



The Provincial Court of Manitoba

Annual Report

2018 ■ 2019



The “Justice” sculpture stands at the entrance of the Law Courts Building, 408 York Avenue in Winnipeg. Local artist, Professor Gordon Reeve is the creator of this massive sculpture.

“Consisting of three ribs or legs, the sculpture is topped by three long arms, each taking a different serpentine form. Capable of moving, these arms are balanced such that they can be set in motion by a visitor with little effort, despite their great weight. The concept draws to mind the metaphoric scales of justice, an image which appears carved in stone at the adjacent historic Law Courts Building (1912-16, 411 Broadway) visible from the site of “Justice.” At the time, Reeve stated of his work: “I wanted to create a structure to carry the metaphor of justice, one that is responsive to the individual, yet enduring and lasting. My hope is that even a child will make it move.”

(www.winnipegarchitecture.ca/justice/)





The Honourable Chief Judge
Margaret Wiebe

The Provincial Court of Manitoba

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The Honourable Cameron Friesen
Minister of Justice and Attorney General
Legislative Building
Room 104, 450 Broadway
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Dear Minister:

We are pleased to enclose the Provincial Court's Annual Report for the fiscal year
April 1, 2018 to March 31, 2019.

Sincerely,

Original signed by

Margaret Wiebe
Chief Judge

Encl.



The Honourable Chief Judge
Margaret Wiebe

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M. le ministre Cameron Friesen
Ministre de la Justice et procureur général
Palais législatif, bureau 104
450, Broadway
Winnipeg (MB) R3C 0V8

Monsieur le Ministre,

Nous avons l'honneur de vous soumettre le rapport annuel de La Cour provinciale du Manitoba pour la période du 1^{er} avril 2018 au 31 mars 2019.

Nous vous prions de bien vouloir agréer, Monsieur le Ministre, notre plus profonde considération.

Original signé par

Margaret Wiebe
Juge en chef

Encl.

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Chief Judge of the Provincial Court



It is my pleasure to highlight some of the activities of the Provincial Court of Manitoba in the last year. While we cannot communicate all of the undertakings of the Court, we hope to provide insight into some of the ongoing initiatives of the Court.

In our last Annual Report, we informed you of the Court's plan to hold a Strategic Planning session in the spring of 2018. We are pleased to report we had a very engaged and successful planning session with the entire court. The result is a five-year strategic plan for the Provincial Court of Manitoba.

Our Strategic plan has set out an ambitious path for our Court. It recognizes as a Court we must take a step back and consider the institutional and systemic issues we face and we must discuss those issues in the context of the medium and long-term future of the Court. It also recognizes, as individual judges we face the immediate pressures of cases and dockets, research and reserve decisions and we must find a way to balance these challenges while providing Manitobans with the quality of judicial services they deserve.

Within this Annual Report is a snapshot of our five-year strategic plan. In determining how we can best serve the people of Manitoba, we have outlined our vision, mission and the values, which the Court lives by. The strategic plan sets out the five strategic priorities of the Court over the next five years and our action plan.

In order to achieve the strategic priorities, the Court recognizes it needs immediate investment in technology and judicial resources. The Court has not kept pace with technological advancements and our systems remain largely paper based. In addition, the Court has no way to adequately collect and measure its performance in a manner that is meaningful and can support its advancement. Equally, the matters coming before

Provincial Court have become more complex and time consuming. The number of judges and Judicial Justices of the Peace has remained static over several years. As has been pointed out in the past, we will need an increase in judicial resources to ensure we can provide quality access to justice for all Manitobans.

The Provincial Court of Manitoba is in the planning stages of formally introducing the use of Eagle Feathers in court proceedings. It is every Indigenous person's right to use the eagle feather to bind their conscience. To use the eagle feather in the courtroom is a symbol of strength, it is considered a sacred object and when using the feather one is promising to tell the truth. We look forward to a ceremony to capture the importance and significance of this event.

The Provincial Court continues to support and encourage the use of specialty courts in Manitoba. This year we are pleased to have two significant developments on this front.

Manitoba has created the first Fetal Alcohol Spectrum Disorder Court (FASD) in Canada. In 2004, a program was developed that helps young people get an FASD diagnosis and connects them to community supports. The information from the reports generated assisted lawyers and judges in better understanding the challenges an accused offender might have because of the disorder and therefore allowed the Court to treat the offender with more specific and appropriate conditions and sentences. The Provincial Court of Manitoba has now dedicated a specific court to hear these matters, which is an extension of the youth program. In addition to having a specialized physical courtroom environment with less distractions for the offender, it will have judges with an understanding about the complexities of the disorder as well as support workers to advise and connect offenders with community programs.

The Provincial Court of Manitoba has expanded the Drug Treatment Court to the Westman area. It is well recognized that people with unique challenges such as substance abuse can benefit greatly from specialized, holistic wrap-around services. Drug Treatment Court facilitates and supports this approach while dealing with the criminal justice matter before the court.

In partnership with our stakeholders, we have seen firsthand the success of Drug Treatment Court in Winnipeg. We now look forward to implementing a similar approach in the Westman area.

Lastly, we were proud to celebrate the 10th Anniversary of the Peguis and Fisher River Justice Committees at a special dinner and ceremony held in Peguis, Manitoba. Both the Justice Committees have been models in applying a restorative justice approach in their communities. This approach brings the offender before the committees where the underlying issues

are examined and addressed in a manner which brings reconciliation to the victim, the community and the offender themselves. Through a collaborative approach with the Judge, counsel and the Justice Committees, many matters are resolved in a holistic and supportive manner.

Judge Brent Stewart was honoured by being blanketed in a beautiful star blanket and gifted with an eagle feather. Judge Stewart demonstrated his commitment to the Justice Committees since they were formed.



Chief Judge Wiebe (Centre), Judge Brent Stewart (next to the Chief Judge holding the eagle feather) and Judge Ryan Rolston (behind and left of Judge Stewart) together with Justice Committee members from Peguis and Fisher River, Crown Attorney, defence counsel, court staff, Sheriffs and justice workers pose for a group photo following the 10th anniversary celebration and dinner at Peguis Community Hall.

Juge en chef de la Cour provinciale du Manitoba



C'est avec plaisir que je décrirai certaines des activités du dernier exercice de la Cour provinciale du Manitoba. Nous ne pouvons pas communiquer tous les projets de la Cour, mais nous visons à vous renseigner sur certaines de ses initiatives en Cours.

Dans notre dernier rapport annuel, nous vous informions du plan de la Cour concernant la tenue d'une séance de planification stratégique au printemps de 2018. Nous sommes contents d'annoncer que nous avons tenu une séance de planification très stimulante et réussie avec toute la Cour. Il en résulte un plan stratégique quinquennal pour la Cour provinciale du Manitoba.

Notre plan stratégique établit un trajet ambitieux pour la Cour. Il tient compte du fait qu'à titre de membres de la Cour, nous devons prendre du recul pour examiner les enjeux institutionnels et systémiques auxquels nous sommes confrontés et pour en discuter dans le contexte de l'avenir à moyen et à long terme de la Cour. Il tient aussi compte du fait qu'à titre de juges, nous subissons individuellement les pressions urgentes des cas, des rôles, de la recherche et des délibérations sur les décisions, et que nous devons déterminer comment trouver l'équilibre entre ces problèmes tout en fournissant à la population du Manitoba les services judiciaires de qualité qu'elle mérite.

Le présent rapport annuel offre un portrait de notre plan stratégique quinquennal. Dans le cadre de l'établissement des meilleures manières de servir la population du Manitoba, nous avons formulé notre vision, notre mission et les valeurs qui guident la Cour. Le plan stratégique établit les cinq priorités stratégiques de la Cour pour les cinq prochains exercices ainsi que notre plan d'action.

La Cour sait que pour réaliser les priorités stratégiques, elle a besoin d'un investissement immédiat dans les ressources technologiques et judiciaires. La Cour n'a pas suivi le rythme des progrès technologiques et nos systèmes demeurent largement basés sur le papier. De plus, la Cour n'a aucun moyen de recueillir et de mesurer adéquatement son rendement d'une façon utile pouvant favoriser son amélioration. Par ailleurs, les affaires traitées par la Cour provinciale sont de plus en plus complexes et chronophages. Le nombre de juges et de juges de paix judiciaires n'a pas changé depuis plusieurs années. Cela a déjà été dit : nous avons besoin d'une augmentation des ressources judiciaires pour pouvoir fournir à toute la population du Manitoba un accès de qualité à la justice.

La Cour provinciale du Manitoba est à planifier l'instauration officielle de l'utilisation de la plume d'aigle dans les instances judiciaires. Chaque Autochtone a le droit d'utiliser la plume d'aigle pour lier sa conscience. L'utilisation de la plume d'aigle dans la salle d'audience est un symbole de force. Elle est considérée comme un objet sacré et la personne qui l'utilise promet de dire la vérité. Nous attendons avec intérêt une cérémonie qui soulignera l'importance et le sens de cet événement.

La Cour provinciale continue d'appuyer et de favoriser l'utilisation des tribunaux spécialisés au Manitoba. Cette année, nous nous réjouissons de deux développements importants à cet égard.

Le Manitoba a créé le premier tribunal canadien consacré aux troubles du spectre de l'alcoolisation foétale (TSAF). En 2004, un programme a été élaboré pour aider les jeunes à obtenir un diagnostic de TSAF et des soutiens communautaires appropriés. Les renseignements tirés des rapports produits ont aidé les avocats et les juges à mieux comprendre les problèmes que peuvent vivre les délinquants accusés en raison des TSAF et, par conséquent, ont permis aux tribunaux de leur imposer des conditions et des peines plus ciblées et appropriées. La Cour provinciale du Manitoba a récemment réservé pour l'audition de ces affaires un tribunal particulier qui est un prolongement du programme des jeunes.

En plus d'offrir une salle d'audience dont l'aménagement spécialisé comporte moins de distractions pour le délinquant, il fait appel à des juges qui comprennent la complexité des TSAF et à des agents de soutien qui conseillent les délinquants et les mettent en contact avec les programmes communautaires.

La Cour provinciale du Manitoba a étendu le Tribunal de traitement de la toxicomanie à la région de Westman. Il est bien connu que les personnes vivant des problèmes particuliers comme la toxicomanie peuvent bénéficier énormément de services spécialisés holistiques et enveloppants. Le Tribunal de traitement de la toxicomanie facilite et favorise cette approche tout en traitant l'affaire criminelle dont il est saisi. En partenariat avec nos parties prenantes, nous avons constaté nous-mêmes le succès du Tribunal de traitement de la toxicomanie à Winnipeg. Nous avons hâte de mettre en œuvre une approche semblable dans la région de Westman.

Enfin, c'est avec fierté que nous avons souligné le 10^e anniversaire des comités de justice de Peguis et de Fisher River lors d'une cérémonie et d'un dîner spéciaux qui ont eu lieu à Peguis (Manitoba). Les deux comités de justice sont des modèles en ce qui concerne l'application d'une approche de justice réparatrice dans leur collectivité. Dans le cadre de cette approche, le délinquant comparaît devant le comité, qui examine et traite les problèmes sous-jacents de façon à réconcilier la victime, la collectivité et le délinquant. Grâce à l'approche collaborative adoptée par le juge, les avocats et le comité de justice, de nombreuses affaires se règlent de manière holistique et bienveillante.

Le juge Brent Stewart a eu l'honneur d'être revêtu d'une magnifique couverture étoilée et de recevoir en cadeau une plume d'aigle. Le juge Stewart démontre son engagement envers les comités de la justice depuis leur formation.



La juge en chef Wiebe (centre), le juge Brent Stewart (à côté de la juge en chef tenant la plume d'aigle) et le juge Ryan Rolston (derrière et à gauche du juge Stewart), dans une photo de groupe en compagnie des membres du comité de la justice de Peguis et Fisher River, du procureur de la Couronne, de l'avocat de la défense, du personnel judiciaire et des aides juridiques à l'occasion du dîner marquant la célébration du 10^e anniversaire au Peguis Community Hall.

Roles and Authorities of the Court

The roles and authority of all judicial officers of the Provincial Court are set out in the *Provincial Court Act* and in case law.

Chief Judge

The Chief Judge is the official spokesperson for the Court. The *Provincial Court Act* states the Chief Judge will have general supervisory powers over judges, justices of the peace and staff in matters assigned by law to the Court. The Chief Judge is responsible for the judicial functions of the court, including over court sittings and assignment of judicial duties. The Chief Judge can receive and investigate complaints about the misconduct or incapacity of any judge or justice of the peace of the Provincial Court. The Chief Judge is appointed for a non-renewable term of seven years. Chief Judge Wiebe's term will end July 10, 2023.

Associate Chief Judges

There are three Associate Chief Judges in the Provincial Court of Manitoba. One is responsible for assisting the Chief Judge primarily with administrative and scheduling matters in the regional court centres and the other two assist the Chief Judge with administrative matters primarily in Winnipeg. Associate Chief Judges also regularly preside in Court. The Associate Chief Judges are appointed for a non-renewable term of seven years. Associate Chief Judge Hewitt-Michta was appointed in Brandon and is the Regional Associate Chief Judge. Her term ends August 5, 2020. Associate Chief Judge John Guy was appointed in Winnipeg. His term ends October 17, 2020. Associate Chief Judge Anne Krahn was appointed in Winnipeg. Her term ends September 8, 2022.

Provincial Court Judges

Provincial Court Judges are appointed by the Lieutenant Governor in Council upon the recommendation of a nominating committee. The nominating committee is made up of the Chief Judge, another judge of the Court, three community members, the President of the Law Society and the President of the Manitoba Branch of the Canadian Bar Association. The nominating committee interviews and assesses candidates for recommendation to the Lieutenant Governor in Council.

Judges conduct trials, bail hearings, sentencing hearings, inquests and other proceedings in criminal, youth, child protection, family maintenance and regulatory matters. Judges do a significant amount of work outside of the courtroom such as reviewing requests for judicial authorizations (like search warrants) judgment writing, researching law, public speaking and committee work.

The Provincial Court of Manitoba has 41 full-time judges. There are six Provincial Court Centres in Manitoba with resident full-time judges:

- Winnipeg – thirty judges
- Brandon – three judges
- The Pas – two judges
- Dauphin – two judges
- Portage la Prairie – one judge
- Thompson – three judges

There are 57 locations outside of the six court centres where the Provincial Court conducts court sittings. These are referred to as “circuits.” This important part of the Court’s work can mean community facilities such as legion halls, community halls or school gyms become the courtroom for the day. Judges, Crown Attorneys, defence counsel, court clerks, victim services workers and Indigenous court workers may travel by car, plane, helicopter or hovercraft to get to the circuit court location. This is an important element of the Court’s work in ensuring persons in all parts of Manitoba have an accessible justice system.

Roles and Authorities of the Court

Locations of Manitoba Provincial Court Sitings



Roles and Authorities of the Court

Senior Judges

During this fiscal year there were nine Senior Judges. A Senior Judge is a judge who has retired from full-time judicial work but continues to sit as needed by the Chief Judge in order to fill deficits in the court schedule. Senior Judges may also sit when a judge is away for a medical leave or a position is vacant as a result of a retirement and the position has not yet been filled. The Senior Judge program has been a welcome addition to the Provincial Court. It allows the Court to continue to receive the benefit of experienced judges and the flexibility to cover needed court assignments.

In February 2017, the *Senior Judges Regulation* was amended to allow for the equivalent of two full-time judges' salaries to be used in the fiscal year for Senior Judge assignments, the second allotment to be used only when there was a vacancy on the Bench. In 2018/19, the Court relied on the Senior Judges on 434 days to provide much needed support. This continues to follow a pattern from previous years of increasing days assigned to Senior Judges demonstrating the essential nature of this program for the Court to meet scheduling demands and provide timely access to justice.

Judicial Justices of the Peace

Judicial Justices of the Peace are appointed by the Lieutenant Governor in Council upon the recommendation of a nominating committee. The nominating committee is made up of the Chief Judge and two committee members appointed by the Minister of Justice. The nominating committee interviews, assesses, and recommends candidates for appointment to the Lieutenant Governor in Council.

Judicial Justices of the Peace conduct trials, and sentencing hearings under *The Provincial Offences Act*, including *Highway Traffic Act* matters. Judicial Justices of the Peace also conduct hearings in relation to protection orders under *The Domestic Violence and Stalking Act*, and consider the issuance of judicial authorizations such as search warrants and production orders and consider judicial interim release applications. In addition to working during the day, these judicial officers work evening and weekend shifts, which promotes timely access to justice.

On January 17, 2018, Nettie Cuthbert-Buchanan was appointed as an Administrative JJP. Her term expires on January 16, 2023. The Administrative JJP assists the Chief Judge with administrative matters related to the JJP program, including JJP scheduling.

Roles and Authorities of the Court

Changes in Judicial complement from April 1, 2018 to March 31, 2019

On June 23, 2018, Judge Robin Finlayson retired from the Bench after 12 years of service to the citizens of Manitoba. Judge Finlayson was and continues to be a very active member of the Bench serving as Chair of the national Canadian Association of Provincial Court Judges Education Committee as well as Manitoba's judicial education committee. On August 23, 2018 Judge Finlayson was designated a Senior Judge. We are fortunate to have the benefit of his experience.

On November 30, 2018, Judge Rocky Pollack retired from the Bench after 13 years of service to the citizens of Manitoba. Judge Pollack was and continues to be a very active member of the Bench, serving as the Chair of the search warrant committee and as a member of the Provincial Judges Association of Manitoba. On January 2, 2019 Judge Pollack was designated a Senior Judge and continues to serve the citizens of Manitoba in that capacity.

On April, 4, 2018, Judge Ken Champagne was appointed to the Court of Queen's Bench. The Provincial Court of Manitoba is grateful for the years of dedication and service to the people of Manitoba, including seven years as the Chief Judge of the Provincial Court, provided by Justice Champagne. The vacant position left by Justice Champagne's appointment was filled by Judge Larry Allen who transferred from The Pas to the Winnipeg Judicial Centre in July, 2018.

The vacancies left by these retirements and transfers were filled by Judge Theresa McDonald, appointed in The Pas Judicial Centre on October 10, 2018 and Judge Keith Eyrikson and Judge Shauna McCarthy, appointed in the Winnipeg Judicial Centre on March 6, 2019.

On November 21, 2018 JJP Darlene Baker was appointed to fill the vacancy left by JJP Dennis Chambers' retirement earlier in the year. JJP Dennis Chambers was designated as a Senior Judicial Justice of the Peace on July 19, 2018.

Provincial Court Performance Measures

In the previous Annual Report, we reported on a number of performance measures which seek to provide an empirical picture of the work of the Court. We continue with those measures we are able to capture in this report.

We continue to emphasize the need for the Court to have updated information systems so it can collect data and measure its performance on a number of fronts to increase its efficiency. At this time, we are not able to capture reliable information on the number of matters that proceed to trial or preliminary inquiry, how much trial time is used, and why matters set for trial do not proceed on the day of trial. We continue to work with our stakeholders to emphasize the need for updated, integrated information systems.

The Court has seen the benefit of an expansion of video technology. This technology allows an offender in custody to appear before the court by video, which in many cases is preferable to transport from a correctional centre. During this fiscal year, video links were added at the Manitoba Youth Centre which allowed young persons to appear from the facility rather than being moved to the Women's Correctional Centre or Agassiz Youth Centre to appear in courtrooms across the Province.

There continue to be technological barriers to implementing a video link in Stony Mountain Correctional Centre. All of the persons incarcerated in this federal institution must be transported to appear in the courtrooms around the province in person.

The Provincial Court would like to see the expansion of video link capabilities into the communities we service, particularly Northern communities. Individuals who are arrested in their communities are transported to the nearest judicial centre for a bail application or bail hearing, when the Crown is opposed to their release. The human and financial cost of this is significant. One of the barriers to implementing video technologies in remote, northern communities is inadequate bandwidth to maintain reliable, secure connections for a court appearance. We would like to see the capability for these hearings to occur by video in a person's home community. We continue to emphasize that technological solutions need to be found to promote timely, efficient access to justice.

Provincial Court Performance Measures

Average Number of Appearances

Figure 1 below provides the average number of appearances per case in each of the court centres in Manitoba. Winnipeg continues to have more appearances per case than the other regional court centres and showed a slight increase from last year. This can be explained by a higher volume of charges and the greater frequency of court sittings. Matters are remanded for shorter time periods but appear more frequently.

The Thompson Centre has seen a slight downward trend in the number of appearances in the last three years, while The Pas and Portage la Prairie are trending upwards. The Court remains committed to a simplified process for the disposition of charges before the Court as a way to promote access to justice. We will continue to monitor these trends.

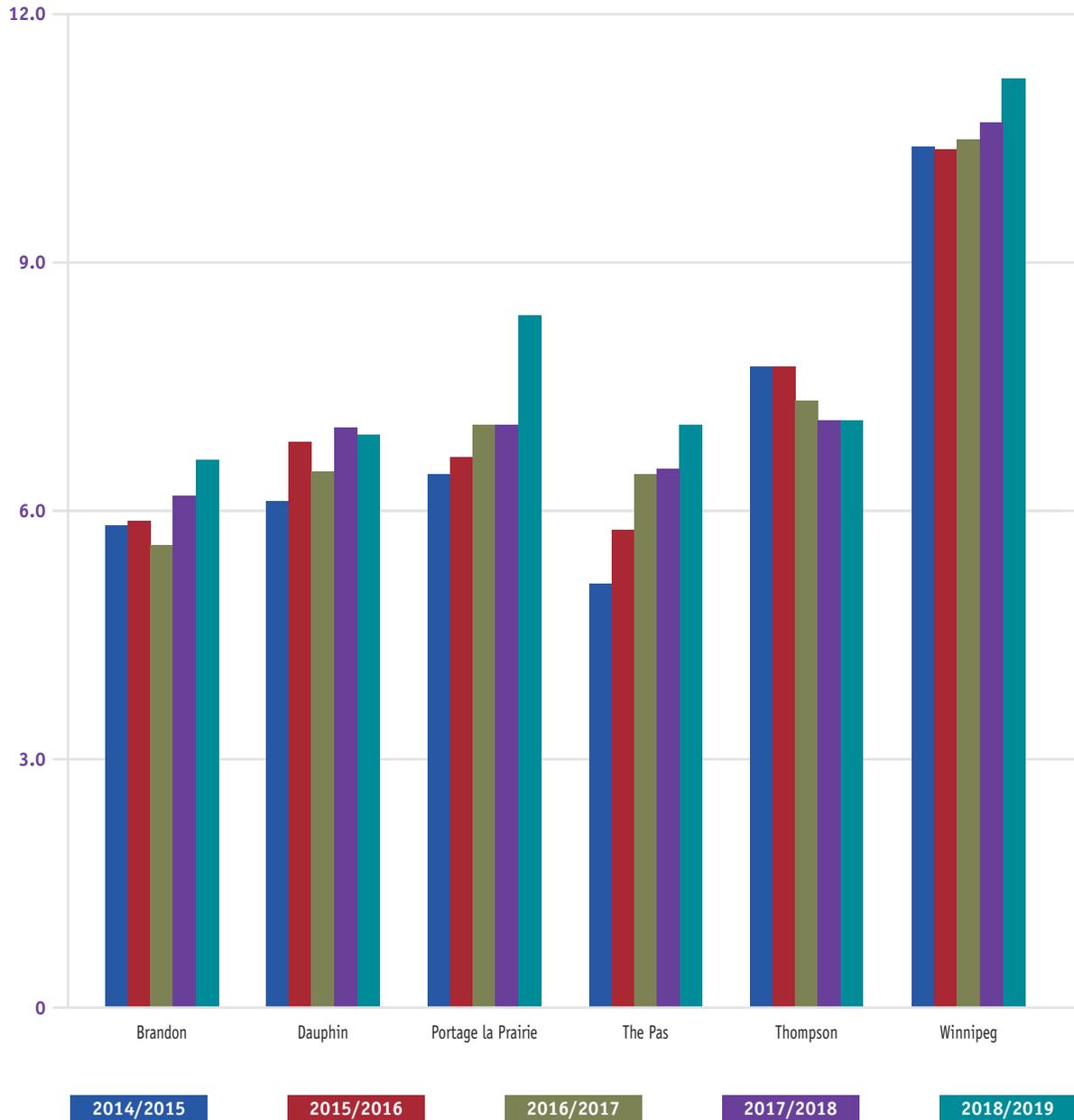
Figure 1 – Average Number of Appearances to Disposition by Court Centre

Court Centre	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	Average
Brandon	5.8	5.9	5.6	6.2	6.6	6.0
Dauphin	6.1	6.8	6.5	7.0	6.9	6.7
Portage la Prairie	6.5	6.6	7.0	7.0	8.3	7.1
The Pas	5.1	5.7	6.4	6.5	7.0	6.2
Thompson	7.7	7.7	7.3	7.1	7.1	7.4
Winnipeg	10.4	10.4	10.5	10.7	11.2	10.6
Average	9.1	9.1	9.2	9.3	9.8	9.3

Total averages may vary slightly due to being calculated from actual values rather than the displayed rounded values.

Provincial Court Performance Measures

Figure 1 – Average Number of Appearances to Disposition by Court Centre



Provincial Court Performance Measures

Time to Disposition

The Court disposed of 45,556 cases during the 2018/19 fiscal year. A case is defined as all of the charges on one information or charging document. An information frequently contains more than one charge or offence arising out of the same transaction. This is a decrease of 3252 from last year.

The vast majority of informations (96.7%) were concluded in less than 18 months. This is a slight increase from last year where 96% of charges were disposed of in Provincial Court in less than 18 months. In *R. v. Jordan* 2016 SCC 27 the Supreme Court of Canada set a presumptive deadline that cases in Provincial Court should be heard within 18 months. If they are not, those cases risk breaching the charged person's *Charter* right to trial in a reasonable time. Last year we reported that there had been an increase in the number of cases disposed of in less than four months and less than 8 months. This fiscal year we saw a reduction in the number of cases that were disposed of across the province in less than four months and less than eight months as compared to last year. However, we noted overall, we disposed 1.6% more matters in less than eight months, than last fiscal year. There has also been a decrease in the number of cases disposed in more than 18 months, from 4% of cases taking longer than 18 months last year to 3% of all cases disposed taking longer than 18 months.

The Provincial Court responded to *Jordan* by offering 2:00 p.m. trials, additional disposition time and case management to target the timely resolution of cases before the court. This measurement indicates that these initiatives have met with some success. Judges have a role to play in the culture change called for by the Supreme Court of Canada. One way judges are working to change that culture is by being less tolerant of delay in the justice system.

The charts below break down the average length of time it took for matters to be disposed of by judicial centre.

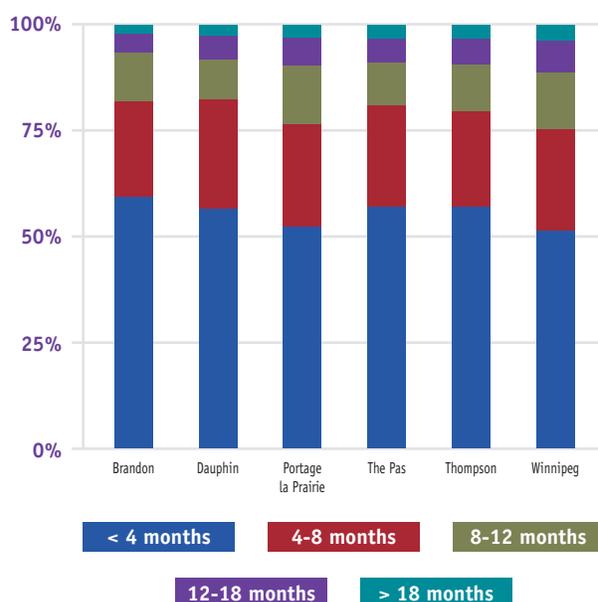


Figure 2 – Informations disposed by court centre and time to disposition, 2018/2019

Court Centre	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
Brandon	2,452	928	482	182	81	4,125
Dauphin	1,039	474	176	99	48	1,836
Portage la Prairie	872	404	228	114	45	1,663
The Pas	1,314	551	235	125	71	2,296
Thompson	3,586	1,415	702	373	196	6,272
Winnipeg	15,095	7,137	3,865	2,229	1,038	29,364
Total	24,358	10,909	5,688	3,122	1,479	45,556

Provincial Court Performance Measures

Figure 3 provides a breakdown by severity level of cases disposed in the Provincial Court. Severity level is a way in which to categorize the seriousness of charges on an Information. For example, if an Information contained an aggravated assault and a breach of probation charge, the information is categorized as a Level 5 – the most serious charge being the aggravated assault. A significant number of Informations in the Court are categorized as Severity Level 2. Severity Level 2 offences include assaults, theft under \$5000, utter threats, breaches of probation and recognizance.

The proportion of charges at each severity level has remained virtually identical to that of last year.

The Court is interested in evaluating whether a different approach, including diversion for the high number of breach of court orders, is appropriate. We have tried to address this by looking carefully at the conditions that are imposed as part of a disposition or release order to ensure the conditions are called for in the circumstances of a case. This is an area that we are continuing to explore with other partners in the justice system.

Figure 3 – Disposed informations by most severe included charge, 2018/2019

	Informations	Percentage of total	Percentage of level
Administration of Justice (“A0J”)	19,370	42.52%	
FTC Probation	5,316	11.67%	27%
FTA Court	5,268	11.56%	27%
FTC Recog	3,487	7.65%	18%
FTC Undertaking	2,009	4.41%	10%
FTC YCJA Order	1,778	3.90%	9%
Breaches Other	824	1.81%	4%
FTA Identification	688	1.51%	4%
Substantive level 1 (“S1”)	3,758	8.25%	
Impaired Operation - Alcohol	1,339	2.94%	36%
All Drug Classes - Possession	960	2.11%	26%
Licence/Registration/Insurance related	718	1.58%	19%
S1 Other	511	1.12%	14%
Misc./Unspecified HTA	115	0.25%	3%
Violations re: requirement to provide information	115	0.25%	3%

Provincial Court Performance Measures

Figure 3 – Disposed informations by most severe included charge, 2018/2019 (Continued)

	Informations	Percentage of total	Percentage of level
Substantive level 2 (“S2”)	9,550	20.96%	
Assault	3,810	8.36%	40%
Theft \$5,000 or under	1,745	3.83%	18%
Utter Threats	1,289	2.83%	13%
Mischief	1,017	2.23%	11%
Obstruct/Resist Peace Officer	451	0.99%	5%
Assault Peace Officer	355	0.78%	4%
Refuse/Fail to Comply/Provide Sample	302	0.66%	3%
Other Provincial Statutes	291	0.64%	3%
S2 Other	290	0.64%	3%
Substantive level 3 (“S3”)	8,288	18.19%	
Assault With a Weapon/CBH	2,033	4.46%	25%
Possession of Weapons	1,648	3.62%	20%
Possess Stolen Goods/Property OBC	1,554	3.41%	19%
S3 Other	1,509	3.31%	18%
Fraud	621	1.36%	7%
All Drug Classes - Trafficking	566	1.24%	7%
Driving While Proh./Disq./Susp. (CCC)	357	0.78%	4%
Substantive level 4 (“S4”)	2,871	6.30%	
Break and Enter	1,148	2.52%	40%
S4 Other	515	1.13%	18%
Sexual Assault	392	0.86%	14%

Provincial Court Performance Measures

Figure 3 – Disposed informations by most severe included charge, 2018/2019 (Continued)

	Informations	Percentage of total	Percentage of level
Weapons Possession Contrary to Order	330	0.72%	11%
Forcible Confinement	256	0.56%	9%
Sexual Interference	230	0.50%	8%
Substantive level 5 (“S5”)	1,311	2.88%	
Robbery	813	1.78%	62%
Aggravated Assault	387	0.85%	30%
S5 Other	69	0.15%	5%
Sexual Exploitation	42	0.09%	3%
Substantive level 6 (“S6”)	286	0.63%	
Robbery with a Firearm	82	0.18%	28%
Discharge Firearm with Intent	74	0.16%	25%
Home Invasion	51	0.11%	17%
Kidnapping	31	0.07%	11%
Impaired Cause Death	14	0.03%	5%
S6 Other	12	0.03%	4%
Incest	12	0.03%	4%
Aggravated Sexual Assault	10	0.02%	3%
Substantive level 7 (“S7”)	136	0.30%	
Murder 2nd Degree	38	0.08%	34%
Attempted Murder	32	0.07%	28%
Manslaughter	28	0.06%	25%
Murder 1st Degree	15	0.03%	13%
Grand Total	45,556	100%	

Provincial Court Performance Measures

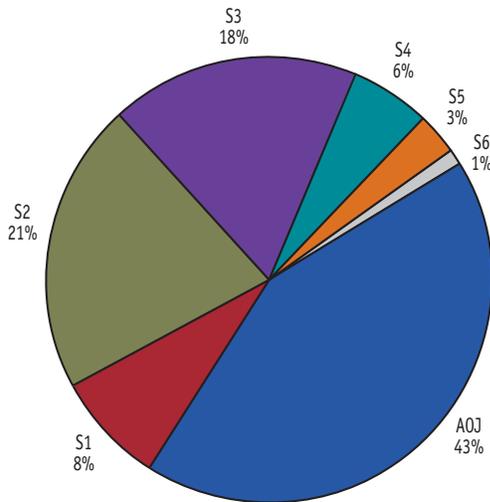
Time to Disposition by Severity Level

The charts below break down the average amount of time it takes to dispose of each case by severity level.

The time to disposition remains virtually the same as last year with no significant increases or decreases. As reported above, we disposed of more matters in less than 18 months this year versus last year. Only 3% of cases took longer than 18 months, versus 4% last year.

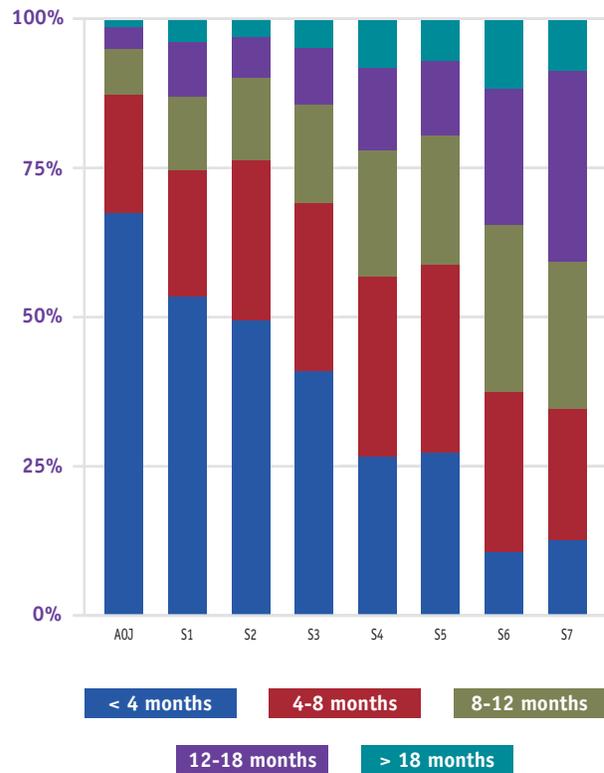
While there are a significant number of lower severity offences that exceed 18 months, it is common for less serious charges to be remanded with a case of higher severity until the more serious charge is disposed of.

Figure 4 – Pie Chart depicting the Number of Informations Disposed in 2018/2019 by Severity Level of Most Severe Charge on the Information



The pie chart provides a picture of the types of cases disposed by the Court according to severity level.

Figure 5 – Disposed informations by offence type and time to disposition, 2018/2019



Provincial Court Performance Measures

Figure 5 – Disposed informations by offence type and time to disposition, 2018/2019

# of informations: Most severe included charge	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
A0J	13,082	3,839	1,503	661	285	19,370
S1	2,006	797	465	341	149	3,758
S2	4,716	2,558	1,337	645	294	9,550
S3	3,387	2,340	1,372	805	384	8,288
S4	766	858	612	403	232	2,871
S5	356	413	288	163	91	1,311
S6	31	79	83	68	34	295
S7	14	25	28	36	10	113
Total	24,358	10,909	5,688	3,122	1,479	45,556

Provincial Court Performance Measures

Average Number of Days to Disposition

The average number of days to disposition is another way to look at how quickly matters were dealt with in the Provincial Court. It must be remembered this number is an average. Generally, the most serious cases take the longest to complete.

There are signs for optimism in that the Provincial Court average number of days to dispose of the most serious charges at severity level 7 has continued to go down from an average of 372 days in 2017/18 to 318 days in the 2018/19 fiscal year. Cases of severity level 6 have

gone up slightly from 311 days to being completed in 331 days, on average for the province. Cases at severity level 4 & 5 have gone down from 272 and 273 last year to 261 and 249 days on average. The cases at severity level three have gone down from 226 average days to disposition to on average 206 days to disposition. Administration of justice offences (breaches of court orders) has stayed the same at an average of 114 days to disposition.

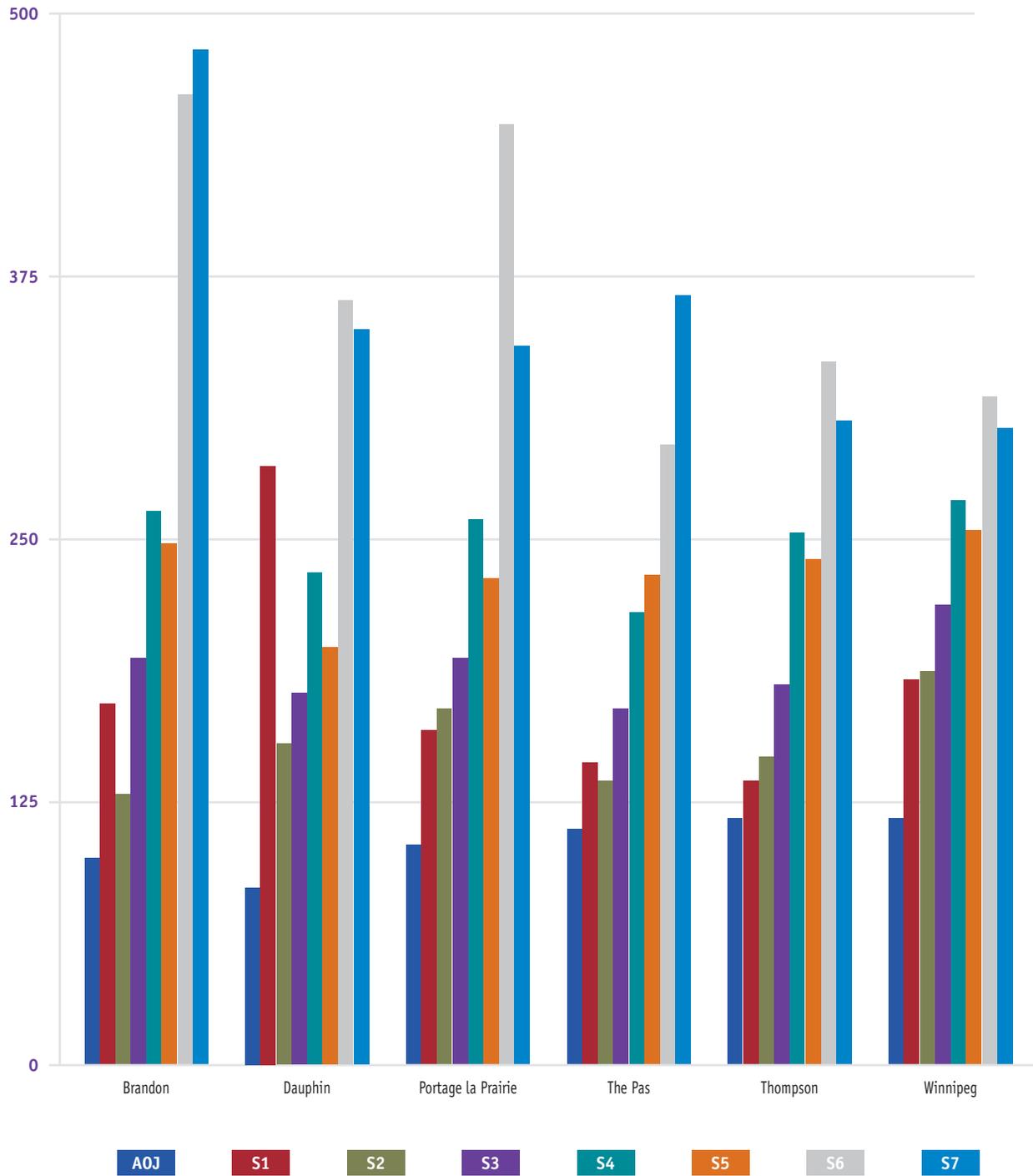
The substantive cases at severity levels 2 have gone down from 184 to 168 average days to disposition. Severity level 1 cases did not see a significant change, now 179 days from 172 days last year.

Figure 6 – Average days to disposition by court centre and offence type, 2018/2019

Court Centre	Type of Most Severe Included Charge								Average
	A0J	S1	S2	S3	S4	S5	S6	S7	
Brandon	99	172	130	194	264	247	461	482	146
Dauphin	84	285	153	177	234	198	363	349	153
Portage la Prairie	106	159	170	193	260	231	447	342	157
The Pas	113	145	135	170	215	233	295	366	145
Thompson	118	135	147	181	253	241	335	306	150
Winnipeg	117	183	187	219	268	254	317	302	170
Average	114	179	168	206	261	249	331	318	163

Provincial Court Performance Measures

Figure 6 – Average days to disposition by court centre and offence type, 2018/2019



Provincial Court Performance Measures

Clearance Rates

As a general proposition, the Court hopes to dispose of at least as many cases in a year as the number of new cases that enter the system. A completion or clearance rate of 100% demonstrates that there is balance between the number of new cases introduced into the justice system within the one-year period and the concluded cases in a one-year period. The completion rate for youth cases improved from the previous year.

For youth, more cases were disposed of than entered the system. It is also noteworthy that there has been a reduction in the number of youth charges entering the system. We do not have information about why fewer youth charges are entering the system but there is evidence that this is consistent with a national trend of reduction in youth crime and criminal charges.

For adult cases, the Court disposed of less cases than entered the system. However, this is not a significant variation from other years.

Figure 7 – Youth Clearance Rate

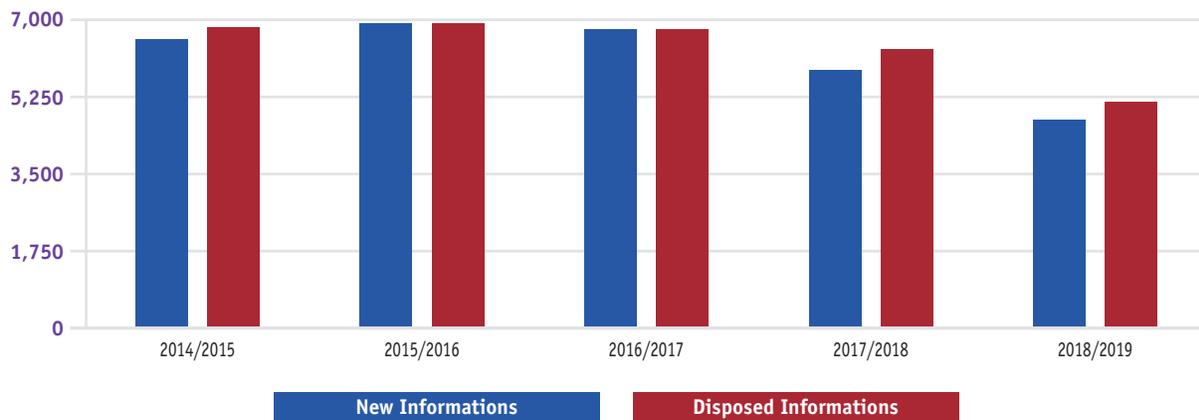
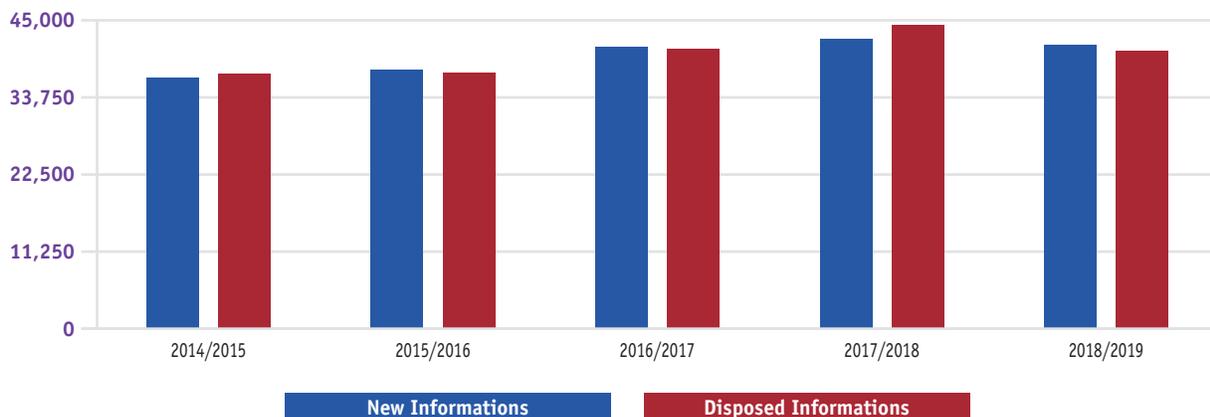


Figure 8 – Adult Clearance Rate



Judicial Authorizations

Judges and JJPs review applications for various types of warrants and production orders under the *Criminal Code*. The following demonstrates the number of applications as a five-year snapshot of this important work of the Court. While this Annual Report captures the work according to a fiscal year, the charts below are reported on a calendar year basis.

Judges reviewed 764 authorizations and JJPs reviewed 2524 requests for judicial authorizations for a total of 3288 authorizations. The affidavits to support these

requests for authorizations range anywhere from a few pages to hundreds of pages. The total number of authorizations considered reflect the significant trend upward over years of this work for the Provincial Court. Over the years, the *Criminal Code* has been amended numerous times and additional types of judicial authorizations have been added. Law enforcement must submit affidavits to the Court for review and analysis in order to seek these judicial authorizations.

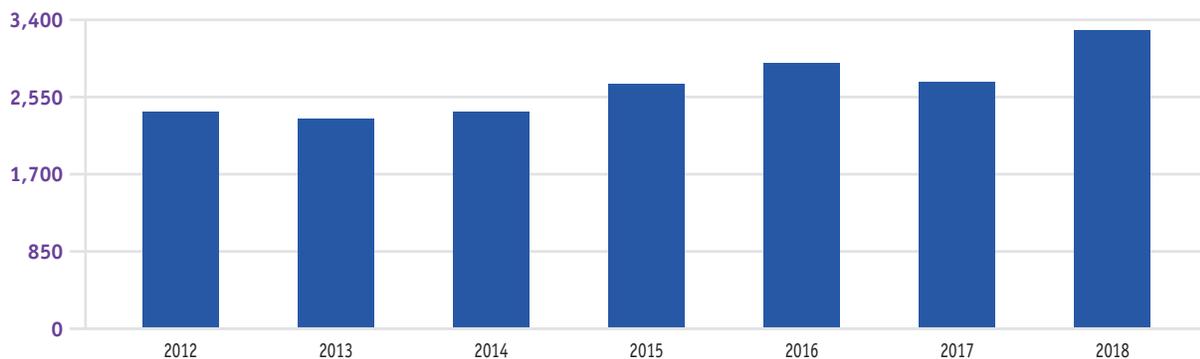
Figure 9 – Number of Judicial Authorizations made by Judges and JJPs



In April 2018, the Court announced a publicly accessible judicial authorization registry. This is a public accessible listing of all court authorizations sought after November 1, 2017.

This registry provides increased transparency of the court's work in considering judicial authorizations such as production orders and search warrants for example.

Figure 10 – Total Number of Judicial Authorizations



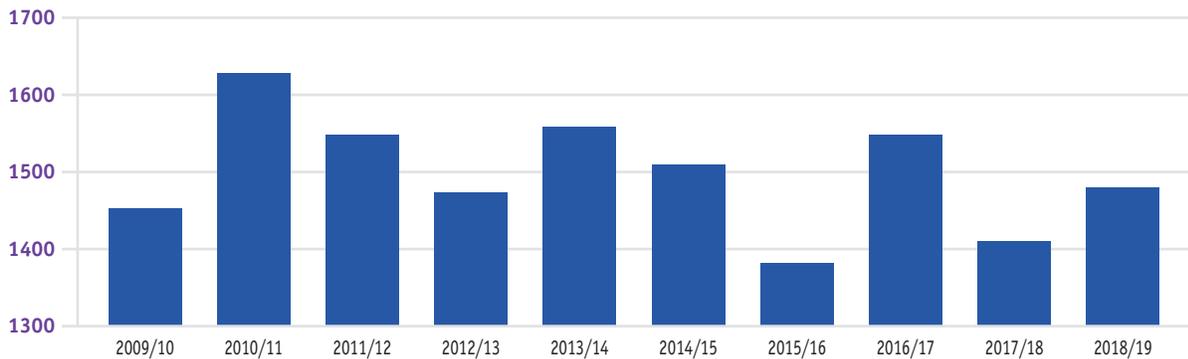
Protection Orders

A person subjected to domestic violence and/or stalking can seek a protection order on an urgent basis from a Judicial Justice of the Peace. *The Domestic Violence and Stalking Act* provides for hearings to occur in person or on the telephone with the assistance of a police officer, lawyer or person designated under the *Act*, after a sworn, written application is completed. If the justice is satisfied stalking or domestic violence have occurred and the person seeking the order reasonably believes

it will continue the Judicial Justice of the Peace is able to grant a protection order. The protection orders may contain conditions ranging from prohibiting the respondent from contacting the applicant or attending any place where the applicant resides or works.

The chart below demonstrates the significant amount of work carried out by Judicial Justices of the Peace related to urgent protection orders.

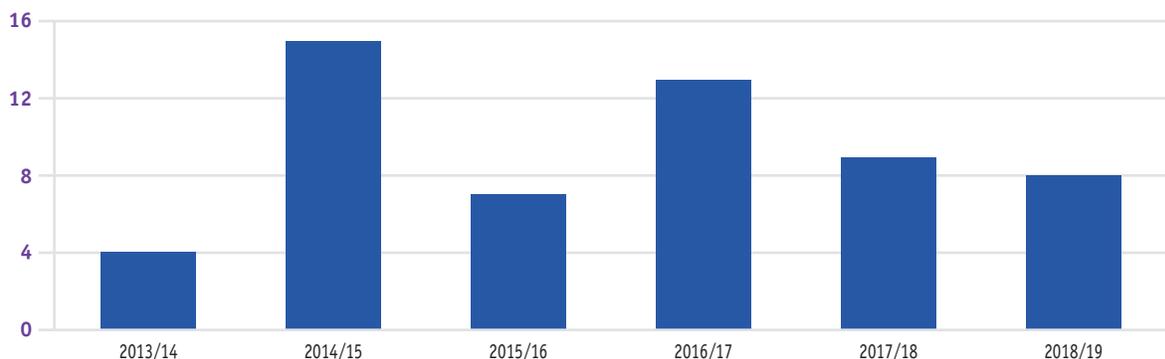
Figure 11 – Number of Protection Order Applications Under *The Domestic Violence and Stalking Act*



A second kind of protection order can be granted under *The Sexual Exploitation and Human Trafficking Act*. These types of protection orders offer relief to people victimized by sexual exploitation and human trafficking.

These hearings also take place before a Judicial Justice of the Peace. The chart provides a six-year snapshot of the number of these hearings.

Figure 12 – Number of Protection Order Applications Under *The Child Sexual Exploitation and Human Trafficking Act*



Provincial Offences Court

Traffic matters come before the Court in two ways, common offences notices (CON) and image capturing enforcement tickets (photo radar and red light camera tickets) known as ICES.

Since the proclamation of *The Provincial Offences Act*, in November 2017, there has been a significant reduction in the number of *Highway Traffic Act* trials that are proceeding.

Figure 13 – Number of Hearings Set

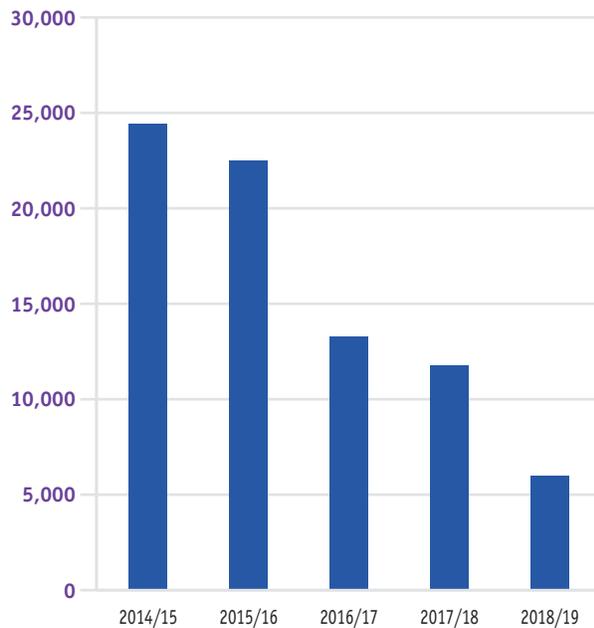
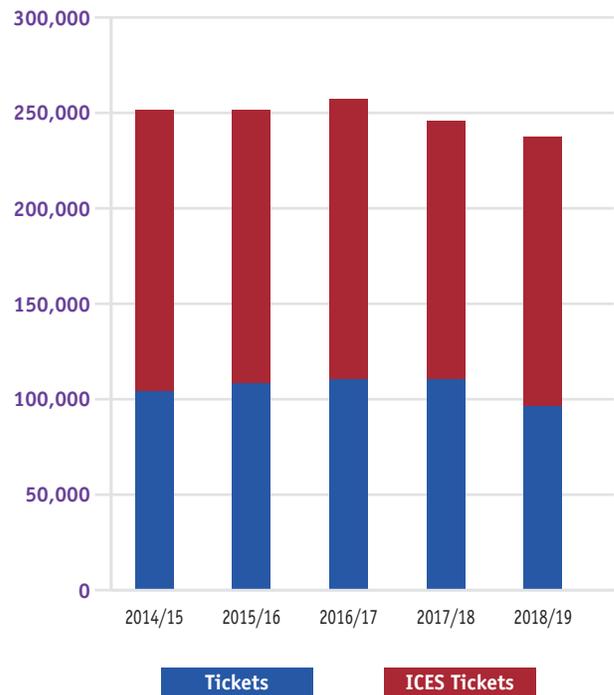


Figure 14 – Number of New Tickets Issued



Problem Solving Courts

The Provincial Court of Manitoba has a number of Problem Solving Courts. Specialty courts use a restorative justice team approach in which the Court collaborates with community organizations and service providers to increase rehabilitative opportunities and reduce recidivism. These courts generally require intensive support and therapeutic involvement prior to disposition. They offer an alternative to incarceration and attempt to break the cycle of criminal involvement.

Winnipeg Mental Health Court

The Winnipeg Mental Health Court is a weekly sitting of the Provincial Court of Manitoba available only in Winnipeg at the present time. This court offers pre-sentence intensive services and supports to persons whose criminal involvement is a direct result of their mental illness. Similar to Drug Treatment Court, the goal is to address the underlying issues which have contributed to criminal behaviour.

Thompson Domestic Violence Court

The Thompson Domestic Violence Court is a specialized court providing rehabilitative services to offenders who have been charged with events of domestic violence within the City of Thompson. All offenders charged with domestic violence offences who admit responsibility on their first appearance are referred to rehabilitative services offered in the community, which must be completed before sentencing.

An evaluative study was completed looking at data during the 2018/19 fiscal year. The full report completed by Associate Professor Colin Bonnycastle, University of Manitoba, can be found on the Provincial Court of Manitoba website under Problem Solving Courts. This report identified a number of shortcomings in the empirical data and made recommendations to address these shortcomings. The report does identify that on average, in one month, over 30 matters appear in the Thompson Domestic Violence Court. The experiential responses from participants, appended to the report, reflect an overwhelmingly positive experience by participants.

Drug Treatment Court

The Drug Treatment Court deals with offenders whose criminal offences have been committed because of a drug addiction. The goal of the Court is to work with offenders who choose to enter the program wishing to deal with their addictions. If an offender's addiction to drugs can be addressed, the hope is they will return to the community to become a contributing member of society and not commit further offences. Participation in Drug Treatment Court requires regular appearances before the Court to monitor the offender's rehabilitation and their work with an inter-disciplinary treatment team.

During 2018/19, the program received 31 requests from the Crown for assessment for program amenability. There were 23 completed assessments, 9 people were denied admission or withdrew their applications and 14 people were admitted to the program. There were 10 assessments still to be completed as of March 31, 2019.

Including existing and new participants, the program discharged 10 individuals in 2018/19, meaning they did not complete the program and were returned to the regular criminal justice system to deal with their charges. At year-end, there were 16 active participants. There were 6 graduations in 2018/19, meaning those participants successfully completed the program.

In March of 2018, discussions began on creating a Drug Treatment Court in the Westman (Brandon) region. These discussions have continued and information was gathered throughout 2018 and 2019 to bring this court to fruition. The Westman HUB table (a community mobilization table comprised of local stakeholders) has been an important partner in this endeavour. We look forward to the start of this additional specialty court.

Problem Solving Courts

FASD (Fetal Alcohol Spectrum Disorder) Court

In March of 2019, the Provincial Court of Manitoba established an FASD disposition docket for both youth and adults who have an FASD diagnosis. One of the goals of these dockets is to provide the accused with a court environment that takes into account the specific brain deficits identified in the FASD assessment report and how they might be related to the offender's moral blameworthiness or degree of responsibility for an offence. If there were a link between the deficits resulting from FASD and the offending behaviour, the Court would explore how the sentence imposed would best reflect and respond to that link.



Child Protection and Family Maintenance Act files

The Court has jurisdiction over child protection and *Family Maintenance Act* matters in regional areas, outside Winnipeg. In previous annual reports and in this one, we report the number of “new” files opened in this fiscal year. There were 251 new child protection files opened in the Court in the 2018/19 fiscal year.

However, this number does not give a realistic or accurate accounting of the number of child protection petitions considered and heard by the Provincial Court. If a petition is served on a parent in relation to a different child in the family or a further petition for the same child is filed with the Court, these are

not considered “new” files. Thus, the actual child protection work greatly exceeds the number of “new” files opened, as a new file is counted when there has been no previous involvement with the same parent. The Provincial Court is interested in updated electronic systems that would enhance our ability to accept electronic filings in child protection matters and accurately track child protection proceedings.

A committee of the Court has been convened to consider issues that arise in child protection proceedings and promote best practices for this important area of court work.

Provincial Court Clerkship

In January of 2019, the Provincial Court of Manitoba collaborated with Robson Hall Law School at the University of Manitoba creating the Provincial Court Clerkship. A third year law student was placed with the Court and provided valuable legal research for the judges of the Court, for a course credit. The program has proved to be a valuable support for the judges of the Court and a rewarding experience for the law student.

Inquests

The *Fatality Inquiries Act* authorizes the Chief Medical Examiner to determine when an Inquest should be held. An inquest is presided over by a Provincial Court Judge. The inquest is to inquire into the circumstances of a death. The inquest judge does not express an opinion or make a determination about who is or could be blamed in a way that could reasonably identify a person at fault. At the end of the inquest, the inquest judge provides a written report to the Minister of Justice and the Chief Medical Examiner. The report is to include any recommendations by the inquest judge concerning the laws of the province, programs, policies or practices of government or relevant public agencies or institutions, which, in the opinion of the inquest judge, would reduce the likelihood of deaths in circumstances similar to the death that is subject of the inquest. All inquest reports can be accessed on the Court’s website.

Inquest reports are to be completed within six months of the end of the inquest hearing, unless the Chief Judge has approved an extension (up to three months or in exceptional circumstances, a length of time beyond three months).

As of March 31, 2019, there were nine inquest hearings ongoing and one inquest that had been called by the Chief Medical Examiner, which had not yet been scheduled to commence.

In 2018/19 there were seven inquest reports issued by the Court as noted below:

Figure 15 - Inquest Reports

Name of Deceased	Date of Report Released	Number of Hearing Days	Time to Complete Report
R.D.	April 11, 2018	8 days	6 months
Lance Muir	April 18, 2018	7 days	6 months
Eric Daniels	July 3, 2018	1 day	6 months
Roy Thomas Bell	August 8, 2018	2 days	5 months
Devon Sampson*	September 6, 2018	14.5 days	7 months
Dwayne Mervin Flett*	September 6, 2018	14 days	7 months
Ali Al Taki	October 10, 2018	4 days	6 months

* The Devon Sampson and Dwayne Flett deaths were combined into one inquest.

In 2018, the *Fatality Inquiries Act* (FIA) was amended to afford some discretion to the Chief Medical Examiner on when to call an inquest. The FIA gave some discretion to the Medical Examiner not to call an inquest for

example when the circumstances of the death were already known or if another Act would already require a review with recommendations to prevent a death in similar circumstances.

Strategic Plan

The Provincial Court spent the spring of 2018 researching and preparing for a strategic planning retreat. In May of 2018, we set aside some time to consider a path forward for the future.

Our strategic plan recognizes we are a unique Province. With 650,000 square kilometres, which includes over 110,000 lakes, we cover a large geographical area. We extend from the shores of the Hudson Bay to the border of the United States and from east to west between Ontario and Saskatchewan. Our population exceeds 1.35 million people. We are a Province of many languages, English and French primarily, but with an increasing immigrant population, we are seeing new languages, customs and traditions in our Province. We have a large Indigenous population in Manitoba. These Indigenous communities all have their own histories, languages, traditions and cultures. While most of Manitoba's population lives in urban centres, there are many people living in remote and isolated communities. The Provincial Court of Manitoba serves a diverse population over a large geographical area.

The Provincial Court of Manitoba deals with the majority of criminal matters in our Province. We are experts in this regard. In addition, we preside over family law and child protection matters. We deal primarily with issues of child custody and access, declaration of parentage, as well as child support and maintenance. We do this in several of our major court centres outside of Winnipeg

Public trust in the judicial system requires the judiciary to decide all of the matters before it in an impartial manner exercising the highest degrees of professionalism and integrity. The Provincial Court of Manitoba is committed to the rule of law, the independence and impartiality of the judiciary and ensuring all Manitobans have meaningful access to justice.

Our Strategic plan has set out an ambitious path for our Court. It recognizes, as individual judges we face the immediate pressures of cases and dockets, research and reserve decisions. It also recognizes as a Court we must take a step back and consider the institutional and systemic issues we face and we must discuss those issues in the context of the medium and long-term future of the Court.

This strategic plan is a reflection of our discussions, deliberations and consultations. In determining how we can best serve the people of Manitoba, we have identified five strategic priorities, which we will focus on over the next five years.

Strategic Plan

A Snapshot of the Strategic Plan



Judicial Education

Judicial education is planned and implemented under the direction of an Education Committee and the Chief Judge. The Provincial Court is committed to providing at least 10 days of judicial education annually for each judge. Every newly appointed judge undertakes judge shadowing as well as specific education at New Judges School. The law and society is changing at a rapid pace. It is important for judges to continue a path of life-long learning to maintain their skill level and knowledge base to inform the important decisions they make every day. In addition to education arranged and planned by the Court's judicial education committee, there are numerous national organizations, which provide high quality judicial education. The National Judicial Institute is an internationally recognized organization creating and providing education programs to all judges in Canada, at all levels of court. The Canadian Association of Provincial Court Judges organizes an annual conference every year focused on the educational needs of provincial court judges. There are other recognized institutions which provide quality judicial education opportunities.

The following list provides a sampling of the topic areas in which Manitoba Provincial Court judges received education this past fiscal year.

- Indigenous Law
- New Judges Substantive Criminal Law Program, including law on sexual assault and social context
- Skills training for new judges, including delivering oral judgments
- Judicial Ethics
- Judgment Writing Skills
- French Language training
- World Congress on Justice for Children
- Charter law
- Evidence
- Judging and Mental Health
- Pitblado Lectures: Reimagining Justice, Trust, Truths and Transformation
- National State Courts: E-Courts
- National Judicial Institutes Online Videocasts: Sexual Assault Trials Subject Collection (available to all Judges)

Judicial Justices of Peace Education

The Judicial Justices of the Peace (JJP) receive significant “on the job” mentoring and training. New JJPs undergo intensive training and job shadowing. In addition, there are two education sessions annually, which all JJPs attend, amounting to at least four days. A JJP Education committee chaired by an Associate Chief Judge meets regularly to identify and plan education opportunities for JJPs. This fiscal year saw the proclamation of the *Provincial Offences Act*, which significantly changed the procedure and hearings on summary conviction offences. Training aimed at this new legislation was added to ensure that JJPs were well informed on this new legislation. The education topics covered in the 2018/19 fiscal year included:

- Search and Seizure
- Guns and Drugs
- *Provincial Offences Act*
- Cycle of domestic violence
- *Domestic Violence and Stalking Act* and Protection Orders
- Cannabis legislation
- Youth and Adult bails
- Conflict of Interest/Perception Issues/Demeanour
- Judicial Independence

Law Enforcement Reviews & Hearings

The *Law Enforcement Review Act* sets out the process to be followed when there is a complaint about the conduct of members of policing agencies in Manitoba. There are two processes under the *Act* where the Provincial Court is required to be involved: one is a “review” and the other is a “hearing”. If the Commissioner of the Law Enforcement Review Agency (LERA) decides not to take further action with respect to a complaint, the complainant may apply to have the decision reviewed by a judge of the Provincial Court. In 2018/19 there were 14 reviews conducted by Provincial Court Judges.

Hearings may be held when the Commissioner recommends a penalty for a disciplinary default and the complainant disagrees with the recommended penalty; and when the Commissioner refers the complaint to a judge for a decision on whether the complaint should result in disciplinary action. In 2018/19 there was one LERA hearing heard by the Provincial Court.



Contingent Liability

The *Provincial Court Act* directs that the Annual Report shall include the contingent liability of the government for public funds that results from unused vacation leave or severance allowances of the Judges. The vacation liability calculation as of March 31, 2019 (based on the premise of a Judge retiring from judicial office with unused vacation leave) is \$940,342.37. The severance liability as of March 31, 2019 is \$616,454.09 for those Judges entitled to same and who were eligible to retire on March 31, 2019.

Therefore, the total contingent liability of the Government of Manitoba for public funds that results from unused vacation leave or severance allowance of the Judges as of March 31, 2019 is \$1,556,796.40 (\$940,342.37 + \$616,454.09).



Available in alternate formats, upon request.