

THE JUSTICE SYSTEM



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Under the Canadian constitution, both the federal and provincial governments are responsible for the administration of justice. The courts play two significant roles: interpret laws and enforce the principle of the rule of law.

The Rule of Law and the Independence of the Judiciary

The laws of British Columbia are introduced and approved by the Legislative Assembly of British Columbia; the legislative branch of government. The role of the judicial branch is to interpret the law, settle questions about specific legal issues and hear cases to determine questions of innocence, guilt or liability.

The term “rule of law” refers to a system where no person is allowed to commit acts deemed illegal. “It means that everyone is subject to the law; that no one, no matter how important or powerful, is above the law — not the government; not the Prime Minister, or any other minister; not the Queen or the Governor General or any Lieutenant Governor; not the most powerful bureaucrat; not the armed forces; not Parliament itself, or any provincial legislature.”¹

The courts must be independent in order to uphold the rule of law, so the legal system is designed to separate judges from political interference. For example, the practice of appointing judges until retirement is to negate the possibility of arbitrary removal. Judges’ salaries are set independently by a special commission. The court system also relies on administrative independence, meaning government does not control which judges hear which cases.

Levels of Court in British Columbia

Provincial Court

This is the first level of court in British Columbia. Provincial court judges hear criminal cases. They also hear family, child protection, small claims and traffic cases, as well as criminal cases involving youth offenders. There are no jury trials in provincial court.

Supreme Court of British Columbia

The British Columbia Supreme Court is the superior trial court for the province and hears both civil and criminal cases, as well as some appeals from the Provincial Court. The court has jurisdiction for the trial of serious crimes within British Columbia.

Court of Appeal of British Columbia

The Court of Appeal for British Columbia is the highest court in the province. It hears appeals from the Supreme Court of British Columbia and some criminal matters from the Provincial Court. The Court sits as a panel of three judges most of the time. For some important cases, the Court will sit as a panel of five judges.

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¹ Eugene Forsey, “The Rule of Law”, How Canadians Govern Themselves 6th Edition, Ottawa: Library of Parliament, 2005.
www.parl.gc.ca/information/library/idb/forsey/rule_of_law_01-e.asp