeed, most public and private institutions, had to make changes to their operations. Further, these types of adjustments to the Provincial Court’s operations did not alter the *jurisdiction* of Provincial Court Judges (or Judicial Justices).

Jurisdiction of Judicial Justices

122. As noted above, pursuant to s. 11 of the *Provincial Court Act*, the Chief Judge has authority to prescribe the jurisdiction of Judicial Justices through an “Assignment of Duties”. The most current such public assignment is the August 5, 2021 Notice to the Profession and Public, entitled “Judicial Justices – Assignment of Duties Pursuant to s. 11 of the *Provincial Court Act*.”¹²⁴ Page 2 of that notice identifies the amendments that have been made to the jurisdiction of Judicial Justices since the 2019 Commission.
123. The list of amendments indicates Judicial Justices were not given jurisdiction to hear certain COVID-related provincial and federal offences where the violation tickets or fines were above specified amounts. As that paragraph otherwise assigns Judicial Justices to hear all provincial offences and all federal *Contravention Act* offences commenced by violation tickets, Judicial Justices were granted jurisdiction to hear disputes in relation to COVID-related provincial and federal offences below the specified amounts. While this may be a change in jurisdiction, for the reasons noted above, it is not yet possible to assess the extent

¹²² See, for example, Provincial Court of British Columbia, Annual Report 2020-21, pp. 19-24 for a description of some of the Provincial Court’s pandemic response efforts: JBD, Vol. 1, Tab 1.

¹²³ Provincial Court of British Columbia, Annual Report 2020-21, pp. 22: JBD, Vol. 1, Tab 1.

¹²⁴ NP 16: JBD, Vol. 1, Tab 6.

to which the creation of those new COVID-19 related offences resulted in disputes that impacted the workload of Judicial Justices, if at all.

124. The Government is aware that, as a result of the federal Parliament’s passage of what was Bill S-4, new amendments to the *Criminal Code* will come into force on January 14, 2023. Those amendments include an expansion of the telewarrant regime in Canada. At present, telewarrant applications must be made through the Justice Centre.¹²⁵
125. The Government is not aware of the impacts Bill S-4 may have on the work of Judicial Justices. The assignment of duties to Judicial Justices rests with the Chief Judge under the *Provincial Court Act*. The Government remains open to considering the potential impacts of these changes once further information is known about how they will be operationalized.

Compensation Provided in Respect of Similar Judicial Positions in Canada

126. The third factor this Commission must take into account is the “compensation provided in respect of similar judicial positions in Canada, having regard to the differences between those jurisdictions and British Columbia”.
127. As part of its assessment, the *Act* requires this Commission to consider the similarities and differences between other jurisdictions in Canada and British Columbia. Sources of potential similarities and differences between jurisdictions that should be considered include: population; number of Provincial Court Judges or Judicial Justices; economic and fiscal conditions; policy and legislative choices; and governments’ approach to expenditures.

Superior Court Judges are not relevant comparators

128. Federally-appointed superior court judges are not useful comparators for this Commission to consider for purposes of this factor.
129. The 2013 Judges Compensation Commission recognized that, while there is overlap in the needs of the Provincial and Superior Courts, the Superior Courts have broader jurisdiction

¹²⁵ Provincial Court Criminal Practice Directions CRIM03: Daytime Judicial Authorization Applications, April 11, 2022, pp. 1-2:
<https://www.provincialcourt.bc.ca/downloads/Practice%20Directions/CRIM%2003%20Daytime%20Judicial%20Authorization%20Applications.pdf>.

in civil matters, different demands for candidates, and are compensated by a different government with varied financial and other considerations.¹²⁶ Case law also recognizes the shortcomings in determining compensation for Provincial Court Judges through the lens of Superior Court salaries.¹²⁷

130. Superior Court Judges have broad jurisdiction. Superior Courts, as courts of inherent jurisdiction under s. 96 of the *Constitution Act, 1867*, hear all types of civil, family and criminal cases, including complex offences under s. 469 of the *Criminal Code*. Superior Courts also hear appeals from the Provincial Court and conduct judicial reviews of administrative decisions.
131. Superior Court Judges' salaries are based on consideration of the compensation paid to two comparator groups:
 - a. first, the salaries of Deputy Ministers paid at the Deputy Minister 3 ("DM3") level; and
 - b. second, estimates of compensation paid to self-employed lawyers in the private sector.¹²⁸

As a result, a fixed link between Superior Court and Provincial Court Judges' salaries – the former of which is itself fixed to remuneration for the highest level of civil servants and for lawyers not paid out of the public purse – is inconsistent with the *Act*.

132. The Government notes that New Brunswick, Ontario and Saskatchewan have set their Provincial Court Judges' salaries at a fixed percentage of Superior Court Judges' salaries. This is a legislative and policy choice made by the governments in those jurisdictions. With respect, it amounts to a decision to forego a comprehensive and individualized analysis to setting judicial compensation in favour of deferring to decisions made in another jurisdiction.

¹²⁶ Report of the 2013 Judges Compensation Commission, p. 38: JBD, Vol. 1, Tab 24.

¹²⁷ *Provincial Court Judges' Assn. of New Brunswick v. New Brunswick (Minister of Justice)*, 2003 NBCA 54 at para. 163.

¹²⁸ See Judicial Compensation and Benefits Commission, *Report and Recommendations* (August 30, 2021) at paras. 149 and 182: [https://quadcom.gc.ca/Media/Pdf/2020/Final%20Report%20and%20Recommendations%20\(30%20AUG%202021\).pdf](https://quadcom.gc.ca/Media/Pdf/2020/Final%20Report%20and%20Recommendations%20(30%20AUG%202021).pdf).

133. While that is a policy choice that is, of course, open to those jurisdictions to make, the executive and legislative branches of government in British Columbia have not made that same choice. In British Columbia, the choice was instead to require this Commission to conduct its analysis on the basis of the six factors in the *Act*. These sorts of policy and legislative choices – which have both procedural and substantive impacts with respect to compensation – are properly characterized as “differences” under this factor.
134. To properly take into account the policy and legislative differences that exist between British Columbia and other jurisdictions, this Commission must give effect to the choices made here. Accordingly, these submissions focus on determining reasonable compensation by examining the relevant factors under the *Act* as they apply in British Columbia.
135. Any fixed-percentage relationship between the remuneration for Provincial Court Judges in British Columbia and that for Superior Court judges (the latter of which British Columbia has no control over or input into) would render those statutory requirements ineffective. Moreover, such a fixed-percentage relationship with Superior Court Judges would establish a link between Provincial Court Judges and a group of judges that the Government submits is an inappropriate comparator.

Other Provincial Court Judges are appropriate comparators overall

136. The use of comparators helps ensure that the compensation received by British Columbia’s judiciary is not significantly out of step with their provincial and territorial counterparts. On the other hand, compensation for the judiciary ought not to be driven by a focus on ordinal rankings between jurisdictions. Nor, as noted above, should it be driven by legislative or policy decisions made in other jurisdictions.
137. Provincial Court Judges in other jurisdictions across Canada are appropriate global comparators. Provincial Court Judges in other Canadian jurisdictions perform similar functions, and operate within a similar legislative framework, as do Provincial Court Judges in British Columbia. Any differences between the actual work performed by provincial and territorial courts are immaterial for purposes of this Commission’s analysis.

138. As a result, the salaries provided to Provincial Court Judges in each of the additional eleven jurisdictions properly form part of the analysis. For 2020/2021 and 2021/2022, Provincial Court Judges’ salaries in British Columbia ranked ninth out of the twelve jurisdictions for which data is available. British Columbia ranked ahead of Prince Edward Island, Nova Scotia, New Brunswick, and Newfoundland and Labrador.
139. The table below compares the compensation provided to Provincial Court Judges in all 12 provincial and territorial jurisdictions in 2020/21, 2021/22 and 2022/23 and calculates the national average for each of those years:¹²⁹

Jurisdiction	2020/21	2021/22	2022/23
Ontario	\$321,000	\$344,000	\$350,212
Saskatchewan	\$312,286	\$315,971	\$343,045
Alberta	\$318,500	2021 JCC Underway	2021 JCC Underway
Northwest Territories	\$304,698	\$304,918	\$311,723
Québec (from July 1 to June 30)	\$277,000	\$293,500	\$310,000
Yukon	\$304,675	\$307,722	2022 JCC
Manitoba	\$280,500	\$292,001	\$301,35
British Columbia	\$276,000	\$282,250	\$288,500
Prince Edward Island	\$279,699	\$285,134	\$302,010
Nova Scotia	\$269,198	\$270,889	\$283,075
New Brunswick	\$263,920	\$263, 920	\$263,920
Newfoundland & Labrador	\$260,560	\$260,560	\$260,560
Average	\$289,003	\$295,695	\$301,439

140. Looking at the salaries of Provincial Court Judges in all twelve jurisdictions, British Columbia is not an outlier. Salaries provided to Provincial Court Judges in British Columbia are near the national average.

Are some comparators more or less appropriate?

141. Provincial Court Judges in each Canadian jurisdiction may serve as useful comparators overall. However, to determine if any specific jurisdictions are more appropriate

¹²⁹ Excerpt from JBD, Vol. 2, Tab 34.

comparators than others, this Commission should first consider the process by which those jurisdictions set judicial compensation.

142. Each jurisdiction relies on its own statutory factors or, in some cases, on their respective Commissions to develop those factors.¹³⁰ Each jurisdiction also has its own economic conditions and policies respecting the expenditure of public funds. Moreover, the cycle of compensation commissions does not align between jurisdictions and, therefore, point-in-time salary comparisons are incomplete due to the timing of commission processes.
143. While all jurisdictions in Canada share the same constitutional responsibility with respect to judicial compensation, these differences in conditions and policies impact the setting of compensation more generally.
144. For example, certain jurisdictions set salaries with reference to Superior Court Justices' salaries.¹³¹ Others use formulas that calculate the average compensation in certain jurisdictions.¹³² Ontario had previously agreed to be bound by their respective Commission's recommendations.¹³³ British Columbia has not adopted any of these policy choices.
145. Saskatchewan is not a useful comparator for this Commission. Salaries for Provincial Court Judges in Saskatchewan are set at 95% of Superior Court Judges' salaries. As outlined above, federally-appointed judges are not useful comparators for this Commission to consider for

¹³⁰ Saskatchewan and Newfoundland & Labrador do not have specific factors outlined in their legislation, so their commissions develop their own. All judges in Nunavut are federally-appointed.

¹³¹ Ontario Provincial Court Judges' salaries are now calculated by applying the Industrial Aggregate Index (Canada) to the existing salary of Ontario Judges, and then adding an additional increase to bring the salary to a percentage of Superior Court Judges' salaries (93.47% in 2018, 94.07% in 2019, 94.67% in 2020, and 95.2% in 2021), Government of Ontario Order in Council 1273/2018: <https://www.ontario.ca/page/schedule-order-council-12732018>; the annual salary of a provincial court judge in New Brunswick is now set at the equivalent of 80% of federally appointed judges in Canada, Government's Response to the Report of the 2016 New Brunswick Judicial Remuneration Commission, p. 3: <https://leglibbibcat.legnb.ca/e-repository/monographs/31000000050565/31000000050565.pdf>; Saskatchewan has set salaries for 2021-2024 at 95% of salary of federally appointed judges, see Government of Saskatchewan *Provincial Court Act* s. 38.1(2): <https://www.canlii.org/en/sk/laws/stat/ss-1998-c-p-30.11/latest/ss-1998-c-p-30.11.html>.

¹³² Prince Edward Island pays their provincial court judges an average of the other nine provinces and two territories (not Nunavut). Superior Court Judges' salaries are not used to calculate the average. Report of the Judicial Remuneration Review Commission December 31, 2013, p. 7-8: http://www.gov.pe.ca/photos/original/leg_s14judremun.pdf.

¹³³ Ontario's Government has for many years agreed to be bound by the Commission's recommendations with respect to salary, benefits and allowances. (Recommendations with respect to pension are non-binding.) Ontario Regulation 407/93 Framework Agreement on Judges' Remuneration, Item #27: <https://www.ontario.ca/laws/regulation/930407>.

purposes of this factor. It follows that a jurisdiction that defers expressly to federal salaries to set its judicial compensation is also not a useful comparator.

146. Nor is Ontario a useful comparator. Its government has agreed to be bound by recommendations of their Commission, except for those related to pensions. This is a policy choice that does not preserve the Ontario Legislature's authority to reject recommendations for rational reasons. In contrast, British Columbia has made the choice to preserve its Legislature's authority to make the ultimate decision on reasonable compensation, consistent with the principle that the Legislature must authorize all spending. Moreover, Provincial Court Judges in Ontario receive salaries that are equal to a particular percentage of the salaries received by Superior Court Judges over the same period, and, as with Saskatchewan, this deference means Ontario is not a useful comparator.
147. In addition to considering the policy choices and processes in other jurisdictions, considerations such as population, economic and fiscal conditions, and governments' approaches to expenditures, are also relevant in assisting this Commission to determine whether certain comparator jurisdictions are more similar than others to British Columbia. To the extent consideration of a subset of jurisdictions may be appropriate, jurisdictions that share traits with British Columbia are the jurisdictions that should be given the most weight in the analysis under this factor.
148. The Government submits that on a number of metrics, of the remaining jurisdictions, Alberta and Quebec are the notable comparators for British Columbia. In 2021, British Columbia's closest provincial counterparts in terms of GDP were Alberta and Quebec, who occupied the two positions directly above British Columbia.¹³⁴ Quebec had GDP growth rate of 6.0%, just below British Columbia, with Alberta at 4.9%.¹³⁵ Both Alberta and Quebec are also closest to British Columbia in terms of population, with Quebec directly above and Alberta directly below British Columbia.¹³⁶

¹³⁴ Statistics Canada, Table 36-10-0402-02 Gross domestic product (GDP) at basic prices, by industry, provinces and territories, growth rates (x 1,000,000): <https://www150.statcan.gc.ca/t1/tb11/en/tv.action?pid=3610040202>.

¹³⁵ *Ibid.*

¹³⁶ Statistics Canada, Table 17-10-0009-01 Population estimates, quarterly: <https://www150.statcan.gc.ca/t1/tb11/en/tv.action?pid=171000090>.

149. The table below provides a comparison of average salaries paid to Provincial Court Judges in the comparator jurisdictions and British Columbia over three years:¹³⁷

Jurisdiction	Average Salary for three years 2020/21 – 2022/23
Alberta	\$324,912 ¹³⁸
British Columbia	\$282,250
Quebec	\$293,500

150.

151. The figures above find British Columbia within a reasonable range of its closest comparators. They do not reveal a need for significant correction. Provincial Court Judges in British Columbia receive salaries that are proportionate and reasonable compared to their counterparts in Alberta and Quebec.

Judicial Justices¹³⁹

152. Not all jurisdictions in Canada employ Judicial Justices. Alberta, Saskatchewan, Manitoba, Ontario and Quebec all have full-time roles that are analogous to that of the Judicial Justice role in British Columbia. Similar positions exist in the Yukon, Northwest Territories and Nunavut. However, those positions involve compensation paid on an hourly basis and are thus not directly comparable.

153. For the 2020/2021 and 2021/2022 years, British Columbia ranked fifth out of six comparable jurisdictions, ahead of Manitoba. The table below outlines compensation provided to Judicial Justices in the comparable jurisdictions in 2020/2021 and 2021/2022:¹⁴⁰

Jurisdiction	2020/21	2021/22
Alberta	\$151,813	\$151,813
British Columbia	\$125,750	\$129,500
Manitoba	\$120,615	43% of PCJ salary
Ontario	\$148,962	\$157,164
Quebec	\$174,100	\$194,400
Saskatchewan	\$155,078	\$159,266

¹³⁷ JBD, Vol. 2, Tab 34.

¹³⁸ For years in which Alberta has not yet determined its salaries for Provincial Court Judges, the table applies a 2% increase to match CPI.

¹³⁹ For simplicity, the Government uses the term “Judicial Justice” in place of “Justice of the Peace” and “Judicial Justice of the Peace” throughout.

¹⁴⁰ JBD, Vol. 2, Tab 35.

154. The roles of Judicial Justices across these provinces are largely analogous. However, there are some differences in respect of the jurisdiction granted to Judicial Justices that warrant consideration by this Commission. Namely, in certain provinces, the jurisdiction of Judicial Justices is broader than in British Columbia. Examples of such differences include:
- a. in Alberta, Manitoba, Quebec and Ontario, Judicial Justices may issue orders to apprehend a child in need of protection or emergency protection orders;¹⁴¹
 - b. in Ontario and Quebec, Judicial Justices may issue orders to apprehend an individual for a mental health examination;¹⁴²
 - c. in Manitoba, Judicial Justices may conduct trials and sentencing hearings for summary convictions;¹⁴³ and
 - d. Judicial Justices in Quebec may preside at appearances and order that the accused be remanded into custody. They may also rule on contested applications relating to the disposal of property seized with or without a warrant. As well, the government requires Judicial Justices in Quebec to have at least ten years' practice prior to appointment.¹⁴⁴
155. This Commission should also consider the differences between the processes for determining compensation for Judicial Justices in British Columbia versus in these other provinces. In Saskatchewan, the 2018 Justices of the Peace Compensation Commission set Judicial Justices' salaries at 51% of the previous year of Saskatchewan Provincial Court Judges'

¹⁴¹ Provincial Court of Alberta, Judges and Justices of the Peace, Duties of Justices of the Peace: https://albertacourts.ca/pc/about-the-court/judges_and_justices; The Provincial Court of Manitoba, Annual Report 2019-20, p. 10: https://www.manitobacourts.mb.ca/site/assets/files/1541/prov_court_19-20_annual_report-web.pdf; Quebec Courts of Justice Act, Schedule V: <https://www.legisquebec.gouv.qc.ca/en/pdf/cs/T-16.pdf>; Ontario Court of Justice, What do Judges and Justices of the Peace do, What do Justices of the Peace do: <https://www.ontariocourts.ca/ocj/general-public/what-do-judges-and-justices-of-the-peace-do/>

¹⁴² Quebec Courts of Justice Act, Schedule V: <https://www.legisquebec.gouv.qc.ca/en/pdf/cs/T-16.pdf>; Ontario Court of Justice, What do Judges and Justices of the Peace do, What do Justices of the Peace do: <https://www.ontariocourts.ca/ocj/general-public/what-do-judges-and-justices-of-the-peace-do/>.

¹⁴³ Manitoba Provincial Court Act, s. 47(a): <https://web2.gov.mb.ca/laws/statutes/ccsm/pdf.php?cap=c275>.

¹⁴⁴ Quebec Courts of Justice Act, Schedule V: <https://www.legisquebec.gouv.qc.ca/en/pdf/cs/T-16.pdf>; Quebec Courts of Justice Act, s.162: <https://www.legisquebec.gouv.qc.ca/en/pdf/cs/T-16.pdf>.

salaries, commencing April 1, 2019.¹⁴⁵ Ontario’s 2018 Justices of the Peace Remuneration Commission also set Judicial Justices’ salaries (from 2019 to 2023) at a fixed percentage of Ontario Provincial Court Judges’ salaries.¹⁴⁶ Manitoba does not have a compensation commission for Judicial Justices, but their legislation sets Judicial Justices salaries at 43% of Manitoba Provincial Court Judges’ salaries.¹⁴⁷

156. The Government submits that, given these differences in jurisdiction and in process, Alberta is the closest comparator group for British Columbia. As noted above, Alberta and British Columbia are closely linked in terms of GDP, GDP growth, geographic location and population. Quebec is not an appropriate comparator group given the differences in jurisdiction afforded to Judicial Justices.

157. The table below provides a comparison of salaries paid to Judicial Justices in Alberta and British Columbia:¹⁴⁸

Jurisdiction	Average Salary for three years 2020/21 – 2022/23
Alberta	\$152,825 ¹⁴⁹
British Columbia	\$129,583

158. The figures above reveal that Judicial Justices in British Columbia receive proportionate and reasonable salaries when compared to Alberta. The differential in salaries is rational, as Judicial Justices in Alberta have broader jurisdiction than in British Columbia.

Changes in the compensation of others paid by provincial public funds in British Columbia

Overview

159. This factor requires this Commission to analyze and give weight to *changes* in the compensation of others paid from the public purse.¹⁵⁰ It does not require analysis through

¹⁴⁵ Report and Recommendations of the 2018 Saskatchewan Justice of the Peace Compensation Commission, p. 92, para. 280: <https://publications.saskatchewan.ca/#/products/92946>.

¹⁴⁶ Ontario Regulation 247/94 Salaries and Benefits of Justices of the Peace, s.2(3): <https://www.ontario.ca/laws/regulation/940247>.

¹⁴⁷ Manitoba Justice of the Peace Regulation 117/2006 s.3: https://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=117/2006.

¹⁴⁸ JBD, Vol. 2, Tab 35.

¹⁴⁹ For years in which Alberta has not yet determined its salaries for Provincial Court Judges, the table applies a 2% increase to match CPI.

¹⁵⁰ *PCJA v. BC* at para. 59.

comparison of total compensation paid. Rather, it is a time-specific factor that recognizes that policy and approaches to compensation can vary over time.

160. Evidence of changes paid to others out of public funds may support an inference as to the Government's degree of moderation in dealing with public salaries generally. It may also demonstrate the degree to which the Government asks this Commission to recommend that the judiciary accept more or less than what others have received or will receive in terms of changes to compensation.¹⁵¹
161. The Government submits that the compensation of others paid by public funds in British Columbia is one of the most reliable markers of reasonableness in determining judicial compensation.¹⁵² Consideration of changes in the compensation of others paid by public funds in British Columbia is necessary to ensure that judicial compensation reflects the values and economic realities of our provincial public sector. The levels of increases show what increases government is prepared to offer for those who engage in collective bargaining and those who do not, as well as the Government's assessment of its own financial position.
162. The Government acknowledges that a strict application of its public sector bargaining mandate by the Commission to determine changes in compensation for the judiciary is not appropriate.¹⁵³ Provincial Court Judges and Judicial Justices are unique in constitutional status and job function, constituting a "small, highly trained and highly skilled group with enormous power over their fellow citizens" who "cannot negotiate the terms of their employment [...] receive bonuses, step increases, or promotion [...] or supplement their earnings from other sources".¹⁵⁴
163. That said, the statutory framework under the *Act* requires this Commission to consider changes in the compensation paid to others out of provincial public funds. The existence of this factor finds support in first principles. In the *PEI Reference*, the Supreme Court of

¹⁵¹ *PCJA v. BC* at para. 61.

¹⁵² The 2013 British Columbia Judges Compensation Commission noted that "objective markers of reasonableness" include comparisons with both British Columbia public sector salaries and private sector wages within British Columbia; see Report of the 2013 Judges Compensation Commission, p. 36: JBD, Vol. 1, Tab 24.

¹⁵³ *Provincial Court Judges' Association of British Columbia v. British Columbia (Attorney General)*, 2012 BCSC 1022.

¹⁵⁴ Report of the 2019 Judicial Compensation Commission, p. 23: JBD, Vol. 1, Tab 18

Canada held that in some circumstances “identical treatment” between the judiciary and those paid by public funds is “preferable” as a matter of judicial independence.¹⁵⁵ As the Court recognized, equal treatment by government of judges and judicial justices, and of others paid by the public purse, sustains the perception of judicial independence because such action does not single out judges for differential treatment.¹⁵⁶

164. The Court concluded that the risk of political interference through economic manipulation in setting judicial compensation is greater when the judiciary is treated differently from other persons paid by the public purse.¹⁵⁷ The Court held that the core concern is the process by which judicial salaries are set, not the outcome:

[157] However, many parties to these appeals presented a plausible counter-argument by turning this position on its head -- that far from securing a perception of independence, salary reductions which treat superior court judges in the same manner as civil servants undermine judicial independence precisely because they create the impression that judges are merely public employees and are not independent of the government. This submission has a kernel of truth to it. For example, as I have stated above, if judges' salaries were set by the same process as the salaries of public sector employees, there might well be reason to be concerned about judicial independence. [emphasis added]

165. This Commission ought to consider this factor in a comprehensive way that does not limit consideration of those paid by public funds to one or two categories. Given the unique constitutional role of Provincial Court Judges and Judicial Justices, it would be inappropriate to narrow the scope of the positions to be considered based on perceived similarities, such as the work environment for Crown Counsel and legal aid counsel, or seniority within government for Deputy Ministers.
166. No role in British Columbia is meaningfully similar to that undertaken by Provincial Court Judges or Judicial Justices. As such, this Commission ought to make its assessment under

¹⁵⁵ *PEI Reference* at para 155.

¹⁵⁶ *PEI Reference* at paras. 156-158.

¹⁵⁷ *PEI Reference* at para. 158.

this factor with regard to as broad an array of other positions paid out of provincial public funds as is feasible on the evidence.

Compensation Paid to Others

167. The Government compensates three categories of public servants: unionized, union exempt and excluded management. Unionized employees make up 79% of the over half a million employees in the public service – which include the core Public Service, Crown corporations, health, community social services, K-12 public education, post-secondary institutions, and research universities. Union exempt and excluded management comprise the remaining 16 and 5% of employees, respectively.
168. Employees and other persons paid by the public purse in British Columbia receive or negotiate salary and wages increases consistent with a mandate established by the Government. As part of its overall fiscal plan, the Government exercises prudence with respect to compensation paid out of public funds. It must do so. At nearly \$38.6 billion annually, the cost of compensation for over half a million employees accounts for more than 50% of the Government's budget.¹⁵⁸
169. Compensation for unionized employees represents the vast majority of all compensation paid out of provincial public funds. Of the \$38.6 billion that is spent on compensation, \$35.2 billion, or 91%, is compensation for unionized and union exempt employees. Excluded management employees represent the remaining \$3.4 billion, or 9%.¹⁵⁹
170. The Government recognizes that, to the extent general wage increases are provided to the public sector and others paid out of public funds, that reality is likely to support some form of increase in salaries for Provincial Court Judges and Judicial Justices. But, as one of six statutory factors, it does not, and cannot, dictate the level of increase required. The Government submits this Commission should determine the overall degree of increase that the statutory factors globally require, taking into account any level of increase in salary recently provided to unionized, non-unionized and other groups paid by out of public funds.

¹⁵⁸ Information relating to changes in compensation for excluded employees, p. 2: JBD, Vol. 2, Tab 46.

¹⁵⁹ Information relating to changes in compensation for excluded employees, p. 2: JBD, Vol. 2, Tab 46.

171. The table below compares the average changes in salary provided by the Government to various groups, including Provincial Court Judges and Judicial Justices, over three- and six-year periods:¹⁶⁰

Group or comparator	3 Year Average (2019/20 – 2021/22)	6 Year Average (2016/17 – 2021/22)
Provincial Court Judges	2.00%	2.15%
Judicial Justices	2.57%	3.07%
Crown Counsel	2.00%	2.78%
MLAs	1.20%	1.70%
Cabinet Ministers	1.20%	1.70%
Deputy Ministers	0.67%	1.00%
Assistant Deputy Ministers	1.67%	** ¹⁶¹
Public Service Excluded	2.32%	2.16%
Legal Aid Lawyers	*	* ¹⁶²
BCGEU Main Agreement	2.00% ¹⁶³	2.00%
CPI	1.97%	2.08%

172. Most unionized employees are eligible for annual step-increases for their first five years of service (on average) in their positions. In contrast, subject to three exceptions,¹⁶⁴ employees in most other, non-unionized groups are only eligible for performance-based increases, which are not an annual entitlement but rather are within the discretion of the executive.¹⁶⁵

173. Further, public sector employees do not receive additional changes in compensation as a result of “bonus payments”. Incentive pay has largely been phased out of the public sector. The Government is aware of only four instances that could be classified as including some form of incentive pay for excluded employees through a “bonus” or “holdback”:

- a. the CEO of BC Hydro;

¹⁶⁰ Information relating to changes in compensation for excluded employees, p. 1: JBD, Vol. 2, Tab 46. .

¹⁶¹ Historical data unavailable at this time.

¹⁶² Legal Aid Lawyer tariffs were increased by up to 35% in 2019 following 13 years of no increases. No further increases were provided in 2020 or 2021.

¹⁶³ The 2019 Sustainable Services Negotiating Mandate included an additional 0.25% of total compensation in each year for the parties to address other priorities that would enhance services to the public. Given that this 0.25% does not constitute a general wage increase, it is not included in the 2.00% calculation above.

¹⁶⁴ Crown counsel, Legal Services Branch legal counsel, and Members of the Legislative Assembly.

¹⁶⁵ Information relating to changes in compensation for excluded employees, pp. 2-6: JBD, Vol. 2, Tab 46. .

- b. the CEO of and a limited number of traders at PowerEx;
- c. the CEO and a limited number of traders at InBC; and
- d. Royal Roads University's approved compensation plan for executives.¹⁶⁶

The Government submits that, given their limited scope, and the inapplicability and inappropriateness of a “bonus” system for the judiciary, this Commission ought not to afford any weight to these arrangements.

174. The above table demonstrates Government's across-the-board prudence to dealing with increases in compensation for those paid out of public funds. Between the 2019/20 and 2021/22 fiscal years, Provincial Court Judges received an average increase of 2.00% annually, and Judicial Justices an average of 2.57%. Both averages slightly exceeded the average CPI of 1.97% over that period.
175. Only three categories of employee received wage or salary increases equal to those or greater than those provided to Provincial Court Judges. Those under the BCGEU Main Agreement received a 2.00% increase; Crown Counsel received a 2.00% increase and Public Service Excluded employees (who amount to 16.4% of the public service) received an average 2.32% increase.¹⁶⁷ The latter increase in part reflects continued catch-up following an extended freeze to management compensation increases between 2012 and 2015. Judicial Justices received the highest average increase annually out of all groups.
176. The current mandate for public sector compensation is the *2022 Shared Recovery Mandate*.¹⁶⁸ It was developed in response to the unusually high inflationary environment of late 2021 and 2022 and the uncertain economic conditions and financial position of the

¹⁶⁶ Information relating to changes in compensation for excluded employees, p. 2-3, 5: JBD, Vol. 2, Tab 46. Note: the Chief Investment Officer (CIO) of InBC (InBC Investment Corporation), a Crown corporation responsible for a taxpayer supported strategic investment fund, is eligible for additional incentive pay of up to 60% of base salary. Six additional investment professionals supporting the CIO are eligible for additional incentive pay of up to 50% of base salary. This is a bonus. This information was inadvertently excluded from Tab 46.

¹⁶⁷ The current Crown Counsel Collective Agreement provides Crown Counsel the same percentage wage rate increases as the percent salary increases provided to Provincial Court Judges; a provision that expired March 31, 2019 at one time provided Crown Counsel with additional increase to narrow the compensation differential with Provincial Court Judges over time. See: Information relating to changes in compensation for excluded employees: JBD, Vol. 2, Tab 46 at p. 4.

¹⁶⁸ 2022 Shared Recovery Mandate: JBD, Vol. 2, Tab 43.

province over the three years of the mandate. The *2022 Shared Recovery Mandate* contains guaranteed base increases plus potential cost of living adjustments (“COLA”). These adjustments are triggered only if certain economic conditions are met.

177. The *2022 Shared Recovery Mandate* includes a three-year term for the years 2022/23 to 2024/25. Over three years, the mandate guarantees wage increases of 11.5% and, if COLA is triggered in years two and three, a maximum of 13.75% for the average bargaining unit employee in the public sector.¹⁶⁹ Consistent with the high inflationary environment, these represent significantly greater increases than any recent BC provincial bargaining mandate.
178. On a year-by-year basis, the *Shared Recovery Mandate* includes maximum increases of 4% for the average bargaining unit employee in year one, 6.75% in year two, and 3% in year three.¹⁷⁰ If COLA are not triggered, the increases are 4% in year one, 5.5% in year two and 2% in year three.
179. The *2022 Shared Recovery Mandate* increase of 4% in year one consists of a 3.24% general wage increase and a \$0.25/hr general wage increase (a fixed rate increase). The fixed rate increase provides lower wage employees with relatively greater percentage increases than employees with higher wages. By design, the intent is to flow additional increases to lower wage workers who are most impacted by inflation, while managing the mandate within the overall funding allocation established by the Government. For the average public sector bargaining unit employee the \$0.25/hr increase is equivalent a percentage wage increase of 0.76%.
180. Considered in the context of changes to the compensation provided to the full range of others paid out of public funds, Provincial Court Judges and Judicial Justices have received increases that are commensurate with their unique role.

¹⁶⁹ *2022 Shared Recovery Mandate*: JBD, Vol. 2, Tab 43.

¹⁷⁰ On the basis of actual inflation over the first ten months of the 12-month reference period for the *2022 Shared Recovery Mandate*, it is very likely that the full COLA adjustment will be triggered in year two and the general wage increase for 2023/24 will be 6.75%. The actual amount of the general wage increase will be confirmed in March 2023.

The generally accepted current and expected economic conditions in British Columbia

181. This factor requires this Commission to analyze the generally accepted current *and* expected economic conditions in British Columbia over the 2022 cycle. While economists outline past and current economic conditions in British Columbia with greater certainty, this Commission will need to incorporate economic forecasting for the medium and long-term, based on the best available data, into its analysis.
182. By its nature, economic forecasting is an imprecise science that often relies on hindsight analysis. However, economic forecasting is a necessary consideration under this factor.
183. This Commission ought to consider *Budget 2022* (published in February 2022), the *First Quarterly Report* (published in September 2022) and the *Second Quarterly Report* (published in November 2022) in its analysis under this factor. Those records comprise the most recent economic reporting by the Government. In addition, the Commission ought to consider the reported outcome of the December 5, 2022 meeting of the Economic Forecast Council, where private sector forecasters projected a period of slower economic growth in the near term.¹⁷¹
184. The Government's next annual budget will be released in February 2023 and may change the Government's submission on this factor.

Current and expected economic conditions

185. The 2019 Commission issued its final report in October 2019. As a result of intervening events, the Government issued its proposed response to the recommendations in that report in July 2020. As an illustration of the limitations of economic forecasting, the eight-month period in between presented unprecedented disruption for the Government in the form of the COVID-19 pandemic, which caused global and domestic upheaval of individual and commercial activity.

¹⁷¹ BC News Release, December 5, 2022: B.C.'s economy forecast to remain steady, despite slower near-term economic growth: <https://news.gov.bc.ca/releases/2022FIN0082-001851>.

186. The COVID-19 pandemic was unforeseeable from an economic standpoint. The British Columbia economy declined by 3.0% in 2020.¹⁷² Many economic indicators – including average employment, participation in the labour force, real household consumer spending on goods and services, real exports of goods and services - declined in response to contracting global and domestic markets.¹⁷³
187. The Government recognizes that its economy has since rebounded from the COVID-19 pandemic.¹⁷⁴ Expenditure-based real GDP expanded by 6.1% in 2021.¹⁷⁵ That year also marked the first instance since 2013 in which British Columbia’s average weekly wages exceeded the national average. It ranked third, behind Alberta and Ontario.¹⁷⁶ However, the recovery has been uneven. Sectors with a link to COVID-19 public health orders, such as hospitality, experienced less improvement than other sectors.¹⁷⁷
188. Continued reopening of the economy, recovery of the private sector, a strong labour market and increased economic activity associated with infrastructure all contributed to the forecast for strong short-term real GDP growth in *Budget 2022*.¹⁷⁸ Despite this rebound, risks to British Columbia’s economy remain including greater than expected inflation, supply-chain disruptions, and lower commodity prices. These factors, among others, contribute to projections of slower, but moderate growth in the medium term (2024 – 2026).¹⁷⁹
189. Current and expected economic conditions in British Columbia necessitate a degree of fiscal restraint. The degree of restraint must be proportionate to reasonable forecasting and based on the best available data.

¹⁷² Second Quarterly Report (November 2022), p. 54: JBD, Vol. 2, Tab 47(b).

¹⁷³ Point in Time Report on the Current and Expected Economic Conditions in British Columbia and the Current and Expected Financial Position of Government as of December 2022 [*Point in Time Report*] at para. 9.

¹⁷⁴ The Government indicated this recovery in *Budget 2022* at pp. 95-106.

¹⁷⁵ Second Quarterly Report (November 2022), pp. 53-54: JBD, Vol. 2, Tab 47(b).

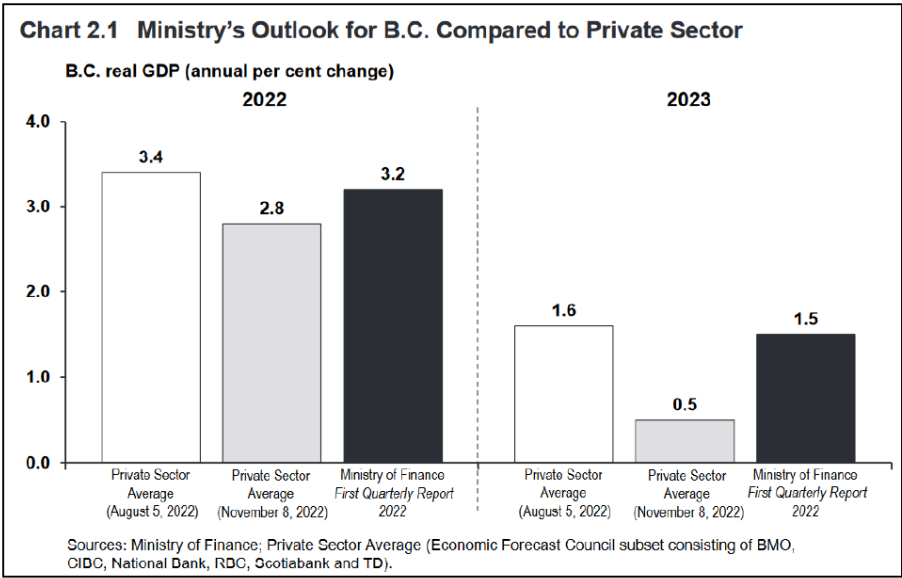
¹⁷⁶ *Point in Time Report* at paras. 15-16.

¹⁷⁷ *Point in Time Report* at para. 9.

¹⁷⁸ BC Budget and Fiscal Plan 2022, pp. 95-106: JBD, Vol. 2, Tab 47.

¹⁷⁹ *Point in Time report* at paras. 6-8.

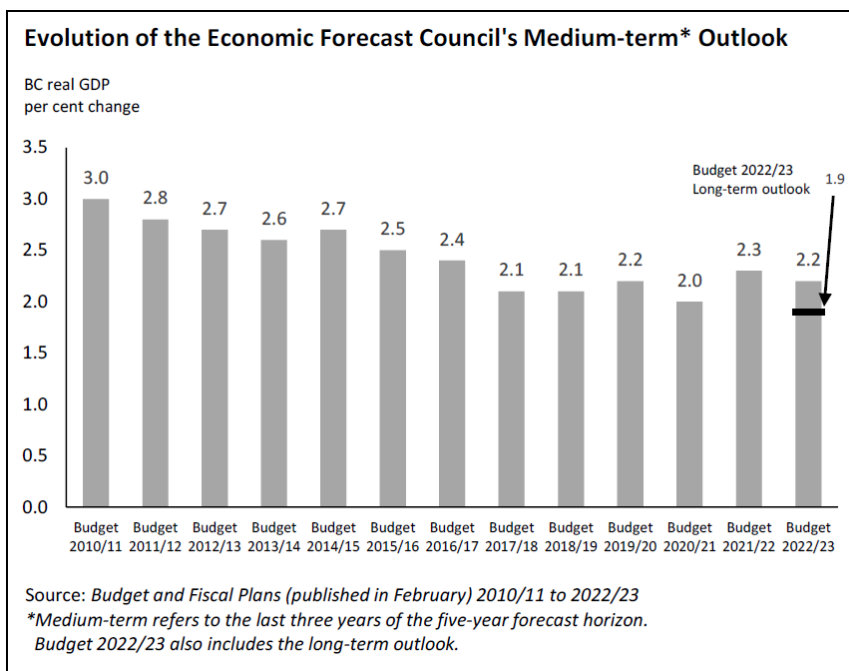
190. Current economic reporting notes weakening indicators. This includes with respect to retail sales, and the number of residential home sales. To a degree, this decline offsets the economic rebound in tourism, immigration and spending on services.¹⁸⁰
191. As noted above, expenditure-based real GDP expanded by 6.1% in 2021. However, the Government forecasts this growth to decline. The Government’s estimates call for expenditure-based real GDP growth of 3.2% in 2022, 1.5% in 2023 and 2.0% in 2024.¹⁸¹
192. More recent private sector forecasting projects slower real GDP growth, namely, 2.8% in 2022 and 0.5% in 2023.¹⁸² This is as a result of persistent inflationary pressures, lower projected growth among British Columbia’s major trading partners, and rapid and unanticipated increases in interest rates.¹⁸³ The chart below reflects the Government’s outlook for British Columbia as compared to the private sector:¹⁸⁴



193. British Columbia’s unemployment rate is lower than the national average. However, labour force participation is trending downward in the 55+ age group. British Columbia’s aging

¹⁸⁰ *Point in Time Report* at para. 12; Second Quarterly Report (November 2022), p. 35: JBD, Vol. 2, Tab 47(b).
¹⁸¹ *Point in Time Report* at para. 10; First Quarterly Report, pp. 2-3: JBD, Vol. 2, tab 47(a).
¹⁸² *Point in Time Report* at paras. 11-12; Second Quarterly Report (November 2022), pp. 35: JBD, Vol. 2, Tab 47(b).
¹⁸³ *Point in Time Report* at paras. 11-12; Second Quarterly Report (November 2022), pp. 35: JBD, Vol. 2, Tab 47(b).
¹⁸⁴ *Point in Time Report* at p. 4.

demographic poses significant risks for long-term economic growth prospects.¹⁸⁵ The Economic Forecast Council’s medium-term outlook forecasts 2.2% growth for British Columbia over the medium-term, and 1.9% over the long-term.¹⁸⁶ The chart below shows the evolution of the Economic Forecast Council’s medium-term outlook:¹⁸⁷



194. Private sector analysts have downgraded the outlooks of all Canadian provinces since August 2022. Forecasts of annual growth in 2023 real GDP find British Columbia close to the national average and to Ontario and Quebec, but below the expected growth of leaders such as Alberta and Saskatchewan.¹⁸⁸ The chart below provides forecasts of annual growth in 2023 real GDP:¹⁸⁹

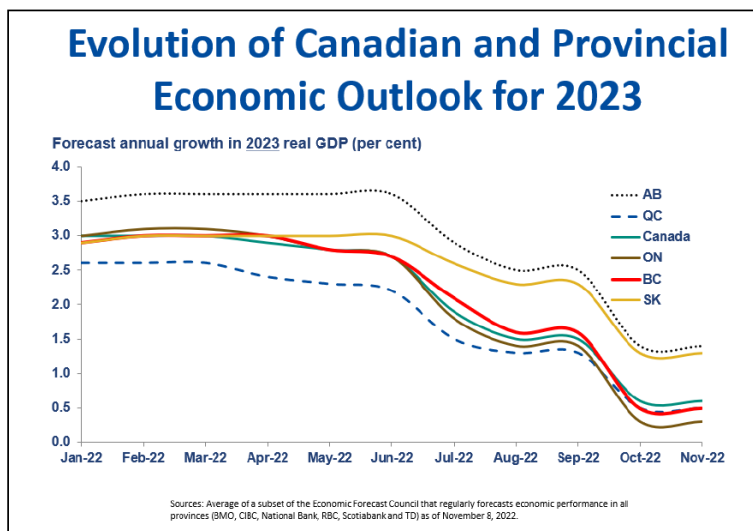
¹⁸⁵ *Point in Time Report* at paras. 15, 17; Second Quarterly Report (November 2022), pp. 37, 44; JBD, Vol. 2, Tab 47(b).

¹⁸⁶ *Point in Time Report* at para. 19.

¹⁸⁷ *Point in Time Report*, p. 6.

¹⁸⁸ *Point in Time Report* at para. 13; Second Quarterly Report (November 2022), p. 35; JBD, Vol. 2, Tab 47(b).

¹⁸⁹ *Point in Time Report*, p. 5.



195. British Columbia is a small open economy with a vital trade sector. As such, events in other jurisdictions can have a significant impact on British Columbia’s economy.¹⁹⁰ The private sector forecasts for Canada and external economies have been downgraded significantly since the beginning of 2022. These downgrades largely reflect higher than expected inflation and faster pace of central bank interest rate increases than previously anticipated.¹⁹¹

196. While British Columbia’s economy is sound, and is projected to grow, it is unlikely to do so at levels that resemble the 2021/22 rebound from the impacts of the COVID-19 pandemic.

The current and expected financial position of the government over the four fiscal years that are the subject of the 2022 JCC Report

Overview

197. This factor requires a two-part analysis of the current (i.e. most recent) and expected financial position of the Government from 2023/24 – 2026/27. The Government recognizes that recent financial reporting suggests a positive outlook, at least in the short-term. However, it is unlikely that the recent fiscal surpluses – driven in large part by one-time sources of revenue or reductions in debt – will re-occur in the future.

198. As with the previous factor, this Commission ought to consider *Budget 2022* (published in February 2022), the *First Quarterly Report* (published in September 2022) and the *Second*

¹⁹⁰ *Point in Time Report* at para. 20.

¹⁹¹ *Point in Time Report* at para. 20.

Quarterly Report (published in November 2022) in its analysis under this factor. Those records comprise the most recent economic reporting by the Government. The Government's next annual budget will be released in February 2023 and may change the Government's submission on this factor.

Current and expected financial position

199. The Government's financial position rebounded in 2021 following the pandemic-driven decline observed in 2020. While the growth was uneven, British Columbia experienced higher than expected revenues and lower than expected debt levels, leading to a surplus of \$1.3 billion in 2021/22 compared to the deficit of \$5.5 billion in 2020/2021.¹⁹²
200. This fiscal improvement carried into the current fiscal year. The *Second Quarterly Report* forecasts a \$5.7 billion surplus for 2022/23.¹⁹³ As of January 2023, British Columbia's credit rating is the highest among Canadian provinces.¹⁹⁴
201. However, this Commission ought to consider the circumstances giving rise to the 2021/22 surplus and the projected surplus for 2022/23.
202. The sharp economic growth in 2020/21 drove increases in personal and corporate income tax revenue, property transfer tax, and natural resource revenues.¹⁹⁵ It is unlikely that the economy will continue to fuel similar levels of fiscal stability and growth. Private and public sector forecasting predicts this economic growth to slow in the medium- and long-term.¹⁹⁶
203. Non-economic factors of a one-time or historic nature drove high revenues in 2022/23. For example, the substantial increase in tax filers with higher tax rates depended in part on non-employment investment income, which in turn depended on the exceptional performance of financial and equity markets in 2021.¹⁹⁷ Higher corporate and personal taxable income taxes

¹⁹² *Point in Time Report* at para. 24.

¹⁹³ *Point in Time Report* at para. 25; Second Quarterly Report (November 2022), p. 3: JBD, Vol. 2, Tab 47(b).

¹⁹⁴ *Point in Time Report* at paras. 33-35.

¹⁹⁵ *Point in Time Report* at para. 26; Second Quarterly Report (November 2022), pp. 5-7: JBD, Vol. 2, Tab 47(b).

¹⁹⁶ *Point in Time Report* at para. 28.

¹⁹⁷ *Point in Time Report* at para. 28.

stemmed, in part, from a \$3.7 billion prior-year adjustment.¹⁹⁸ Historically high commodity prices due to global events drove recent improvements in natural resource revenue.¹⁹⁹

204. The Government also faces continued pressure to increase expenditures to address significant service delivery challenges in many areas, particularly in health care, homelessness and housing, mental health, skills development and labour shortage, and childcare.
205. This overall confluence of events is unlikely to continue to bolster the financial position of the Government. This Commission ought to consider this nuance in making its assessment of this factor.
206. The Government's debt and associated debt metrics warrant similar consideration by this Commission. Debt levels and metrics have improved only temporarily, and are projected to increase as deficits and high infrastructure spending continue.²⁰⁰
207. The financial position of the Government benefits from a strategy of fiscal prudence. The Government's debt and debt metrics are expected to increase due to normalizing revenues, significant capital investments given the re-opening of British Columbia after the COVID-19 pandemic, the impacts of floods and fires, and as increases in interest rates to combat inflation result in higher debt-servicing costs.²⁰¹

Government's Recommendations to the 2022 JCC

208. To provide reasonable compensation to Provincial Court Judges and Judicial Justices, and in consideration of the statutory factors under the *Act*, the Government proposes this Commission make the following recommendations in respect of salary:

- a. for Provincial Court Judges, that salaries be increased as follows:
 - i. by 7.8% for 2023-24, to approximately \$311,000;

¹⁹⁸ *Point in Time Report* at para. 29.

¹⁹⁹ *Point in Time Report* at para. 30.

²⁰⁰ *Point in Time Report* at para. 31.

²⁰¹ *Point in Time Report* at para. 32.

- ii. by 3.9% for 2024-25, to approximately \$323,000;
 - iii. by 2.7% for 2025-26, to approximately \$332,000; and
 - iv. by 2.0% for 2026-27, to approximately \$338,000.
 - b. for Judicial Justices, that salaries be increased as follows:
 - i. by 5.3% for 2023-24, to approximately \$141,000;
 - ii. by 3.9% for 2024-25, to approximately \$146,000;
 - iii. by 2.7% for 2025-26, to approximately \$150,000; and
 - iv. by 2.0% for 2026-27, to approximately \$153,000.
- 209. The Government's position considers the global impact of the factors under the *Act* and proposes reasonable salaries for Provincial Court Judges and Judicial Justices over the 2022 cycle.
- 210. With respect to the first factor, the Provincial Court continues to attract a sufficient number of qualified candidates to allow appointments consistent with the ten-year average appointment rate. The applicant pool continues to include diversity with respect to gender, regional distribution and areas of legal experience, and it appears to reflect at least some diversity of ethnic and cultural backgrounds. The Government expects that trend to continue and that the reasonable increases incorporated into Government's position may encourage additional applicants.
- 211. Based on the evidence of long-term trends, Judicial Justices are not currently experiencing significant issues related to recruitment and retention. The Government's position will continue to support the more positive trends seen over the last few years by providing reasonable compensation.
- 212. Second, there have been no measurable changes to the jurisdiction of either Provincial Court Judges or Judicial Justices. Impacts of new COVID-related offences on the workload of Provincial Court Judges or Judicial Justices are not yet known, nor is the potential effect of an expanded telewarrant regime understood. Despite this, and recognizing that this

Commission must assess the statutory factors on a global basis, the Government's position represents an increase in salaries over the 2022 cycle.

213. Third, evidence for cross-provincial comparisons indicates that British Columbia's Provincial Court Judges' and Judicial Justices' salaries are roughly in line with their provincial counterparts. British Columbia is near the national average for salaries over the last three years; its salary level does not require significant correction.
214. The Government's position ensures the salaries of Provincial Court Judges and Judicial Justices are competitive, and above the minimum level of remuneration required for the particular judicial office. The Government's position would not undermine public confidence in judicial independence by making judicial officers susceptible to political pressure through economic manipulation.
215. Further, by incorporating reasonable increases in each year, the Government's position can be expected to improve British Columbia's relative status among all jurisdictions. Based on current available information from other jurisdictions, the Government's position makes British Columbia the near-equivalent of Quebec in terms of salaries paid to Provincial Court Judges, and improves British Columbia's position relative to Alberta based on currently known salary levels.
216. The table below provides a comparison of how Government's position would improve or narrow the salary differential for Provincial Court Judges with the other 11 jurisdictions in 2023/24:

Jurisdiction	Salary - 2023/24	BC as a percent of comparator salary
Alberta	\$337,995 ²⁰²	92.0%
British Columbia	\$311,000	N/A
Federal	\$383,738 ²⁰³	81.0%
Manitoba	\$310,616 ²⁰⁴	100.1%
Ontario	\$361,069 ²⁰⁵	86.1%
New Brunswick	\$306,991	101.3%
Newfoundland & Labrador	\$275,222 ²⁰⁶	113.0%
Northwest Territories	\$317,957 ²⁰⁷	97.8%
Nova Scotia	\$290,463 ²⁰⁸	107.1%
Prince Edward Island	\$318,524 ²⁰⁹	97.6%
Québec	\$316,200 ²¹⁰	98.4%
Saskatchewan	\$353,590	88.0%
Yukon	\$322,665 ²¹¹	96.4%

217. With respect to Judicial Justices, the Government’s position improves the standing of Judicial Justices relative to Alberta, while recognizing that identical compensation is inappropriate given the differences in jurisdiction between Judicial Justices in the two provinces.
218. Based on current available information from other jurisdictions, the table below provides a comparison of how Government’s position would improve or narrow the salary differential for Judicial Justices with the other five jurisdictions in 2023/24:

²⁰² Assumes CPI of 2%.

²⁰³ Assumes IAI of 3.1%.

²⁰⁴ Assumed increases in line with 5-year historical average increase for this jurisdiction.

²⁰⁵ Assumes IAI of 3.1%.

²⁰⁶ Assumed increases in line with 5-year historical average increase for this jurisdiction.

²⁰⁷ Assumes CPI of 2%.

²⁰⁸ Assumed increases in line with 5-year historical average increase for this jurisdiction.

²⁰⁹ Average salary of nine provinces and two territories (excluding Nunavut).

²¹⁰ Assumes CPI of 2%.

²¹¹ Assumed increases in line with 5-year historical average increase for this jurisdiction.

Jurisdiction	Salary 2023/24	British Columbia as a percent of comparator salary
Alberta	\$157,946 ²¹²	89.3%
British Columbia	\$141,000	N/A
Manitoba	\$133,565 ²¹³	105.6%
Ontario	\$181,181 ²¹⁴	77.8%
Quebec	\$235,968 ²¹⁵	59.8%
Saskatchewan	\$166,803 ²¹⁶	84.5%

219. Fourth, the Government’s position continues the trend of the judiciary receiving competitive and appropriate changes to compensation when compared to others paid out of public funds. The guaranteed average salary increases 4.1% and 3.48% annually for Provincial Court Judges and Judicial Justices, respectively, are proportionate and reflect the unique role of the judiciary.²¹⁷ No other group in the public service, including those under the most recent bargaining mandate, receive a guaranteed general wage increase at the same level as the judiciary. Moreover, the Government’s position ensures the judiciary receives these competitive increases regardless of evolving external circumstances.
220. Fifth, the Government’s position incorporates the realities of the most recent financial rebound while at the same time accounting for expected slower economic growth over the next four years. The average increases of 4.1% for Provincial Court Judges and 3.48% for Judicial Justices over the 2022 cycle are both reasonable in light of current and forecasted economic indicators.
221. The Government’s position also accounts for inflation by: providing catch-up increases in the first year of the 2022 cycle (to account for inflation in the 2019 cycle); and including a

²¹² Assumes CPI of 2%.

²¹³ This is calculated as 43% of Manitoba Provincial Court Judge salaries.

²¹⁴ Assumed increases in line with 5-year historical average increase for this jurisdiction.

²¹⁵ Assumed increases in line with 5-year historical average increase for this jurisdiction.

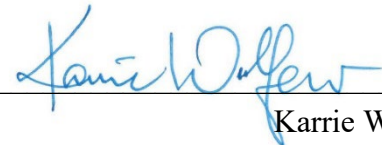
²¹⁶ Assumed increases in line with 5-year historical average increase for this jurisdiction.

²¹⁷ As noted, the *2022 Shared Recovery Mandate* is intended to provide additional increases to lower wage employees who are most impacted by inflation through a fixed rate increase in year one. In contrast, the Government’s position does not incorporate a similar fixed rate increase for the judiciary; their higher than public sector average salaries allow them to generally deal with the impacts of inflation better than lower paid earners. For comparison purposes only, if the Shared Recovery Mandate were to be applied to Provincial Court Judges at the existing salary levels, the \$0.25/hr increase would be equivalent to an approximate 0.16% increase, and the three-year maximum increase would be 13.15%.


buffer in the second and third years of the cycle in the event that it takes longer than anticipated for the inflation rate to return to expected levels.

222. Sixth, and lastly, the Government's position recognizes that British Columbia's fiscal position is presently sound but expected to face downward pressure. It provides Provincial Court Judges and Judicial Justices with reasonable increases in salary over a four-year period in which significant improvements in fiscal position are unlikely.
223. For all of the above reasons, the Government submits that, when the statutory factors in the *Act* are considered as a whole, the Government's position on salaries reflects the increases necessary to ensure fair and reasonable compensation.
224. The Government does not make any other proposals in respect of other compensation elements for either Provincial Court Judges or Judicial Justices at this time, but may do so in its reply submissions.

All of which is respectfully submitted this 12th day of January, 2023.



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