



The Provincial Court of Manitoba

# Annual Report

2020 ■ 2021





**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/](http://www.winnipegarchitecture.ca/justice/))







The Honourable Chief Judge  
Margaret Wiebe

The Provincial Court of Manitoba

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**NINETEENTH ANNUAL REPORT  
PROVINCIAL COURT OF MANITOBA  
Fiscal Year Ending March 31, 2021**

The Honourable Kelvin Goertzen  
Minister of Justice and Attorney General  
Room 104 – Legislative Building  
450 Broadway  
Winnipeg, MB R3C 0V8

Dear Minister:

Pursuant to Section 11.2(1) of *The Provincial Court Act*, I am pleased to submit the Nineteenth Annual Report for the year ending March 31, 2021.

This Annual Report includes but is not limited to information regarding the roles and authorities of the Court, statistical information relating to the operation, functioning and administration of the Court during the year, the strategic plan of the Court as well as information relative to judicial and judicial justices of the peace education.

Sincerely,

A handwritten signature in cursive script, appearing to read 'M. Wiebe'.

Margaret Wiebe, Chief Judge  
Provincial Court of Manitoba



The Honourable Chief Judge  
Margaret Wiebe

The Provincial Court of Manitoba

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**DIX-NEUVIÈME RAPPORT ANNUEL  
COUR PROVINCIALE DU MANITOBA  
pour l'exercice terminé le 31 mars 2021**

M. Kelvin Goertzen  
Ministre de la Justice et procureur général  
Palais législatif, 450, Broadway,  
bureau 104,  
Winnipeg (Manitoba) R3C 0V8

Monsieur le Ministre,

Conformément au paragraphe 11.2(1) de la *Loi sur la Cour provinciale*, j'ai le plaisir de présenter le dix-neuvième rapport annuel pour l'exercice financier terminé le 31 mars 2021.

Ce rapport annuel comprend notamment les renseignements suivants : une description des rôles et compétences de la Cour; des données statistiques sur les activités, le fonctionnement et l'administration de la Cour pendant l'exercice; le plan stratégique de la Cour; et de l'information sur la formation des juges et des juges de paix judiciaires.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

Margaret Wiebe  
Juge en chef de la Cour provinciale du Manitoba



# Table of Contents

Overview: Chief Judge of the Provincial Court.....	2	Specialty Courts .....	29
Aperçu : Juge en chef de la Cour provinciale du Manitoba .....	4	Winnipeg Mental Health Court .....	29
Roles and Authorities of the Court .....	6	Thompson Domestic Violence Court .....	29
Chief Judge .....	6	Drug Treatment Court .....	29
Associate Chief Judges .....	6	Westman Drug Treatment Court .....	29
Provincial Court Judges .....	7	FASD (Fetal Alcohol Spectrum Disorder) Court .....	30
Locations of Manitoba Provincial Court Sitings .....	8	Child Protection and Family Maintenance Act files .....	31
Senior Judges .....	9	Provincial Court Clerkship .....	31
Judicial Justices of the Peace .....	9	Inquests .....	32
Changes in Judicial complement from April 1, 2020 to March 31, 2021 .....	10	Strategic Plan .....	33
The Pandemic .....	12	A Snapshot of the Strategic Plan .....	33
Manitoba Provincial Court COVID Suspensions, Restrictions and Re-opening Timeline .....	12	Timely Access to Justice .....	34
Provincial Court Performance Measures .....	14	An Innovative Court of Excellence .....	34
Average Number of Appearances .....	15	Strengthen Public Trust and Confidence in the Justice System .....	34
Time to Disposition .....	17	Focus on Indigenous Issues .....	35
Time to Disposition by Severity Level .....	21	Sound Infrastructure .....	35
Average Number of Days to Disposition .....	23	Global Pandemic .....	35
Clearance Rates .....	25	Judicial Education .....	36
Judicial Authorizations .....	26	Judicial Justices of the Peace Education .....	36
Protection Orders .....	27	Law Enforcement Reviews & Hearings .....	37
Provincial Offences Court .....	28	Contingent Liability .....	38

## Chief Judge of the Provincial Court



We left the last Annual Report at the beginning of the pandemic. We had no idea what was about to bear down on us, how our lives, our courts, and the entire justice system would be affected. We had no idea how long the pandemic would last; we naively thought we could wait it out.

**Lesson One: We were not prepared.** We were not prepared to hold court hearings in any manner different from our traditional format. We were not prepared for people to be afraid to come to the courthouse. We were not prepared to manage a crisis of this magnitude. We were not technologically equipped to appropriately conduct hearings remotely.

**Lesson Two: Seize the opportunity.** And we did. The three levels of court in Manitoba along with Court Administration formed a COVID-19 Task Force. We met regularly and continuously. We met with government, the Justice Minister, and the Deputy Minister. We met with representatives of management, health experts, and judicial stakeholders, including Crown, defence, corrections, police and court administration. We considered stakeholder concerns and how best to respond. We listened to medical experts and heeded public health orders. We did all of this so as to find ways to keep our courts running and participants safe. We balanced health and safety considerations with access to justice.

In the Provincial Court, the Administrative Team met everyday. We did this for months. Meeting, discussing, brainstorming; communicating and collaborating with our Provincial Court counterparts across the country to share ideas and consider practices that we might implement in our own courts. The Administrative Team and Judges worked together to identify innovative approaches to keep courts running. We implemented telephone appearances from RCMP stations in remote communities to limit unnecessary transport of people from their communities. We held case management conferences by telephone. We held dockets by telephone for communities we could not attend. We created a virtual assignment court. We wore masks, installed plexi-glass barriers, placed sanitizer and signs in the courtrooms. We established COVID-19 safety protocols for every circuit location attended, and had screeners at the entrances to all facilities to enforce those protocols. We are greatly indebted to Sherriff Services for all of their tireless work in this regard.

**Lesson Three: Technology was key.** Prior to the pandemic, we used some technology in our courtrooms. This proved insufficient to meet the needs of the pandemic. So we embraced the opportunity to expand its use; as a result, we re-shaped the way many judicial services were delivered. This was no easy task. Processes and policies were required to implement new technological approaches while still maintaining the fairness and dignity of the hearing process. It also became clear that, while technology can support increased access to justice, it must be used in appropriate circumstances. In particular, we learned that not all criminal hearings lend themselves well to a remote approach.

**Lesson Four: Communication is critical.** Many groups met regularly throughout the pandemic, among them: justice stakeholders, Court Administration, the Chiefs of the three levels of court, the Canadian Council of Chief Judges (CCCJ), the Judicial Administrative Team. In particular, the Provincial Court worked closely with Indigenous communities to ensure that any court related travel to communities was done in a safe manner, respectful of the challenges communities were facing.



**Lesson Five: As both individuals and institutions, we are more adaptable than we might have thought.**

We learned to shift and pivot with each new challenge, mindful of our constitutional responsibilities to safely provide judicial services to the public. We saw that a common goal is achievable when all judicial participants work together.

The pandemic was not over as of March 31, 2021. In fact, we were in for several more devastating waves. As this report documents, we closed and re-opened courts several times throughout this period. Many hearings were cancelled and we are now assessing how best to tackle what will be a significant backlog. This will require both discipline and additional resources. With an eye to the future, we will also be assessing lessons learned and how the court might capitalize on these going forward.

I extend my sincere thanks to the Judges, Judicial Justices of the Peace, and in particular the members of the Administrative Team, Anne Krahn, Shauna Hewitt-Michta, Tracey Lord and Malcolm McDonald, for their selfless dedication and commitment to seeing justice done through this challenging time.

In non-COVID news, you will see in this report, we said goodbye to several Judges this year. Brent Stewart, Dale Schille, Dale Harvey and John Combs. All are noteworthy for their dedication and contributions to the court and are recognized with thanks in this report. I would be remiss if I did not extend a special mention and thanks to Judge Shauna Hewitt-Michta whose seven year term ended in August 2020. ACJ Hewitt-Michta was an exceptional ACJ whose wisdom, dedication, and innovation benefitted both the court and the people of Manitoba.

## Juge en chef de la Cour provinciale du Manitoba



Dans notre dernier rapport annuel, nous évoquions les débuts de la pandémie. Nous n'avions à l'époque aucune idée de ce qui nous attendait ni des répercussions qu'elle aurait sur nos vies, nos tribunaux et l'ensemble du système judiciaire. Nous ignorions combien de temps elle durerait, et pensions naïvement que nous pouvions attendre que le problème disparaisse.

### **Premier enseignement : Nous n'étions pas préparés.**

Nous n'étions pas préparés à tenir des audiences sous une forme différente du processus traditionnel. Nous n'étions pas préparés à ce que les gens aient peur de venir au tribunal. Nous n'étions pas préparés à gérer une crise de cette ampleur. Nous n'étions pas équipés technologiquement pour tenir correctement des audiences à distance.

**Deuxième enseignement : Il y avait une occasion à saisir.** Et nous l'avons saisie. Conjointement au groupe chargé de l'administration judiciaire, les trois niveaux de tribunaux au Manitoba ont formé un groupe de travail relatif à la COVID-19. Nous nous sommes réunis de manière régulière et soutenue. Nous avons rencontré le gouvernement, le ministre de la Justice ainsi que le sous-ministre. Nous avons rencontré des représentants de la direction, des experts médicaux et des intervenants de la justice, y compris des procureurs de la Couronne, des avocats de la défense et des membres des services correctionnels, de police et d'administration judiciaire.

Nous avons étudié les préoccupations des intervenants et les meilleures façons d'y répondre. Nous avons écouté les experts médicaux et respecté les ordres de santé publique. Tous ces efforts visaient à trouver des façons pour nos tribunaux de continuer à fonctionner et d'assurer la sécurité des participants. Nous avons concilié les considérations en matière de santé et de sécurité avec l'accès à la justice.

Au sein de la Cour provinciale, l'équipe administrative composée de juges s'est réunie tous les jours, et ce, pendant des mois – réunions, discussions et remue-ménages, communication et collaboration avec nos homologues des cours provinciales des quatre coins du pays afin de partager des idées et d'envisager les pratiques applicables dans nos propres tribunaux. L'équipe administrative et les juges ont collaboré pour définir des approches novatrices permettant aux tribunaux de continuer à fonctionner. Nous avons mis en œuvre des comparutions par conférence téléphonique depuis les postes de la GRC dans les collectivités éloignées afin de limiter le transport superflu de personnes depuis leur communauté. Nous avons organisé des conférences de gestion de cause par téléphone, tenu des comparutions aux rôles par téléphone pour les collectivités auxquelles ne nous pouvions pas nous rendre, et créé une audience de fixation du rôle virtuelle. Nous avons porté des masques, installé des cloisons de plexiglas, placé des distributeurs de désinfectant et des panneaux dans les salles d'audience. Nous avons établi des protocoles sanitaires contre la COVID-19 pour chaque emplacement du tribunal itinérant et avons équipé les entrées de chaque installation de postes de contrôle pour l'application de ces protocoles. Nous sommes particulièrement redevables au personnel du Bureau du shérif pour ses efforts inlassables à cet égard.

**Troisième enseignement : La technologie a été essentielle.** Avant la pandémie, nous utilisions certains moyens technologiques dans nos salles d'audience. Ils se sont avérés insuffisants pour satisfaire les besoins liés à la pandémie. Nous avons donc saisi l'occasion d'étendre l'utilisation de la technologie; ce faisant, nous avons refaçonné le mode de prestation de nombreux services judiciaires. La tâche n'a pas été facile. Des processus et des politiques ont été nécessaires pour mettre en œuvre de nouvelles approches technologiques tout en préservant le caractère équitable et digne du processus d'audience. De plus, il est apparu clairement que même si la technologie permet un accès élargi au système judiciaire,



elle doit être employée dans les circonstances appropriées. En particulier, nous avons constaté que certaines audiences criminelles ne se prêtaient pas bien à une approche à distance.

**Quatrième enseignement : La communication est cruciale.** De nombreux groupes se sont rencontrés régulièrement tout au long de la pandémie, notamment les intervenants de la justice, le groupe chargé de l'administration judiciaire, les chefs des trois niveaux de tribunaux, le Conseil canadien des juges en chef (CCJC) et l'équipe administrative. En particulier, la Cour provinciale a collaboré étroitement avec des collectivités autochtones pour veiller à ce que les déplacements liés aux audiences dans des collectivités se fassent à chaque fois de manière sécuritaire, en respectant les défis auxquels les communautés étaient confrontées.

**Cinquième enseignement : Individuellement et en tant qu'institutions, nous sommes plus souples que nous aurions pu le croire.** Conscients de nos responsabilités constitutionnelles visant la prestation sécuritaire de services judiciaires au public, nous avons appris à nous adapter et à nous réorienter face à chaque nouveau défi. Nous avons constaté que, lorsque tous les participants du système judiciaire travaillent ensemble, ils peuvent atteindre un objectif commun.

Au 31 mars 2021, la pandémie n'était pas terminée. En fait, plusieurs vagues dévastatrices étaient encore à venir. Comme le retrace le présent rapport, nous avons fermé et rouvert les tribunaux à plusieurs reprises pendant cette période. De nombreuses audiences ont été annulées, et nous étudions maintenant quelle est la meilleure à voie à suivre pour résorber un arriéré conséquent. Cela exigera de la discipline et des ressources supplémentaires. Tournés vers l'avenir, nous ferons également le point sur les enseignements tirés et les possibilités pour le tribunal de les mettre à profit.

Je tiens à remercier sincèrement les juges, les juges de paix judiciaires et en particulier les membres de l'équipe administrative Anne Krahn, Shauna Hewitt-Michta, Tracey Lord et Malcolm McDonald de leur dévouement désintéressé et de leur engagement à ce que justice soit faite en cette période difficile.

Au-delà des événements liés à la COVID19, nous profitons cette année de ce rapport pour dire au revoir à plusieurs juges, Brent Stewart, Dale Schille, Dale Harvey et John Combs, et pour les remercier. Chacun d'entre eux est à saluer pour son dévouement et ses contributions au tribunal. Je tiens également à rendre un hommage particulier à la juge Shauna Hewitt-Michta, dont le mandat de sept ans a pris fin en août 2020. M<sup>me</sup> Hewitt-Michta a été une juge en chef adjointe exceptionnelle, faisant preuve d'une sagesse, d'un dévouement et d'un sens de l'innovation dont ont pleinement bénéficié le tribunal et la population du Manitoba.

# 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* outlines that 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 judicial 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 (ACJ) 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; 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 ended on August 5, 2020.

The Provincial Court and the citizens of Manitoba were the beneficiaries of ACJ Hewitt-Michta's untiring work ethic. With an unflinching dedication to the administration of justice, she promoted and raised the profile of the regional courts throughout her term. While her contributions are too many to detail, we highlight a few. ACJ Hewitt-Michta was instrumental in the expansion of drug treatment court in Westman region. With limited existing resources, and through the creation of a new scheduling model, she was also instrumental in improving access to timely judicial interim release in the Northern judicial district.

ACJ Hewitt-Michta continued to advocate for an electronic scheduling tool for regional judges and saw that to fruition with the creation of regional ROTA. While the Court will continue to benefit from her thoughtful wisdom as a puisne judge, the Court Administrative Team will miss her experience and insights. We thank ACJ Hewitt-Michta for her dedicated service to the justice system and the people of Manitoba.



*Associate Chief Judge Hewitt-Michta*

Associate Chief Judge Malcolm McDonald was appointed to fill the vacancy left by ACJ Hewitt-Michta on August 1, 2020 for a seven year term.

Associate Chief Judge Tracey Lord was appointed in Winnipeg on July 2, 2019 for a seven year term, ending July 1, 2026. Associate Chief Judge Anne Krahn was appointed as ACJ in Winnipeg in 2015. Her term ends September 8, 2022.



# Roles and Authorities of the Court

## 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 chaired by the Chief Judge, and includes 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 also 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 judge positions. 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 vehicle, plane, helicopter or hovercraft to get to the circuit court location. Holding court in these locations 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 Sittings





# Roles and Authorities of the Court

## Senior Judges

In addition to the 41 full time provincial Court Judges, during this fiscal year there were 14 sitting 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. The Senior Judge program has been a welcome addition to the Provincial Court. It allows the Court to receive the ongoing benefit of experienced judges along with 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 a fiscal year for Senior Judge assignments. In November 2020 the Court's allotment for Senior Judges was increased to 638 days, roughly equivalent to five Judge's salaries. Effective April 1, 2021, the Court will have the benefit of 1500 additional days for Senior Judges to be used as required in the schedule. This additional time will be heavily relied on to address the backlog caused by COVID-19 suspensions (when many regular sittings of the Court were suspended) and the increased complexity and demand for court time in general. In 2020/21, the Court relied on the Senior Judges for 261.5 days. This is a significant decline from previous years due to reduced sittings of the Court during the pandemic. We are very grateful for these additional judicial resources. The additional judicial allotment will be essential to meet scheduling demands and provide timely access to justice going forward.

## 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, conducts an independent assessment, and recommends candidates for appointment to the Lieutenant Governor in Council.

Judicial Justices of the Peace conduct *Criminal Code* bail hearings, 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. These judicial officers work day, evening and weekend shifts, which promotes timely access to justice.

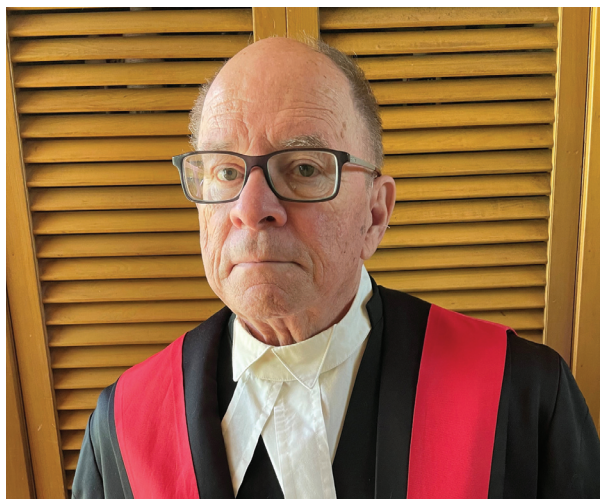
On January 17, 2018, Nettie Cuthbert-Buchanan was appointed as an Administrative JJP. Her term expires on January 16, 2023. The Administrative JJP assists the Chief Judge with administrative matters related to the JJP program, including JJP scheduling.

# Roles and Authorities of the Court

## Changes in Judicial complement from April 1, 2020 to March 31, 2021

Judge Brent Stewart retired from the Provincial Court on May 4, 2020 after serving on the Court for 22 years. Judge Stewart made many contributions, one of the most outstanding being his work on the creation of the Peguis and Fisher Branch Court. Judge Stewart sat in Fisher Branch for a number of years, and then in Peguis once the Court was moved there. He, along with the two communities and other justice community stakeholders, developed the Restorative Justice model for this Court, which will celebrate its 12th year in October 2020. With the commitment of the communities and their justice committees, this Court has successfully shifted many individuals out of the criminal justice system into diversionary programs.

On the 10th anniversary of the Court, Judge Stewart was honoured by the communities and blanketed with a special blanket made for him in recognition of his important role in the development of this Court. Judge Stewart was also honoured with an Eagle Feather and other gifts. Anyone who has attended Peguis Court or has heard Judge Stewart speak of it, knows that he is passionate about Indigenous justice issues, particularly the model developed in Peguis. Although we will miss seeing Judge Stewart on a daily basis, we are grateful that he will be returning as a senior judge where he can continue to share his wisdom, compassion, and determination to see justice done in a meaningful way, particularly in Indigenous communities.



*Judge Brent Stewart*



*Judge Dale Harvey (left) with his partner, Senior Judicial Justice of the Peace B. Harvey and their grandchildren, with whom Judge Harvey is looking forward to spending more time in his retirement!*

On October 2, 2020, Judge Dale Harvey retired from the Bench after more than seven years of service to the citizens of Manitoba. Judge Harvey was very active in the community, as a board member, coaching a variety of sports, and organizing and supporting charitable events, particularly those focused on cancer support and research. Judge Harvey contributed to the Bench in many ways, including as a member of the Provincial Judge's Association of Manitoba, and as an organizer and lecturer on judicial education both for Judges and Judicial Justices of the Peace. Judge Harvey's positive attitude, criminal expertise, and organizational skills will be missed by his colleagues. Judge Harvey was designated a Senior Judge on November 6, 2020 and continues to serve the citizens of Manitoba in that capacity.



# Roles and Authorities of the Court



*Senior Judge John Combs*

On January 29, 2021, Judge John Combs retired from the Bench after 18 years of service to the citizens of Manitoba. Judge Combs presided in Brandon and the Westman region. Judge Combs' contributions to the Provincial Court included positions as both Treasurer and President (2006-2008) of the Provincial Judges Association of Manitoba. At various times he was also a member of the Management Committee, the Judicial Resource Committee, the Compensation Committee, and the Strategic Planning Committee. Judge Combs was the primary Judge of the Drug Treatment Court for the Westman Region. Judge Combs' wisdom, wit and humour will be missed by his colleagues. On March 4, 2021 Judge Combs was designated a Senior Judge. We are fortunate to have the continued benefit of his experience, particularly in regional courts.

On February 4, 2021, we welcomed Judge Patrick Sullivan to the Court, filling the position vacated by Judge Combs.

On January 31, 2021, Judge Dale Schille retired from the Bench after almost 11 years of judicial service to the people of Manitoba. Judge Schille made many contributions to the community both professionally and personally. He was an active member of the Bench on numerous committees and most significantly on the Court's Compensation committee. Given his criminal law expertise, Judge Schille was a sought after lecturer in the profession. Judge Schille contributed personally in the community through his volunteer work on a number of Boards and in community centres. Judge Schille's sense of humour and stories will be missed in Judge's Chambers. We are fortunate Judge Schille will continue to offer his experience as a Senior Judge. The vacant position left by Judge Schille was yet to be filled as of March 31, 2021.



*Judge Schille next to his picture as posted at his alma mater, Windsor University Law School.*

On September 30, 2020, Judges Cindy Sholdice and Sam Raposo were appointed Judges of the Provincial Court of Manitoba. On October 28, 2020 Judge Dave Mann was appointed a Judge of the Provincial Court of Manitoba.

On June 23, 2020 JJP Myriam Rossett rejoined the Court as a Senior JJP. The Court welcomed a new appointment when Katrina Trask was appointed a JJP on September 30, 2020.

# The Pandemic

On March 20, 2020 in response to an extraordinary pandemic, Manitoba Courts suspended significant operations to reduce community contacts and ensure the health care system was not overwhelmed. That spring, the community saw a first wave of COVID-19 and then an abatement of infection rates over the summer months. As we began to re-open circuit locations in the fall of 2020, the province again saw a marked increase in infection rates. By November 2020, the Court again had to significantly curtail operations and suspend proceedings in response to a second COVID-19 wave. In January 2021, the Court slowly began to re-open, increasing the number of proceedings. As outlined below, COVID-related hearing suspensions have had an impact on our court performance metrics during this fiscal year.

## Manitoba Provincial Court COVID Suspensions, Restrictions and Re-opening Timeline

### OVERVIEW

Throughout the pandemic the Provincial Court maintained a level of service which always included the following elements:

- Continued to hear all in custody trials in the court centers.
- Continued to hear in custody trials from circuit locations, if they could be moved to a court center.
- Prepared to hear applications for urgent matters that should proceed.
- Heard case management hearings by telephone.
- Heard protection order hearings by telephone or in person.
- Heard bail applications by telephone.

### CHRONOLOGY OF KEY OPERATIONAL CHANGES

In response to the pandemic significant operational adjustments were required over the course of the year. A chronology of these changes are summarized below:

- **March 16, 2020** We cancelled all circuit courts and out of custody trials. We continued to hear in custody dispositions and trials. We cancelled all child protection dockets.
- **May 2020** We began to hear child protection dockets virtually in the court centers.
- **June 1, 2020** We re-opened for all matters in the six court centers and returned to Beausejour, Morden, Selkirk, Flin Flon, St. Boniface, Steinbach, Minnedosa, St. Pierre, Swan River for dispositions and trials. Docket appearances were to be addressed remotely, not in person. Child protection dockets returned to be heard in Beausejour and Steinbach.
- **June 29, 2020** Further circuit courts re-opened: Peguis First Nation, Pine Falls, Virden, Rosssburn and Russell.
- **July 2020** Child protection dockets returned to Pine Falls and Peguis.
- **August 2020** Court sittings resumed in Grand Rapids, Sandy Bay/Amaranth, Emerson, Camperville and St. Theresa Point, Roblin. The child protection docket was heard in Emerson. Administrative or virtual dockets were held in Winnipeg for those circuit courts not yet open: Arborg, Poplar River, Berens River, Ashern, Bloodvein, St. Theresa Point, Gimli, Stonewall, St. Martin, Lunda, Altona, Little Grand Rapids, Garden Hill.
- **September 2020** Judges' court sittings resumed in Nelson House, Norway House, Snow Lake, Cranberry Portage, Easterville, Gimli, Stonewall, Little Grand Rapids and Bloodvein for trials and dispositions. JJP dockets for Northern circuit courts were heard in Thompson, starting on September 14, 2020.

# The Pandemic

- **October 2020** Court sittings expected to resume in Moose Lake, Sioux Valley, God's Lake Narrows, Garden Hill, Boissevain, Brochet and Cross Lake.
- **October 30, 2020** Due to rising cases, the Court did not return to Brochet, Cross Lake, Norway House as planned. Court was suspended in the following communities: Gillam, God's Lake Narrows, God's River, Lac Brochet, Oxford House, Peguis, Poplar River, Pukatawagan, Shamattawa, South Indian Lake, Split Lake, Waywayseecappo
- **November 12, 2020** All circuit locations were suspended. All out of custody appearances, including trials were cancelled in the court centers until January 29, 2021.
- **January 2021** A limited number of trials and special sittings proceeded in January at certain circuits accessible by road. No trials or special sittings proceeded in fly-in circuits until January 29, 2021.
- **February 1 to March 31, 2021** In Winnipeg and Thompson, all multi-day out of custody trials and preliminary inquiries were heard. One day out of custody trials and preliminary inquiries remained suspended. Out of custody dispositions which could proceed remotely and where counsel were not seeking a custodial disposition also proceeded. Administrative or front-end dockets proceeded virtually.

In Brandon, The Pas, Dauphin, Portage la Prairie: All in or out of custody trials proceeded, as did out of custody dispositions which could proceed remotely and where counsel were not seeking a custodial disposition.

Trials proceeded in limited circuit courts as well as two in person dispositions on those trial dates; dockets were held virtually: Altona, Arborg, Beausejour, Churchill, Cranberry Portage, Emerson, Flin Flon, Gimli, Leaf Rapids, Minnedosa, Morden, Peguis (March dates only), Pine Falls, Roblin, Selkirk, St. Boniface, St. Pierre, Steinbach, Stonewall, Swan River, Virden (March dates only)

Virtual dockets were held for all closed circuit locations in the related court center.



# Provincial Court Performance Measures

In this annual report we report on a number of performance measures which seek to provide an empirical picture of the work of the court.

We continue to work with our stakeholders to emphasize the need for updated integrated information systems so the court can collect data, measure performance, and increase efficiency. At this time, we are not able to capture reliable information from existing systems on: (a) the number of matters that proceed to trial or preliminary inquiry, (b) how much trial time is used, and (c) why matters set for trial do not proceed on the day of trial. In our last annual report we welcomed the announcement by government of a new Integrated Case Management System. Unfortunately, the completion of this project remains years away. The pandemic reinforced the limitations of the current largely paper-based information systems, particularly when providing judicial services to remote court participants.

While significant resources have been invested in past years to ensure that detained persons can appear by video from correctional centres, these systems were taxed during the pandemic. The 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. Unfortunately, this system does not allow other court participants to also appear using videoconference technology. When COVID-19 correctional centre outbreaks prevented accused persons from attending court in person, the Court had to consider whether or not trials could continue. We were able to proceed with some trials where the offender appeared by video from a correctional center and other participants appeared in court in person.

The increased demand for video appearances in courts throughout the province has highlighted the need for more video rooms and connections in the correctional centers. With some regularity, judges and court participants are waiting for a video room to become available in a correctional center in order to address the matter in court.

Court Services invested significant resources to equip courtrooms around the province with MTeams equipment. In some locations a different video platform, Star Leaf, was installed. The Teams technology was not compatible with the existing correctional center video technology. Court Services again invested in procuring bridging technology so the accused person, counsel, and judicial officer, could all attend remotely. This work was still ongoing at the end of March 2021.

There continue to be technological barriers to implementing a video link in Stony Mountain Correctional Centre. All persons incarcerated in this federal institution must be transported to appear in court in person; the alternative is to appear by telephone, which is not ideal.

The Court would like to see video link capabilities expanded into the remote communities we service, particularly Northern communities. Individuals arrested in their communities are often transported to the nearest judicial centre for a bail application, or bail hearing when the Crown opposes their release. The associated human and financial cost is significant. We would like to see capacity for these hearings to occur by video in a person's home community. A barrier in remote, northern communities is inadequate bandwidth to maintain reliable, secure connections for a video court appearance. The Court has expanded telephone access to bail hearings within 24 hours of arrest and detention, prior to a person being removed from their community. We continue to emphasize that technological solutions must be found to promote timely, efficient access to justice, particularly for remote communities.

# 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. All court regions saw an increase in the number of appearances per case this year as compared to the last several years. Restrictions in court sittings due to the pandemic resulted in matters being adjourned from month to month until court could resume. As the year progressed, the Court

allowed proceedings to occur virtually, often by telephone or by videoconference where available. The increase in the number of appearances before disposition reflects pandemic related delays.

The Court remains committed to a simplified process for the disposition of charges before the Court as a way to promote access to justice.

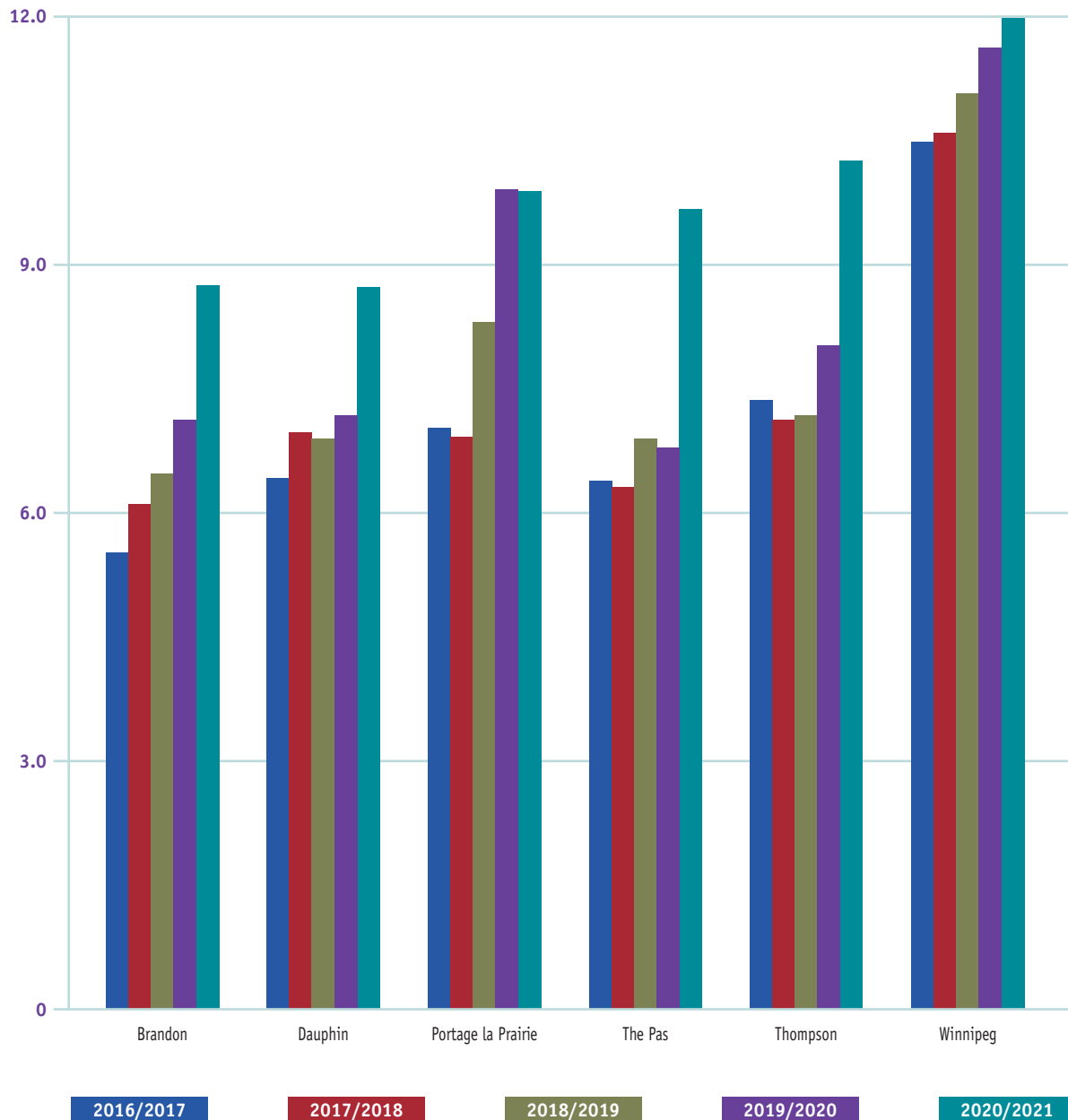
**Figure 1 – Average number of appearances to disposition by court centre, last 5 years**

Court Centre	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	Average
Brandon	5.5	6.1	6.5	7.1	8.7	6.6
Dauphin	6.4	7.0	6.9	7.2	8.7	7.1
Portage la Prairie	7.0	6.9	8.3	9.9	9.9	8.4
The Pas	6.4	6.3	6.9	6.8	9.7	7.0
Thompson	7.4	7.1	7.2	8.0	10.3	7.7
Winnipeg	10.5	10.6	11.0	11.6	12.1	11.1
<b>Global Average*</b>	<b>9.1</b>	<b>9.2</b>	<b>9.6</b>	<b>10.2</b>	<b>11.3</b>	<b>9.8</b>

\* Average number of appearances to disposition of all cases in the province.

# Provincial Court Performance Measures

Figure 1 – Average number of appearances to disposition by court centre, 2020/2021





# Provincial Court Performance Measures

## Time to Disposition

The Court disposed of 32,194 cases during the 2020/21 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 11,896 cases from last year or a 27% reduction.

The vast majority of informations (95.6%) were concluded in less than 18 months. This is a 1% decrease from last year. In *R. v. Jordan* 2016 SCC 27 the Supreme Court of Canada set a presumptive deadline that Provincial Court cases should be heard within 18 months. If not, those cases risk breaching the charged person's *Charter* right to trial in a reasonable time. This year, in all regions, we saw less cases disposed of in four months or less. There was also an increase in cases that concluded between 12 and 18 months, up from 7% last year to 10.4% this year. There has also been an increase in the number of cases concluded in more than 18 months. An average of 2.8% of cases took longer than 18 months to complete last year. This year 4.3% of all cases disposed took longer than 18 months. The pandemic – with its associated court shutdowns and restrictions – was a key factor in these delays.

In Winnipeg, we continue to manually track the number of trials that proceed. Keeping in mind the margin for error with manual tracking, in 2020/21 approximately 15% of all trials and preliminary inquiries set for hearing actually proceeded on the dates set. In 2019/20 approximately 20% of trials and preliminary inquiries proceeded in Winnipeg. Again the pandemic and court restrictions forced many adjournments.

Even before the pandemic, many charges were stayed or resolved with a guilty plea on the day of trial. So as to make the most effective use of court time, the Courts' trial coordinators contact counsel in advance of all trial dates to determine whether the hearing is proceeding. While the resolution of a matter on a trial date is not in itself concerning, the high rate of collapse means that trial coordinators book more trials on a given day than can actually be heard, if they all proceeded. On rare occasion there are more trials ready to proceed than there are available courtrooms or Judges.

To determine historic trial collapse patterns, it is important to have a good understanding of the reasons a matter does not proceed to trial as scheduled. This information again should be captured, province wide, in a systematic way to optimize the scheduling of judicial resources.

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, 2020/2021**

Court Centre	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
Brandon	1,174	684	362	228	94	2,542
Dauphin	628	296	170	131	52	1,277
Portage la Prairie	820	353	250	225	93	1,741
The Pas	581	328	184	128	70	1,291
Thompson	1,324	771	451	409	161	3,116
Winnipeg	10,226	5,499	3,341	2,238	923	22,227
<b>Total</b>	<b>14,753</b>	<b>7,931</b>	<b>4,758</b>	<b>3,359</b>	<b>1,393</b>	<b>32,194</b>

# Provincial Court Performance Measures

Figure 3 provides a breakdown by severity level of cases disposed of in Provincial Court. Severity level is a way to categorize the 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, which includes assaults, theft under \$5000, utter threats, breaches of probation and recognizance.

The proportion of charges at each severity level has remained largely constant from year to year. However, noteworthy is the increase in the number of sexual assault, forcible confinement and sexual interference charges.

Given recent changes to legislation and Supreme Court of Canada jurisprudence, these types of cases involve multiple pre-trial hearings and decisions, increasing the amount of time required to hear these matters. The increased complexity of these cases and the associated demands on court time have created additional challenges for the Court.

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 carefully considering conditions imposed as part of a disposition or release order to ensure the conditions are necessary in the circumstances of the case. This is an area that we continue to explore with other justice system partners.

**Figure 3 – Disposed informations by most severe included charge, 2020/2021**

Most severe charge	Informations	Percentage of total	Percentage of level
<b>Administration of Justice (AOJ)</b>	<b>13,718</b>	<b>42.61%</b>	
AOJ Other	5,610	17.43%	41%
Police Release - Fail to Attend (FTA) Court	2,632	8.18%	19%
Adult Probation - Report	2,534	7.87%	18%
Court Release - FTA Court	1,061	3.30%	8%
Court Release - Curfew	1,005	3.12%	7%
Court Release - Reside/Remain/Notify	439	1.36%	3%
Court Release - Non-contact	437	1.36%	3%
<b>Substantive level 1 (S1)</b>	<b>2,146</b>	<b>6.67%</b>	
Impaired Operation	687	2.13%	32%
Other Controlled Drugs and Substances Act - Possession	524	1.63%	24%
S1 Other	372	1.16%	17%
HTA - Licence/Registration/Insurance	202	0.63%	9%
Refuse/Fail to Comply/Provide Sample - Causing Bodily Harm (CBH)	164	0.51%	8%

# Provincial Court Performance Measures

**Figure 3 – Disposed informations by most severe included charge, 2020/2021** *(Continued)*

Most severe charge	Informations	Percentage of total	Percentage of level
HTA - Drive While Disqualified	131	0.41%	6%
HTA - Speeding & Other Unsafe Driving	66	0.21%	3%
<b>Substantive level 2 (S2)</b>	<b>6,393</b>	<b>19.86%</b>	
Assault	2,348	7.29%	37%
Theft \$5,000 or under	1,467	4.56%	23%
Utter Threats	867	2.69%	14%
Mischief	709	2.20%	11%
Other Provincial Statutes	268	0.83%	4%
Obstruct/Resist Peace Officer	264	0.82%	4%
S2 Other	250	0.78%	4%
Assault Peace Officer	220	0.68%	3%
<b>Substantive level 3 (S3)</b>	<b>6,004</b>	<b>18.65%</b>	
Assault With a Weapon/CBH	1,323	4.11%	22%
Possession of Weapons	1,251	3.89%	21%
S3 Other	849	2.64%	14%
Other Controlled Drugs and Substances Act - Trafficking	807	2.51%	13%
Possession of Stolen Goods over \$5,000	498	1.55%	8%
Possession of Stolen Goods \$5,000 or under	464	1.44%	8%
Fraud	350	1.09%	6%
Driving While Prohibited/Disqualified/Suspended (CCC)	268	0.83%	4%
Theft of a Motor Vehicle	194	0.60%	3%



# Provincial Court Performance Measures

**Figure 3 – Disposed informations by most severe included charge, 2020/2021** *(Continued)*

Most severe charge	Informations	Percentage of total	Percentage of level
<b>Substantive level 4 (S4)</b>	<b>2,554</b>	<b>7.93%</b>	
Break and Enter	1,130	3.51%	44%
S4 Other	456	1.42%	18%
Weapons Possession Contrary to Order	411	1.28%	16%
Sexual Assault	267	0.83%	10%
Forcible Confinement	174	0.54%	7%
Sexual Interference	116	0.36%	5%
<b>Substantive level 5 (S5)</b>	<b>1,129</b>	<b>3.51%</b>	
Robbery	649	2.02%	57%
Aggravated Assault	367	1.14%	33%
S5 Other	72	0.22%	6%
Sexual Exploitation by Person in Trust/Authority	41	0%	4%
<b>Substantive level 6 (S6)</b>	<b>147</b>	<b>0.46%</b>	
Discharge Firearm with Intent	80	0.25%	54%
Kidnapping	34	0.11%	23%
Incest	16	0.05%	11%
Anal Intercourse	7	0.02%	5%
Aggravated Sexual Assault	6	0.02%	4%
S6 Other	4	0.01%	3%
<b>Substantive level 7 (S7)</b>	<b>103</b>	<b>0.32%</b>	
Murder 2nd degree	54	0.17%	52%
Murder 1st degree	19	0.06%	18%
Manslaughter	19	0.06%	18%
Attempted Murder	11	0.03%	11%
<b>Grand Total</b>	<b>32,194</b>	<b>100%</b>	

# Provincial Court Performance Measures

## Time to Disposition by Severity Level

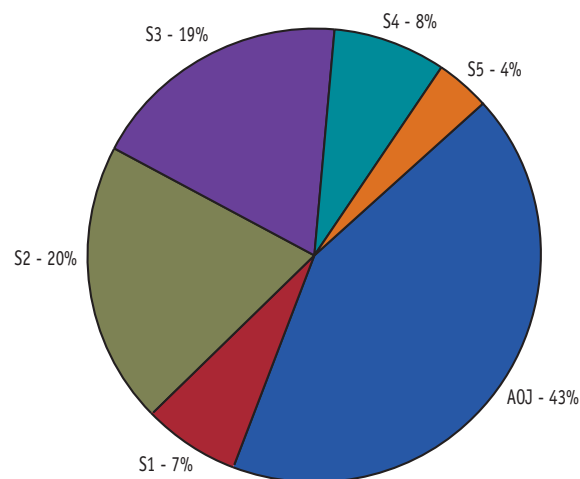
The charts below break down the average amount of time taken to dispose of cases by severity level.

The number of matters disposed of in less than four months decreased from last year when 51.5% of cases were completed in less than four months. This year there were less charges disposed of in the fiscal year with 45.8% disposed of in four months or less. The percentage of cases

disposed of in four to eight months remained comparable to last year (24%) rising slightly to 24.6%. The cases taking longer than 18 months to conclude, increased from 2.8% last year to 4.3%. The pandemic may again have been a factor here.

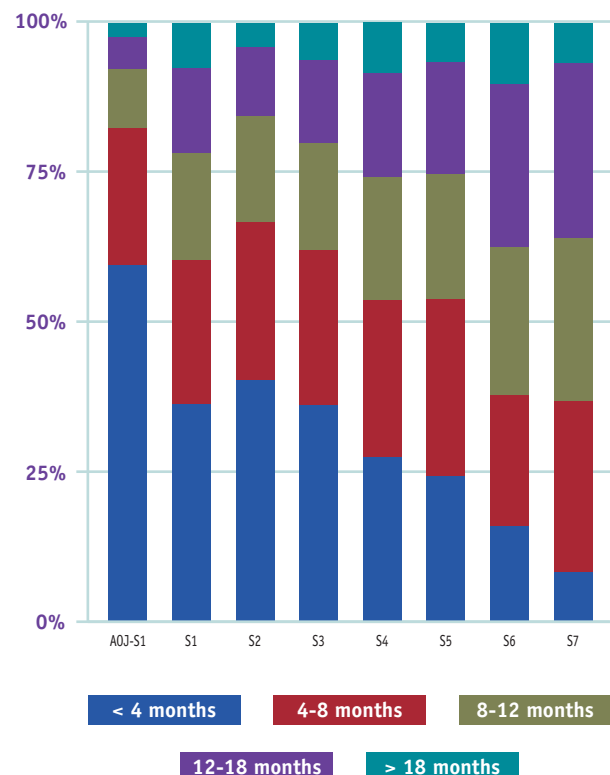
Overall, the vast majority of cases were completed in 18 months or less, such that the Court is generally in compliance with the Supreme Court of Canada's *Jordan* guidance.

**Figure 4 – Number of informations disposed in 2020/2021 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, 2020/2021**



# Provincial Court Performance Measures

Figure 5 – Disposed informations by offence type and time to disposition, 2020/2021

Most severe charge	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
A0J-S1	8,190	3,106	1,378	745	299	13,718
S1	783	514	379	309	161	2,146
S2	2,591	1,683	1,116	750	253	6,393
S3	2,173	1,566	1,066	831	368	6,004
S4	706	669	521	440	218	2,554
S5	277	332	234	214	72	1,129
S6	24	32	36	40	15	147
S7	9	29	28	30	7	103
<b>Total</b>	<b>14,753</b>	<b>7,931</b>	<b>4,758</b>	<b>3,359</b>	<b>1,393</b>	<b>32,194</b>

# Provincial Court Performance Measures

## Average Number of Days to Disposition

The average number of days to disposition is another measure for assessing how quickly matters were dealt with in Provincial Court. Bearing in mind that this number is an average, it is generally the most serious cases that take longest to complete.

The time to disposition has not changed significantly for Administration of Justice offences (breaches of court orders), and severity levels 1 to 6. The average number of days to dispose of the most serious charges at severity level 7 has decreased to 327 days from 365 days.

The explanation for this trend is likely attributable to a series of factors, including: (a) all in custody trials continued to be held in the Court Centres, (b) the Court continued to hear multi-day trials over matters that were suspended due to the pandemic, and (c) there were less cases in the system overall.

As the number of severity level 7 cases is relatively small, variations in the average number of days to disposition by court center may not be statistically significant.

**Figure 6 – Average days to disposition by court centre and offence type, 2020/2021**

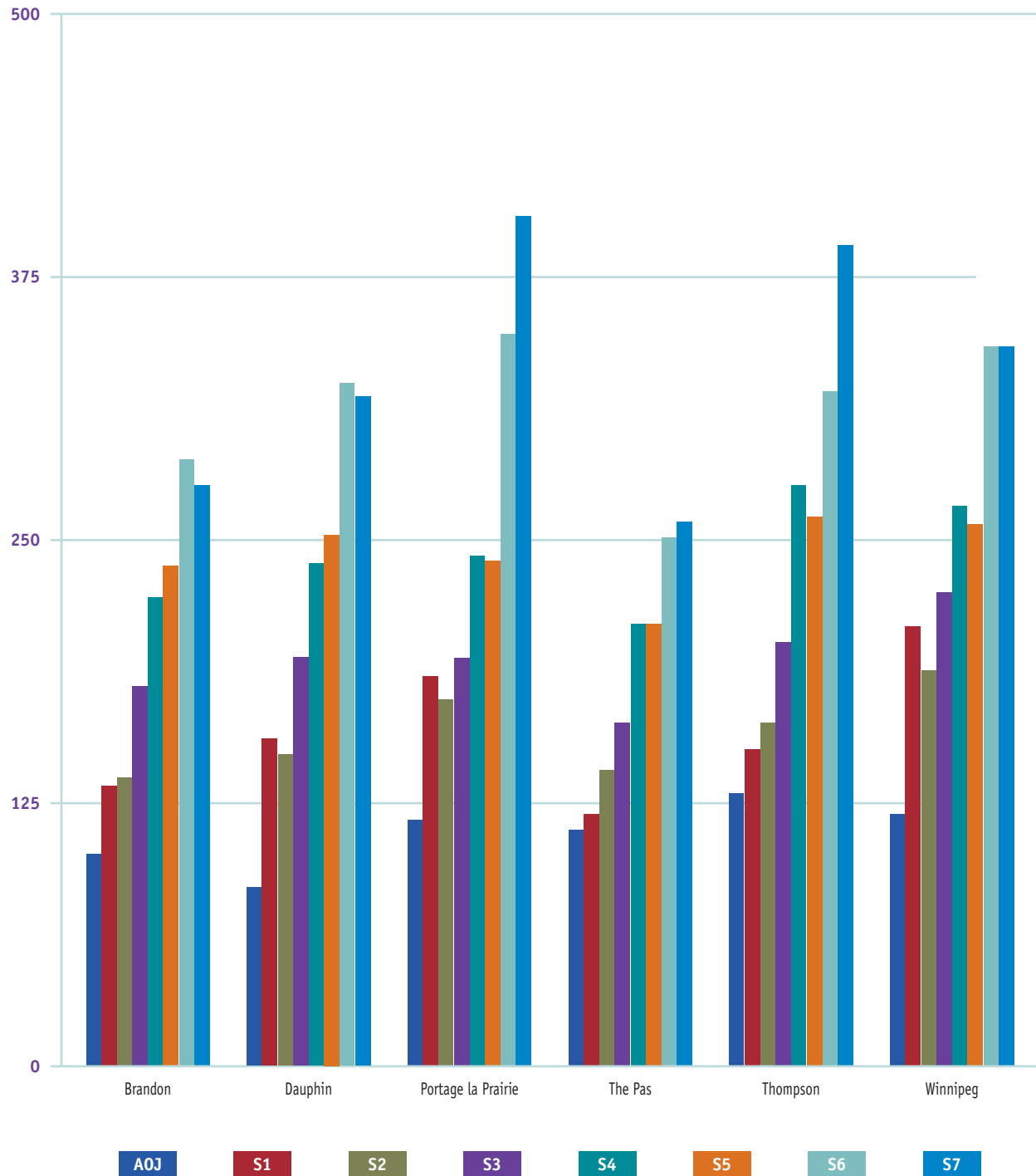
Court Centre	Type of most severe included charge							
	A0J	S1	S2	S3	S4	S5	S6	S7
Brandon	102	134	137	180	223	238	288	276
Dauphin	85	156	149	194	239	253	324	318
Portage la Prairie	117	186	175	195	242	240	348	404
The Pas	113	120	141	164	210	210	252	258
Thompson	129	151	163	202	276	262	321	390
Winnipeg	119	209	188	225	266	257	341	342
<b>Global Average*</b>	<b>118</b>	<b>187</b>	<b>173</b>	<b>213</b>	<b>259</b>	<b>254</b>	<b>327</b>	<b>337</b>

\* Average days to disposition of all offences in the province at that severity level. See Figures 3 and 5 for the number of cases/informations at each severity level.



# Provincial Court Performance Measures

Figure 6 – Average days to disposition by court centre and offence type, 2020/2021



# Provincial Court Performance Measures

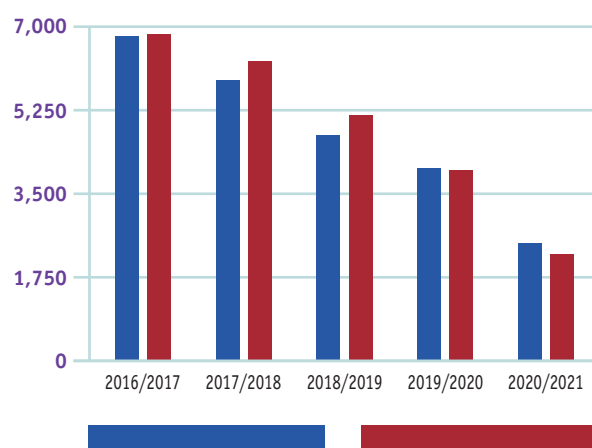
## Clearance Rates

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 balance between the number of new cases introduced into the justice system within the one-year period and the concluded cases in that same period. Despite a trend in less youth charges entering the system, the completion rate for youth cases decreased from the previous year, from 100% to 92%. We do not have

information about why fewer youth charges are entering the system; there is evidence that this is consistent with a national trend of reduction in youth crime and criminal charges and is a positive development.

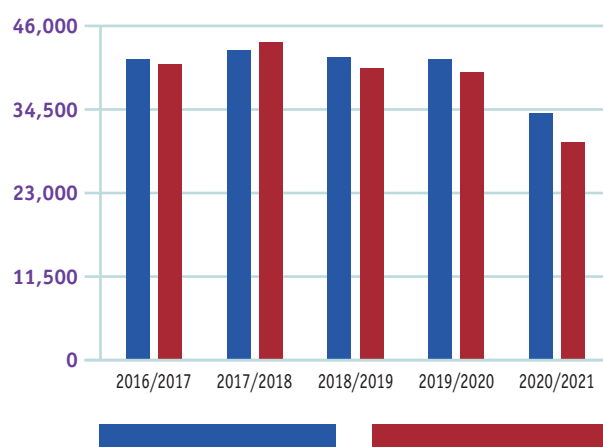
For adult cases, the Court disposed of less cases in the year than entered the system. The impact of the pandemic and the backlog resulting from suspended court hearings is something we will be actively working to address going forward.

Figure 7 – Youth Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2016/2017	6,791	6,809	100%
2017/2018	5,839	6,283	108%
2018/2019	4,704	5,117	109%
2019/2020	4,003	3,989	100%
2020/2021	2,428	2,234	92%

Figure 8 – Adult Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2016/2017	41,480	40,849	98%
2017/2018	42,578	44,001	103%
2018/2019	41,661	40,420	97%
2019/2020	41,448	39,723	96%
2020/2021	33,989	29,960	88%

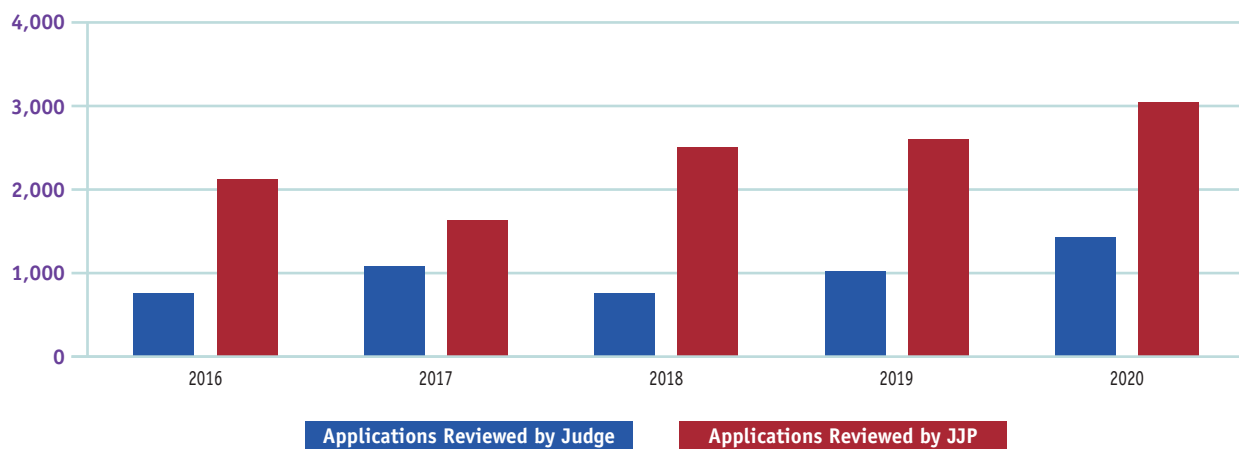
# Judicial Authorizations

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.

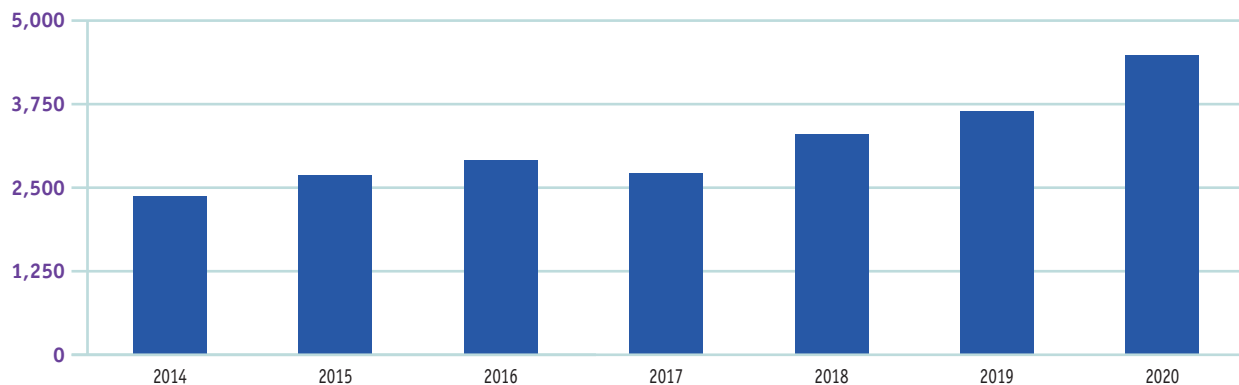
Judges reviewed 1424 authorizations and JJPs reviewed 3053 requests for judicial authorizations for a total of

4477 authorizations. In support of a request for judicial authorization, law enforcement officers must submit affidavits to the Court for review and analysis. The affidavits to support these requests range in length from a few pages to hundreds of pages. The total number of authorizations considered reflect the significant upward trend in 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.

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



**Figure 10 – Total Number of Judicial Authorizations**



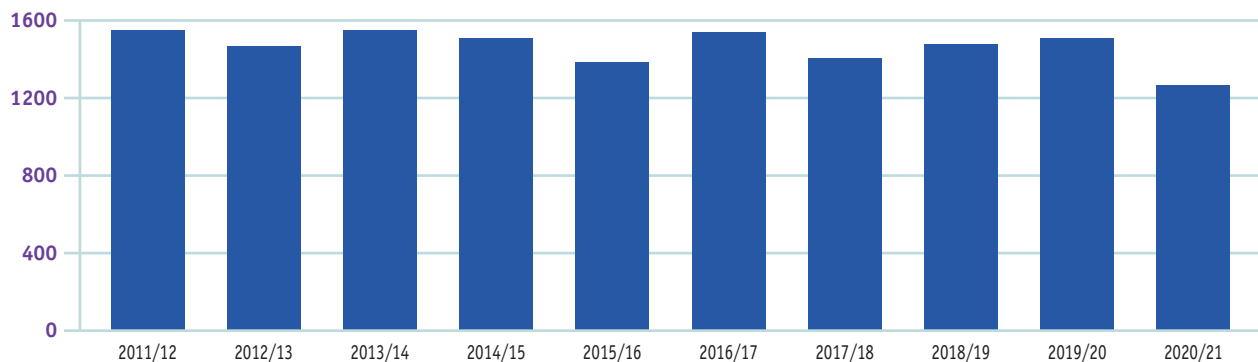
# Protection Orders

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 has occurred and the person seeking the order reasonably believes it will continue,

a JJP is able to grant a protection order. Protection orders may contain conditions, including 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 – 1273 protection order hearings were held.

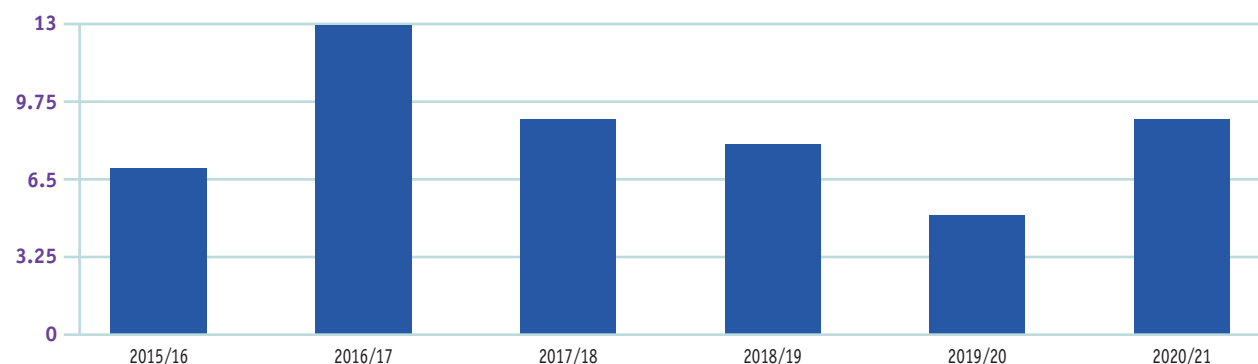
**Figure 11 – Number of Protection Order Applications Under *The Domestic Violence and Stalking Act***



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. Nine were held in the 2020-21 fiscal year.

**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.

There has been a decline in the number of traffic tickets issued in the past year. There were 223,245 tickets issued last year, this past year there were 204,297 tickets issued.

As a result of the reduction in traffic hearings presided over by Judicial Justices of the Peace (JJPs), the Court has been planning adjustments to the work assignments of the JJPs. We are working on education and training for JJPs to assume a greater role in presiding over peace bond hearings and bail triage courts.

Figure 13 – Number of Hearings Set

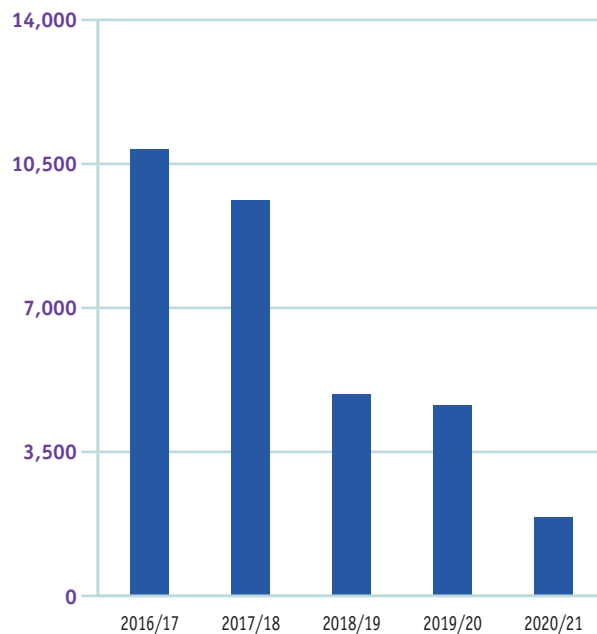
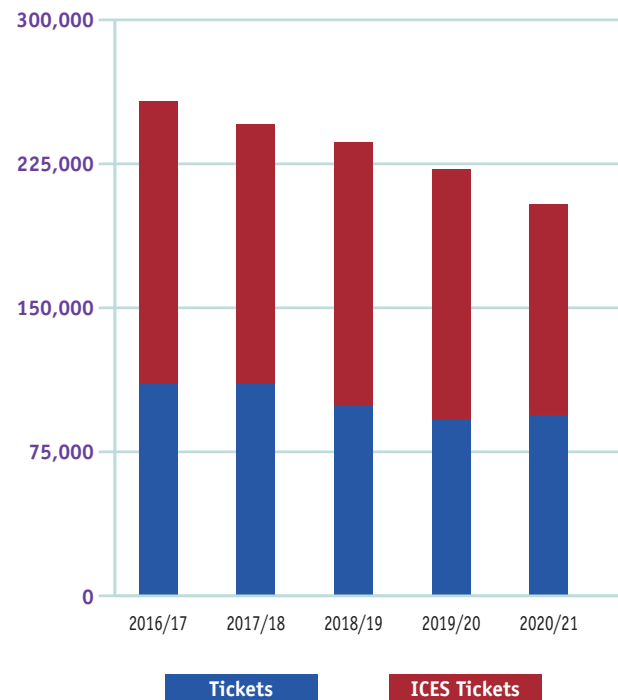


Figure 14 – Number of New Tickets Issued



# Specialty Courts

The Provincial Court of Manitoba has a number of Specialty Courts. Specialty courts use a restorative justice team approach in which the Court collaborates with community organizations and services 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 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 specialty 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 that 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 2020/21, the program received 30 requests from the Crown for assessment for program amenability. There were 21 completed assessments, 7 people were denied admission or withdrew their applications and 17 people were admitted to the program. There were 15 assessments still to be completed as of March 31, 2021.

Including existing and new participants, the program discharged 11 individuals in 2020/21, 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 18 active participants. There were 5 graduations in 2020/21, meaning those participants successfully completed the program.

## Westman Drug Treatment Court

The Westman Drug Treatment Court began accepting clients in 2019.

During 2020/21, the program received 8 requests from the Crown for assessment for program amenability. There were 5 completed assessments, 3 people were denied admission or withdrew their applications and 2 people were admitted to the program. There were no assessments still to be completed as of March 31, 2021.

Including existing and new participants, the program discharged 3 individuals in 2020/21, 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 2 active participants. There was 1 graduation in 2020/21, meaning this participant successfully completed the program.

# Specialty 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.

## Waywayseecappo Circle Court

This year, we would like to highlight the longevity and impact of the Waywayseecappo Circle Court. The Court originated more than 30 years ago, thanks to the efforts of then Associate Chief Judges Brian Giesbrecht and Murray Sinclair. The Waywayseecappo Circle Court sits on the Waywayseecappo First Nation, an Anishinaabe community, where the Ojibway language is spoken. The Court operates as a sentencing circle, issuing dispositions or sentences using a restorative justice approach. Sitting in a circle, the Court, with Elder participation, incorporates traditional Indigenous practices, including a pre-court smudging ceremony, opening and closing prayers by Elders, and the use of the Eagle Feather and tobacco. Circle participants can include the person to be sentenced, the victim or witnesses, a Provincial Court Judge, Waywayseecappo Elders, as well as a probation officer, community justice worker, Native Alcohol and Drug Addiction Program (NADAP) worker, and counselling resource person. The offence and its impact on the community are discussed so as to reinforce both accountability and community healing. All circle court participants have an opportunity to speak. At the conclusion, the Judge imposes sentence.

## Indigenous Justice Committees

The Provincial Court is committed to seeing the expansion of the Waywayseecappo community-based justice model in other Indigenous communities. Of note is the approach taken in both Peguis and Fisher River First Nations where Elders sit with the Judge in Court. The Elders speak to the offenders, bringing Indigenous principles and local context to the court proceedings. Indigenous Justice Committees in each of these Nations have been essential as a conduit between the court and accused persons from the community; they assist in conveying information to community members to ensure court attendance and prevent delay. Most recently, the committees have been invaluable in communicating court closures and providing up to date contact information from clients to counsel.

Lake St. Martin and St. Theresa Point First Nations also have very active community Justice Committees; these have been instrumental in connecting accused persons with rehabilitative resources, Elders, and cultural activities. In these communities, many matters are diverted by the Crown to restorative justice organizations. These Committees provide a valuable connection to the community and enhance the Court's ability to incorporate Indigenous justice principles into the criminal justice system.

# Child Protection and Family Maintenance Act files

The Court has jurisdiction over *The Child and Family Services Act* 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 161 new child protection files opened in the provincial court in the 2020/21 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 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 program. A third year law student was placed with the Court and provided valuable legal research for the judges of the Court to receive a course credit. The program was so successful the Provincial Court now has two students each term who provide valuable research memorandums for judges. With the pandemic the clerkship students’ work became completely virtual in the 2020/21 year. The clerkship experience was quite amenable to a remote platform with no decline in the benefit to the Court. The program has proved to be a valuable support for the judges of the Court and a rewarding experience for the law students.



# 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 or if a person could reasonably be identified as at fault in the death. 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, 2021, there were 15 inquest hearings ongoing and three inquests that had been called by the Chief Medical Examiner, which had not yet been scheduled to commence. The Court is seeing an increase in the number of inquests called. Since these hearings sit for several days in a row, and the availability of consecutive hearing dates is limited, this is an area we continue to monitor. Again, the pandemic has had an impact on the timely ability to proceed with inquests.

In 2020/21 there were three 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
Russell Spence	April 29, 2020	7 days	3 months
Taumas Justin Leblanc	May 16, 2020	4 days	4 months
Lewis Sitar	October 2, 2020	3 days	8 months*

\*A two month extension had been granted.

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 this annual report we continue to report on established priorities. The pandemic required a shift in focus from

a number of strategic plan priorities, to the safe delivery of essential judicial services in compliance with public health advice.

## A Snapshot of the Strategic Plan



# Strategic Plan

## Timely Access to Justice

Prior to March 31, 2020, there were a number of courtrooms throughout the province equipped with CISCO video equipment which connected with Correctional Centres. When the pandemic began, many in person court sittings were suspended, consistent with public health directives which required that everyone reduce non-essential contact. The pandemic did not spare Correctional Centres, which also experienced COVID-19 outbreaks. As a result, numerous inmates could not be transported in person for Court. Court services had to move quickly to secure additional equipment to enable other participants to appear on video; ultimately the Microsoft Teams (Teams) platform was selected for video appearances. Technical barriers arose between the existing video equipment and Teams appearances, with these two platforms not readily integrated. Court Services began work on bridging technology which would permit an individual to appear on video from a Correctional Centre with other court participants also appearing by video. Although a number of courtrooms province-wide were equipped with video platforms by fiscal year end, the bridging technology remained an ongoing project.

Although not ideal, in many scenarios, the Court relied on the telephone to allow persons to make a court appearance. Challenges included: unclear audio transmission, difficulty in maintaining court decorum, and management of multiple people calling in to the same proceeding.

## An Innovative Court of Excellence

This fiscal year our Court planned a virtual December education session. We were pleased to “host” a professor from British Columbia for a session on managing sexual assault trials.

When national in-person training for newly appointed judges was cancelled due to the pandemic, the Court adapted, continuing and leading its education program locally. In April 2020, an education program for newly appointed Manitoba judges was created and organized in a short time frame; an added Manitoba focus was provided by Associate Chief Judge Lord, Judge Carlson and Judge Rolston. While there was hope that newly appointed judges could receive the added benefits of in person training, in 2021 this was not to be. Once again, newly appointed judges received made-in-Manitoba training for both the substantive law and new judge skills’ programs.

This flexibility and creativity in the design and delivery of judicial education reflects the dedication of our Judges to being an innovative Court of excellence.

## Strengthen Public Trust and Confidence in the Justice System

Throughout the year we met with stakeholders to implement new ways of working so that court appearances could continue. We relied heavily on the Court’s website to communicate changes in court procedures to the public. The Court is aware that access to electronic means of attending court is not equal across the province. We continue to advocate with all partners for community-based initiatives that will facilitate remote attendance in court, when and where that is appropriate.

Throughout the pandemic, the “Face of the Court” committee continued to engage virtually with justice stakeholders, community organizations and educational institutions such as Robson Hall and the Manitoba Bar Association. The committee shared legal expertise and information about the work of the Court.

# Strategic Plan

## Focus on Indigenous Issues

Because of the pandemic, court sittings were suspended for many months in Indigenous communities. To ensure a safe return to the community, the Court worked collaboratively with all of the Indigenous communities where we hold hearings. In every case, before returning to an Indigenous community, the Chief Judge or an Associate Chief Judge contacted the Chief or Chief's designate to ensure we had the support of local leadership to return for court sittings. This required extensive communication to ensure a mutual understanding of the needs of each Indigenous community, as well as Court and community safety protocols.

The Provincial Court Indigenous Justice Committee continued to meet virtually throughout 2020/21 to plan and implement educational opportunities for judges to enhance cultural competence.

## Sound Infrastructure

The Court welcomed the announcement and progress on much-needed renovations to the Thompson and Dauphin courthouses. The renovations at the entrance of 408 York continued throughout the fiscal year. The judiciary has been actively involved in processes related to securing a new Integrated Case Management System.



# Judicial Education

The Provincial Court is committed to providing a minimum of 10 days of judicial education annually for each judge. Judicial education is planned and implemented under the direction of an Education Committee and the Chief Judge. 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 also provide quality judicial education opportunities, such as the American Judges Association and the International Association of Women Judges, to name a few.

As noted, the pandemic had a significant impact on in-person judicial education. As of April 1, 2020 all in-person education conferences were cancelled. Many education programs were cancelled outright as providers re-organized courses into an online format. Judges were encouraged to use digital seminars available from the National Judicial Institute for self-study on a variety of topics. The following list provides a sampling of the topic areas in which Manitoba Provincial Court judges received education this past fiscal year.

- French Language training
- National State Courts: E-Courts and Technology
- Sexual Assault Trials and Sentencing
- Hearing and Deciding Charter Issues
- Family Law Conference
- Indigenous Justice Issues

## Judicial Justices of the Peace Education

The Judicial Justices of the Peace receive significant "on the job" mentoring and training. New JJPs undergo intensive on the job training and job shadowing. In addition, there are two two-day education sessions annually, which all JJPs attend. A JJP Education committee chaired by an Associate Chief Judge meets regularly to identify and plan education opportunities for JJPs. The education topics covered in the 2020/21 fiscal year included:

- Search and Seizure
- *Domestic Violence and Stalking Act* and Protection Orders
- Youth and Adult bails
- Team building

# 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 the commissioner to have the decision reviewed by a judge of the Provincial Court. In 2020/21 there were two 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 2020/21 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, 2021 (based on the premise of a Judge retiring from judicial office with unused vacation leave) is \$802,564.39. The severance liability as of March 31, 2021 is \$329,545.14 for those Judges entitled to same and who were eligible to retire on March 31, 2021.

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, 2021 is \$1,132,109.50 (\$802,564.39 + \$329,545.14).







Available in alternate formats, upon request.