



The Provincial Court of Manitoba

Annual Report

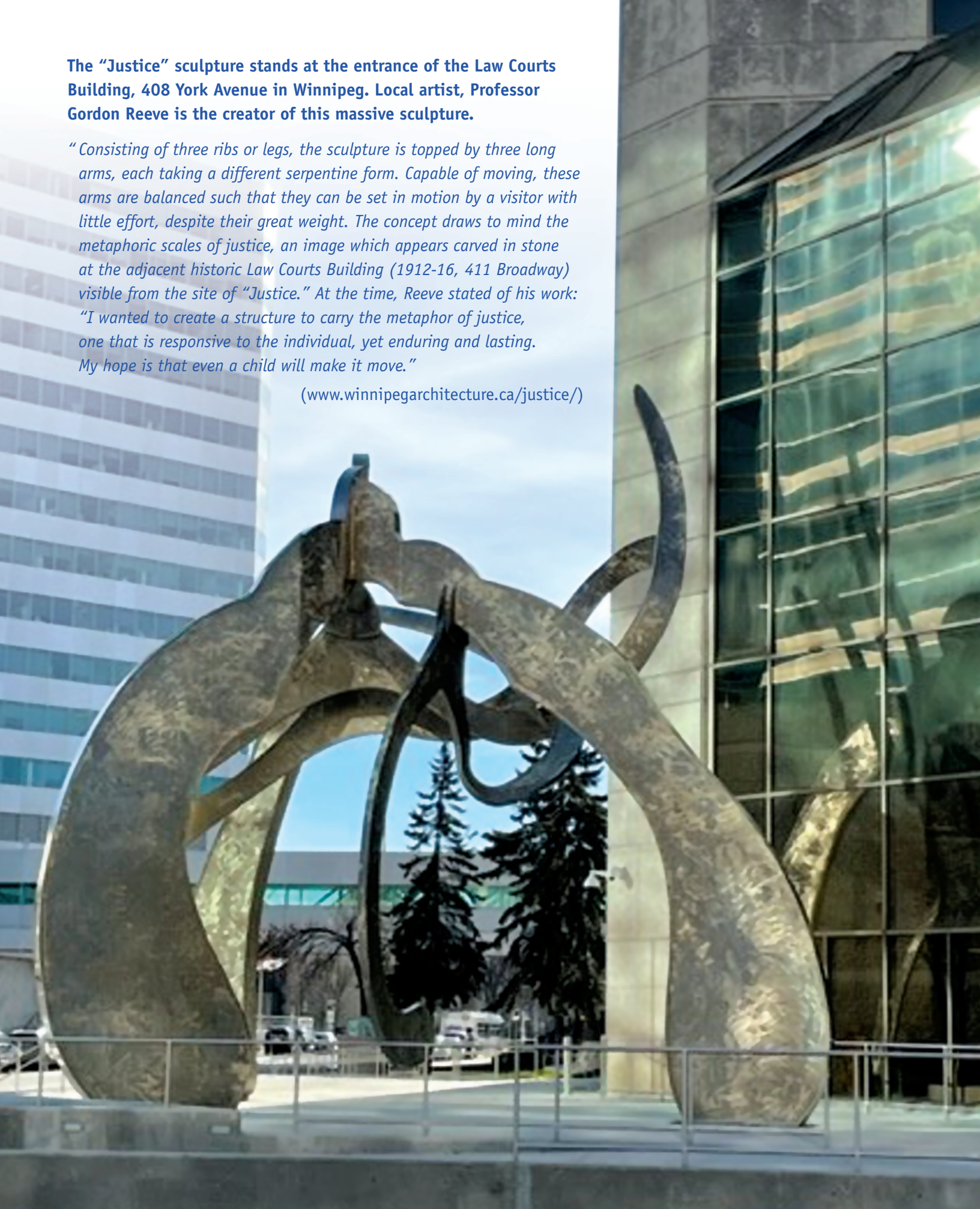
2021 ■ 2022



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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**TWENTIETH ANNUAL REPORT
PROVINCIAL COURT OF MANITOBA
Fiscal Year Ending March 31, 2022**

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 Twentieth Annual Report for the year ending March 31, 2022.

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,

Original signed by

Margaret Wiebe, Chief Judge
Provincial Court of Manitoba



The Honourable Chief Judge
Margaret Wiebe

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**VINGTIÈME RAPPORT ANNUEL
COUR PROVINCIALE DU MANITOBA
pour l'exercice terminé le 31 mars 2022**

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 vingtième rapport annuel pour l'exercice financier terminé le 31 mars 2022.

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.

Original signé par

Margaret Wiebe
Juge en chef de la Cour provinciale du Manitoba

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Chief Judge of the Provincial Court



The measure of the strength of an organization, is how well it can react under stress and how willing it is to embrace change in support of its objectives. I am proud to say the Provincial Court of Manitoba (the “Court”) has shown itself, throughout another challenging year, to be a strong and independent judicial entity committed to providing access to justice and upholding the rule of law.

Through the second year of the COVID-19 pandemic, the Court continued to focus on how best to provide judicial services while protecting the health and safety of court participants. The Court remained closed to the general public throughout the year. Plexi-glass remained up. Social distancing remained in place, and remote hearings were used where possible. While the Court did resume in person hearings in many communities as of April 2021, the Province of Manitoba continued to experience several devastating waves of Covid. This caused shutdowns to businesses, schools, as well as certain hearings of the Court. Despite this, over the course of the pandemic, the Court was always open to deal with all matters for individuals being held in custody.

Given the ongoing pandemic, the Court continued to accommodate hearings by video and telephone where appropriate. New policies, processes and accommodations were made in order to continue to provide judicial services.

Although the Courts remained closed to the public, measures were put in place to allow the public to attend certain hearings virtually with conditions applying to protect the integrity of court processes. The Court added additional Judicial Justice of the Peace hearings to address the timely release of individuals arrested overnight and held in custody at police facilities around the Province. We continued to use technology to accommodate virtual appearances and in particular embraced the use of the software platforms of Teams and Starleaf. Constraints on our ability to access technological tools affected our efforts to hear more matters remotely and to thereby enhance accessibility and efficiency.

In particular, these efforts were curtailed by a lack of broadband technology throughout the Province, as well as outstanding approvals for the use of certain technologies. The limited availability of broadband technology creates a particular disadvantage to court participants in the North, as the Court is not able to connect with many communities remotely. As was clearly demonstrated throughout the pandemic, the need to rectify this imbalance has never been more urgent. Further, security approval requirements prevented the Court from accessing a software solution, which would connect the Courts to correctional institutions in a more comprehensive manner. While we expected this issue to be resolved in the spring of 2020, we remain unable to access this software solution. As a result of these technological limitations, in-custody accused were unable to participate in virtual proceedings alongside their counsel and the Court.

The Court continued to work with stakeholders on innovative solutions. A new bail triage model was created which reduced in person requirements and which streamlined the bail process. A counter court model was adopted which allows first appearances and the setting of dates to be done remotely. Certain traffic hearings were dealt with by telephone, removing the need for a personal appearance. The Court engaged a consultant, Willowtree Consulting, to assist in assessing and addressing the growing backlog created by the pandemic. The consultant worked with members of the Court and judicial committees to consider best practices and lessons learned from the pandemic. Through this process, the Court developed metrics to measure and analyze Court performance against objectives going forward. We hope to include and report on these metrics in future Annual Reports.

The consultant also worked with the Judiciary, Court Administration and various stakeholders to explore options to resolve the pandemic-created backlog; to advance the modernization of the criminal court, using technology where appropriate; and to explore approaches targeting those most affected by the pandemic, specifically the impoverished and marginalized. This work is ongoing.

The Court remained active in other individual and committee initiatives, including access to justice, French language issues, promoting a better understanding and appreciation of judicial independence among government and the public, education of Judges and furthering the Courts strategic Indigenous objectives. We are also consulting on a new protocol for the Thompson Court Centre which will enhance front end processes and promote Court efficiency.

In this year we said farewell to Associate Chief Judge Malcolm McDonald, Judge Teresa McDonald (both retired January 2022) and Judge Tim Killeen (retired September 2021). We thank each of them for their commitment and dedication to providing access to justice to the people of Manitoba. Each of them had outstanding legal and judicial careers. We welcomed ACJ Donovan Dvorak as the new Regional Associate Chief Judge. In May 2021, the government announced the judiciary would have two net new judicial appointments. The Court had made the request for an increase in its judicial complement pre-pandemic to address the increase in its workload. At the time of this announcement, government also increased access to the Senior Judge program. Both of these announcements were very welcome and will assist in dealing with the pre-pandemic workload.

The vacancies left by these retirements were filled by Judge Todd Rambow who transferred to The Pas Court Centre from Thompson Court Centre in February 2022. Judge Vincent Sinclair was appointed to preside in Thompson on March 9, 2022, filling the additional judicial position created for the Thompson, Judicial Centre. On March 23, 2022, Judge Curtis Briscoe was appointed filling the vacancy left by Judge Rambow. The review of eligible candidates to replace Judge Killeen was completed by the Judicial Appointment Committee and communicated to Government in July 2021. The Court continues to wait for a judicial replacement to be named.

The Court is also waiting to fill the second vacancy in The Pas. Timely judicial appointments are an important tool in providing meaningful access to justice in all the communities we serve. This is particularly so given the current Court backlog.

The Court continued to demonstrate perseverance this year while dealing with COVID-19 and other challenges. This is a tribute to the Judges and Judicial Justices of the Peace, as well as our trial coordinators and staff serving the Provincial Court of Manitoba. Their dedication, tenacity and determination, was essential in our efforts to serve the people of Manitoba during this challenging time and we commend them for their efforts. The Court also recognizes with thanks the hard work performed by the staff of Court Administration and in particular its executive members as well as the many stakeholders who worked with the Court to maintain judicial operations and explore innovative solutions to the many issues that arose.

Juge en chef de la Cour provinciale du Manitoba



On mesure la force d'une organisation par la qualité de sa réaction au stress et sa volonté de s'adapter au changement pour réaliser ses objectifs. Je peux dire avec fierté que la Cour provinciale du Manitoba (la « Cour ») a prouvé, pendant une autre année difficile, qu'elle est une entité judiciaire forte, indépendante et déterminée à assurer l'accès à la justice et à maintenir la règle de droit.

Au cours de la deuxième année de la pandémie de COVID-19, la Cour a continué à se concentrer sur les meilleurs moyens de fournir les services judiciaires tout en protégeant la santé et la sécurité des utilisateurs des tribunaux. La Cour a été fermée au public pendant toute l'année. Les plexiglas sont restés en place. La distanciation physique était en vigueur et les audiences se déroulaient à distance dans la mesure du possible. La Cour a repris les audiences tenues en personne dans bien des collectivités en avril 2021, mais la province du Manitoba a continué à subir plusieurs vagues de COVID dévastatrices. Elles ont causé la fermeture d'entreprises et d'écoles et l'annulation de certaines audiences de la Cour. Malgré tout, pendant toute la pandémie, la Cour est demeurée ouverte pour traiter toutes les affaires concernant les personnes détenues.

Étant donné la persistance de la pandémie, la Cour a continué de tenir des audiences par vidéo et par téléphone lorsqu'elles convenaient. Elle a adopté des politiques et des processus nouveaux et apporté des adaptations afin de continuer à fournir ses services judiciaires. Même si elle est restée fermée au public, elle a pris des mesures pour lui permettre d'assister virtuellement à certaines audiences, sous réserve de conditions visant à protéger l'intégrité des processus judiciaires. La Cour a ajouté des audiences présidées par des juge de paix judiciaires afin d'assurer la remise en liberté en temps opportun des personnes arrêtées pendant la nuit et détenues dans les postes de police de la province. Nous avons continué à utiliser des technologies permettant la comparution virtuelle et, en particulier, nous avons intégré l'utilisation des plateformes numériques Teams et Starleaf. Des contraintes limitant notre capacité d'accéder aux outils technologiques ont nuí à nos efforts pour entendre plus d'affaires à distance et pour améliorer ainsi l'accessibilité et l'efficacité.

Ces efforts ont été entravés notamment par l'insuffisance de la technologie à large bande dans l'ensemble de la province et par des approbations en suspens concernant l'utilisation de certaines technologies. La disponibilité limitée de la technologie à large bande est un inconvénient particulier pour les utilisateurs des tribunaux du Nord, car la Cour n'est pas en mesure d'échanger avec de nombreuses collectivités éloignées. Cela a été établi clairement pendant la pandémie : la nécessité de corriger ce déséquilibre n'a jamais été plus urgente. De plus, des critères d'approbation liés à la sécurité ont empêché la Cour d'utiliser une solution logicielle qui relierait plus complètement les tribunaux aux établissements correctionnels. Nous avons prévu que ce problème serait réglé au printemps de 2020, mais nous sommes toujours incapables d'accéder à cette solution logicielle. En raison de ces limitations technologiques, des accusés détenus n'ont pas pu participer à des instances virtuelles de la Cour avec leur avocat.

La Cour a continué à collaborer avec les intervenants à l'élaboration de solutions novatrices. Il en a résulté un nouveau modèle de triage des demandes de cautionnement qui a réduit les exigences de comparution en personne et rationalisé le processus de cautionnement. Un nouveau modèle de « tribunal de comptoir » permet désormais

d'effectuer à distance les premières comparutions et la fixation des dates. Certaines audiences relatives à la circulation se sont tenues par téléphone, rendant inutile la comparution en personne. La Cour a chargé un consultant, Willowtree Consulting, de faciliter l'évaluation et l'élimination de l'arriéré croissant créé par la pandémie. Le consultant a collaboré avec les membres de la Cour et les comités judiciaires pour examiner les pratiques exemplaires et les leçons apprises de la pandémie. Dans le cadre de ce processus, la Cour a élaboré des indicateurs pour mesurer et analyser le rendement des tribunaux par rapport aux objectifs pour l'avenir. Nous espérons inclure ces indicateurs et décrire les résultats connexes dans les prochains rapports annuels. Le consultant a aussi collaboré avec la magistrature, l'administration des tribunaux et divers intervenants pour examiner les options qui permettraient de régler l'arriéré créé par la pandémie, pour faire avancer la modernisation des tribunaux pénaux à l'aide des technologies appropriées et pour explorer les approches ciblant les personnes les plus touchées par la pandémie, notamment les pauvres et les personnes marginalisées. Ces travaux se poursuivent.

La Cour est demeurée active dans le cadre d'autres initiatives individuelles ou de comité concernant par exemple l'accès à la justice, les enjeux liés au français, la promotion d'une meilleure compréhension et de l'appréciation de l'indépendance judiciaire auprès du gouvernement et du public, la formation des juges et la réalisation des objectifs stratégiques de la Cour liés aux Autochtones. Nous menons également des consultations sur un nouveau protocole pour le centre judiciaire de Thompson qui améliorera les processus initiaux et favorisera l'efficacité de la Cour.

Cette année, nous avons dit au revoir au juge en chef adjoint Malcolm McDonald, à la juge Teresa McDonald (tous deux ont pris leur retraite en janvier 2022) et au juge Tim Killeen (qui a pris sa retraite en septembre 2021). Nous remercions chacun d'entre eux de leur engagement et de leur dévouement envers l'accès à la justice pour la population du Manitoba. Ils ont eu des carrières remarquables dans le secteur du droit et de la justice. Nous avons accueilli Donovan Dvorak, le nouveau juge en chef adjoint régional. En mai 2021, le gouvernement a annoncé que la magistrature bénéficierait de deux nominations additionnelles au total. La Cour avait

demandé avant la pandémie une hausse du nombre de ses juges afin de compenser l'augmentation de sa charge de travail. Au moment de cette annonce, le gouvernement a aussi accru l'accès au programme de juges aînés. Ces deux annonces très bien accueillies faciliteront le traitement de la charge de travail qui existait avant la pandémie.

Les postes libérés par les juges retraités ont été comblés, notamment par le juge Todd Rambow, qui est passé du centre judiciaire de The Pas à celui de Thompson en février 2022. Le juge Vincent Sinclair, qui a été nommé pour présider au centre judiciaire de Thompson le 9 mars 2022, comble le poste de juge additionnel créé pour ce centre. Le 23 mars 2022, le juge Curtis Briscoe a été nommé pour combler le poste libéré par le juge Rambow. L'examen des candidats admissibles au poste libéré par le juge Killeen a été effectué par le Comité de nomination des juges et le résultat a été communiqué au gouvernement en juillet 2021. La Cour attend toujours la nomination du juge remplaçant. La Cour attend également que le second poste vacant à The Pas soit comblé. La nomination en temps opportun des juges est un outil important pour assurer un accès utile à la justice dans toutes les collectivités que nous servons. Cela est particulièrement vrai étant donné l'arriéré actuel de la Cour.

La Cour a continué à faire preuve de persévérance cette année pendant qu'elle composait avec la COVID-19 et d'autres défis. Cela témoigne de l'excellence des juges, des juges de paix judiciaires, des coordonnateurs des procès et du personnel qui servent la Cour provinciale du Manitoba. Leur dévouement, leur ténacité et leur détermination ont été cruciaux dans nos efforts pour servir la population du Manitoba en cette période difficile, et nous les félicitons pour leurs efforts. La Cour est aussi reconnaissante du travail acharné accompli par le personnel de l'administration des tribunaux, notamment ses membres cadres, et par les nombreux intervenants qui ont collaboré avec la Cour pour maintenir les activités judiciaires et envisager des solutions novatrices aux multiples problèmes rencontrés.

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 oversight of 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 ACJs are appointed for a non-renewable term of seven years. ACJ Anne Krahn was appointed in Winnipeg. Her term ends September 8, 2022. ACJ Tracey Lord was appointed on July 2, 2019 for a term that ends on July 1, 2026.

Associate Chief Judge Malcolm McDonald was appointed in The Pas, Manitoba on August 4, 2020. It was the first time an Associate Chief Judge was sworn in remotely by Teams. He joined the administrative team during a global pandemic at an extraordinarily challenging time. ACJ McDonald made valuable contributions as ACJ before retiring on January 4, 2022.

Associate Chief Judge Malcolm McDonald had an outstanding career both as a lawyer and a judge. After practising law for 27 years in Thompson, ACJ McDonald became a judge in The Pas on February 3, 2010. As a lawyer, ACJ McDonald was deeply involved in community activities and legal organizations. He was the Bench Representative for Northern Lawyers at the Law Society of Manitoba. In that capacity he sat on many committees

including the Access to Justice Committee, Committee on Governance, the Equity Committee, Complaints Investigation Committee and the Discipline Committee. He was a member of the Manitoba Bar Association and the Northern Bar Association, with which he held executive positions. Among the many organizations where ACJ McDonald dedicated his time were the Thompson Mental Health Association, the Rotary Club of Thompson, and the curling club. As a lawyer, ACJ McDonald was committed to pro bono work and mentorship to junior lawyers.



ACJ M. McDonald and Judge T. McDonald enjoying their retirement

As a member of the Bench, ACJ McDonald served on many committees, giving much time and expertise to our Court. ACJ McDonald was instrumental in creating the Family Rules. Other contributions include, membership on the Canadian Association of Provincial Court Judges' Access to Justice Committee, chairperson of the Facilities Committee, and frequent speaker at many of our education conferences. ACJ McDonald was also president of the Provincial Court Judges Association of Manitoba (PJAM) from 2016 -2017.

On January 19, 2022, ACJ Judge Donovan Dvorak was appointed to fill the position left vacant by ACJ McDonald's retirement.

Roles and Authorities of the Court

Provincial Court Judges

Provincial Court Judges are appointed by 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) judgement writing, researching law, public speaking, and committee work.

The Provincial Court of Manitoba now has 43 full-time judge positions. On May 11, 2021, the Minister of Justice, Cameron Friesen, wrote to the Chief Judge to advise of the creation an additional judicial position in Winnipeg and one additional position in Thompson.

There are six Provincial Court Centres in Manitoba with resident full-time judges:

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

There are 57 locations outside of the six court centers 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



Legend
 Circuit courts covered by Judges from the following centres:

- 📍 Winnipeg (Yellow)
- 📍 Portage la Prairie (Purple)
- 📍 Brandon (Pink)
- 📍 Dauphin (Green)
- 📍 The Pas (Orange)
- 📍 Thompson (Blue)

Roles and Authorities of the Court

Senior Judges

In addition to the complement of 43 full time positions for Provincial Court Judges, during this fiscal year there were twelve 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 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 the fiscal year for Senior Judge assignments, the second allotment to be used only when there was a vacancy on the Bench. In December 2019, the equivalent of two Judge's salaries became a permanent addition to the judicial complement. 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 had the benefit of 1500 additional days from Senior Judges to be used as required in the schedule. This additional time was relied on heavily to deal with the backlog caused by Covid-19 (when many regular sittings of the Court were suspended) and the increased complexity and demand for court time in general. In 2021/22, the Court relied on the Senior Judges on 725 days to provide much needed support. The Senior Judges program continues to be an essential part of meeting the Court's scheduling demands and promoting 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.

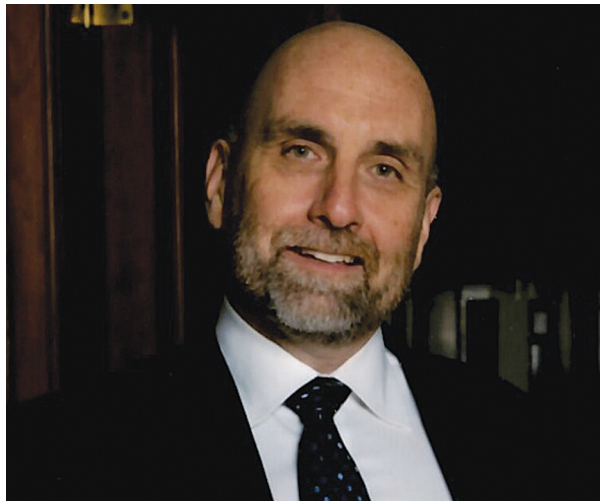
Judicial Justices of the Peace conduct trials, and sentencing hearings under *The Provincial Offences Act*, including *Highway Traffic Act* matters. Judicial Justices of the Peace also conduct hearings in relation to protection orders under *The Domestic Violence and Stalking Act*, and consider the issuance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

Roles and Authorities of the Court

Changes in Judicial complement from April 1, 2021 to March 31, 2022

The Court saw a number of retirements during the 2021-2022 fiscal year.

Judge Tim Killeen retired in September 2021 after sitting on the Bench for nine years. Judge Killeen contributed to the Manitoba Bar Liaison Committee, the Bail Committee, and the Informal Resolution Committee. He sat on the CAPCJ Access to Justice Committee and organized the Judge Shadowing program with the University of Manitoba. Judge Killeen shared his expertise with the team at Robson Hall for the Sopinka Cup National Trial Advocacy Competition and led them to considerable success. In the community, he is the current president of General Council of Winnipeg Community Centres and spent many years on the board of the River Heights Community Centre. Judge Killeen's work ethic, encyclopedic knowledge of the law, and common sense will be missed by the Court. Judge Killeen has agreed to continue to serve the citizens of Manitoba as a Senior Judge. We are fortunate to have the continued benefit of his experience.



Judge T. Killeen

Judges Michael Clark and Rachel Rusen were appointed on November 27, 2021 to fill the vacancies left by Judge Schille's retirement (on January 31, 2021) and to fill one of the net new judicial appointments.

Judge Theresa McDonald retired on January 4, 2022. Judge T. McDonald has been recognized for her dedication and excellence on numerous occasions, including being inducted into the Bertha Wilson Honour Society, receiving the Equality Award of the Manitoba Bar Association in 2016, the Isabel Ross (McLean) Hunt Award in 2017, and the CBA Cecilia Johnstone Award. Judge T. McDonald was recognized by the Canadian Bar Association in the Madam Justice series. Throughout her career, Judge T. McDonald demonstrated a deep and meaningful relationship with the people of the North. She has contributed substantially to access to justice issues particularly in the North.

The vacancies left by these retirements were filled by Judge Todd Rambow who transferred to The Pas Court Centre from Thompson Court Centre in February 2022. Judge Vincent Sinclair was appointed to preside in Thompson on March 9, 2022, filling the additional judicial position created for the Thompson, Judicial Centre. On March 23, 2022, Judge Curtis Briscoe was appointed filling the vacancy left by Judge Rambow.

As of March 31, 2022, the Court ended the year with two vacant judicial positions – one to fill Judge Killeen's position in Winnipeg Court Centre (retired September 2021) and one to fill the position in The Pas left vacant by Judge Teresa McDonald's retirement (January 2022).

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. For a more detailed description of suspensions since the onset of the pandemic, please see the Court's 2020-21 annual report. We continue to report below on the different periods of court suspension in the 2021-22 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.

- **April and May 2021** All criminal trials in all six court centers proceeded as scheduled. All in custody dispositions or dispositions where custody was being sought proceeded as scheduled. All non-custodial dispositions proceeded, if they could be done remotely. All docket appearances continued to be done virtually or with participants appearing remotely.

All circuit court trials and up to five in-person dispositions proceeded; additional dispositions could be added, if they could be done remotely. The following circuit courts opened: Altona, Arborg, Ashern, Beausejour, Berens River, Bloodvein, Brochet, Camperville, Churchill, Cranberry Portage, Easterville, Emerson, Flin Flon, Gillam, Gimli, God's River, Grand Rapids, Killarney, Leaf Rapids, Little Grand Rapids, Lynn Lake, Lundar, Minnedosa, Moose Lake, Morden, Norway House, Pauingassi, Peguis, Pine Falls, Poplar River, Roblin, Rosburn, Russell, Sandy Bay/Amaranth, Selkirk, Shamattawa, Sioux Valley, South Indian Lake, St. Boniface, St. Pierre, St. Martin, St. Theresa Point, Steinbach, Stonewall, Swan River, Virden.

The following circuit courts did not sit in May 2021, due to the rise of COVID variants of concern: Cross Lake, Easterville, Garden Hill, God's Lake, God's River, Lac Brochet, Nelson House, Oxford House, Pukatawagan, and Split Lake. Virtual dockets for these circuit courts proceeded in the related court center.

- **May 11 - May 31, 2021** All one day, out of custody trials set in Winnipeg and Brandon, and circuits out of Winnipeg and Brandon were suspended. All multi-days trials set in Winnipeg and Brandon proceeded. All continuations proceeded. All dispositions proceeded on the presumption they would be conducted remotely.
- **May 25 to June 25, 2021** All circuit court sittings in Manitoba were suspended. All out of custody trials were suspended. Continuations on out of custody trials proceeded, if they could proceed remotely. Out of custody trials could proceed, if they could proceed remotely. All dispositions proceeded on the presumption all parties appear remotely.

The Pandemic

■ **June 28 to August 27, 2021** Courts began to re-open incrementally. All trials, preliminary inquiries, and inquests proceeded as set in the six court centers. Dispositions proceeded on the presumption all parties appear remotely. In regional court centers up to five in person or remote dispositions could proceed on one docket.

The following circuit courts opened for trials and five dispositions, or up to 10 dispositions if no trials were set; docket matters were dealt with virtually: Altona, Arborg, Ashern, Beausejour, Berens River, Bloodvein, Camperville, Churchill, Cranberry Portage (no dates set), Easterville, Emerson, Flin Flon, Gillam, Gimli, Grand Rapids, Killarney, Leaf Rapids, Little Grand Rapids, Lynn Lake, Lundar, Minnedosa, Moose Lake, Morden, Norway House, Pauingassi, Peguis, Pine Falls, Roblin, Rosburn, Russell, Sandy Bay/Amaranth, Selkirk, Sioux Valley, Snow Lake (no sittings), South Indian Lake, St. Boniface, St. Pierre, St. Martin, St. Theresa Point, Steinbach, Stonewall, Swan River, Virden, Waywayseecappo.

■ **Starting July 21, 2021** Cross Lake, God's Lake, Oxford House, Split Lake, St. Martin re-opened.

■ **August 30, 2021** The presumption of remote appearances for dispositions on adult matters and all youth matters was removed. Counsel could attend remotely with two days notice to the trial coordinators. Counsel could continue to attend bail applications remotely.

Provincial offences courts re-opened for limited in-person hearings; some proceeded virtually.

All circuit locations opened for trials and up to five dispositions, or ten dispositions if no trials were set. Dockets continued to be virtual.

■ **October 2021** Judicial Justice of the Peace dockets which deal with first appearance and administrative processing returned in-person to Split Lake, Oxford House, Shamattawa, Cross Lake, Gods Lake Narrows, Nelson House, and Norway House. Time slots were used for large dockets.

■ **January 4 to February 25, 2022** the following matters were suspended: out of custody trials, continuations, special sittings and preliminary inquiries, gun prohibition hearings, private prosecution hearings, all fly-in circuit locations, all child protection, *Family Maintenance Act*, private guardianship trials. Dispositions proceeded on the presumption the parties appear remotely.

■ **Effective February 28, 2022** All trials, dispositions, special sittings and circuit courts resumed. Counsel could seek permission to appear remotely. Accused persons were directed not to attend in person if nothing substantive was happening on their charge. Counsel could appear remotely or in person for bail applications. Provincial offences court (mostly traffic matters) resumed. Administrative or first appearance dockets, presided over by Judicial Justices of the Peace for northern communities continued to be held remotely in Thompson (these resumed in person on April 19, 2022).

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 to gather and report this information.

In previous annual reports we emphasized the need for updated information systems so the Court can collect data, measure performance, and increase efficiency. At this time, we are not able to capture reliable information 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. We continue to work with our stakeholders to emphasize the need for updated, integrated information systems.

In the 2019/20 annual report we reported that the government announced its intention to procure an integrated case management system (ICMS). The ICMS is intended to modernize the court's information systems, reduce the reliance on paper, and provide increased public access to online systems. At the end of this fiscal year, we were advised the procurement process was still underway. 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.

As previously reported, 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. 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. Unfortunately, this system does not allow other court participants to also appear using videoconference technology; other court participants are required to be physically present in the courtroom so the accused person on video can see and hear them. When Covid-19 outbreaks in correctional centres 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 to the trial appeared in a courtroom in person.

Court Services invested significant resources to equip courtrooms around the province with MS Teams 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 developing bridging technology so the accused person, counsel, and the judicial officer, could all attend remotely. This work remained ongoing at the end of March 2022.

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. The collaboration of Manitoba Prosecutions and Legal Aid Manitoba ensured counsel were involved at this early stage of a person's arrest and detention.

There are many northern communities where we were unable to attend for court throughout most of the pandemic. In many cases, these communities do not have facilities or internet connections. We tried to continue by conducting these dockets by telephone from Thompson. However, in the majority of cases, matters could not advance given the inability of defence counsel to meet with or contact their clients. Traditionally, the majority of this contact occurred when counsel attended the community in person. The pandemic has widened the gap between the services available to some of the most vulnerable and impoverished remote communities in northern Manitoba, and those available elsewhere in the Province.

We continue to emphasize that technological solutions – including internet and cell phone service – 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 centers in Manitoba. Winnipeg continues to have more appearances per case than the other regional court centers, largely attributable to a higher volume of charges and greater frequency of court sittings. Matters are remanded for shorter time periods but appear more frequently. Over five years, all court centres appear to be showing an upward trend, with the last year demonstrating a more dramatic increase in the average number of appearances. Court suspensions during the pandemic resulted in matters being remanded more frequently until court proceedings could resume at a higher capacity. While this metric measures the number

of times a matter appeared on a court docket, it does not necessarily tell us if a charged person actually appeared. The Court's pandemic policies required people to appear in person only when the matter would proceed in a substantive way, such as a disposition or a trial. In all other cases, counsel could speak to the matter; where a person was self-represented they could appear in person. The increase in the number of appearances reflects an increase in matters being remanded during pandemic-related court suspensions, often with counsel struggling to maintain remote contact with clients.

The Court remains committed to a simplified process for the disposition of charges as a means of promoting access to justice. We will continue to monitor these trends.

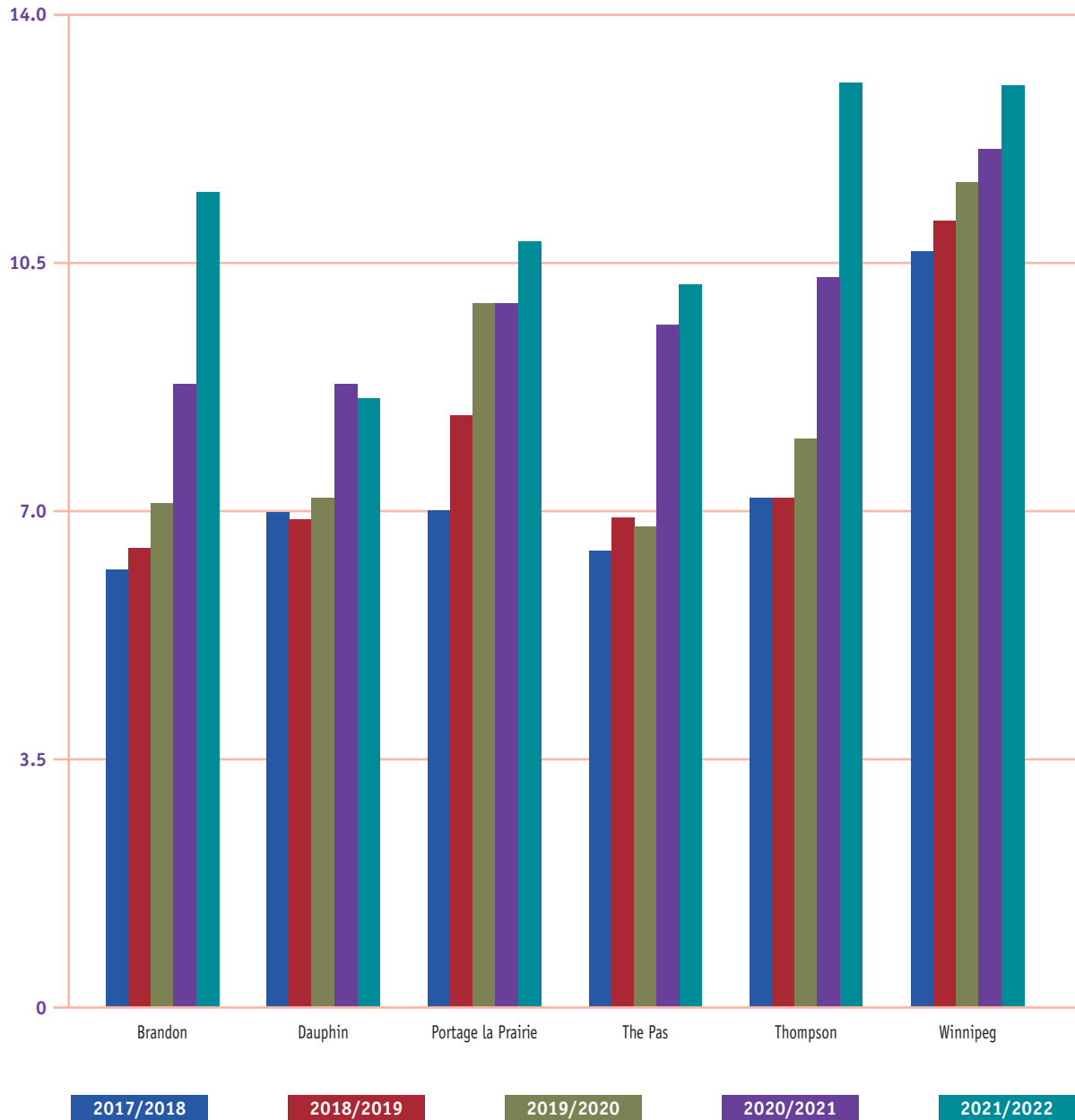
Figure 1 – Average number of appearances to disposition by court centre, last 5 years

Court Centre	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	Average
Brandon	6.2	6.5	7.1	8.8	11.5	7.7
Dauphin	7.0	6.9	7.2	8.8	8.6	7.5
Portage la Prairie	7.0	8.4	9.9	9.9	10.8	9.1
The Pas	6.4	6.9	6.8	9.6	10.2	7.6
Thompson	7.2	7.2	8.0	10.3	13.0	8.6
Winnipeg	10.7	11.1	11.6	12.1	13.0	11.6
Global Average*	9.2	9.6	10.2	11.3	12.4	10.4

* 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, 2021/2022



Provincial Court Performance Measures

Time to Disposition

The Court disposed of 33,483 cases during the 2021/22 fiscal year. This is an increase of 1289 cases from last year. The number of cases remains significantly lower than pre-pandemic – 24% less cases in the court system. 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.

The vast majority of informations (91%) were concluded in less than 18 months. This is a decrease from last year when 95.6% of charges were disposed of in Provincial Court in the same timeframe. 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, the delay risks breaching the charged person’s *Charter* right to trial in a reasonable time. In 2019/20 (pre-pandemic) we reported 77.4% of cases disposed of in less than 8 months, last year that number decreased to 70% and this year that number further declined to 63%. The number of cases disposed of in the 8 to 18 month range increased from 20.3% to 27.8% this year. The number of cases taking longer than 18 months to complete increased from 3.6% to 9% this year. These numbers reveal that despite less cases in the system, they are taking longer to complete than in previous years. Again, this is largely attributable to the pandemic and the suspension of court proceedings.

In October 2019, the Court assumed responsibility for scheduling of all trials in Winnipeg; this was previously done by the Crown’s office. Within the criminal justice system it is common knowledge that a high number of trials collapse on the trial day. We do not have data to demonstrate the number of trials which proceed and the number resolved in another fashion.

We have started manually tracking these figures and have found that on average 80% of trials set in Winnipeg do not proceed. Many charges are stayed or resolved with a guilty plea on the day of trial. To make the most effective use of court time, the Courts’ trial coordinators contact counsel in advance of the trial date to determine whether the matter 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. On rare occasion, there are more trials ready to proceed than there are available courtrooms or court time. Determining historic trial collapse patterns requires an understanding of the reasons matters do not proceed to trial as scheduled. This information should be captured in a systematic way to optimize the scheduling of judicial resources.

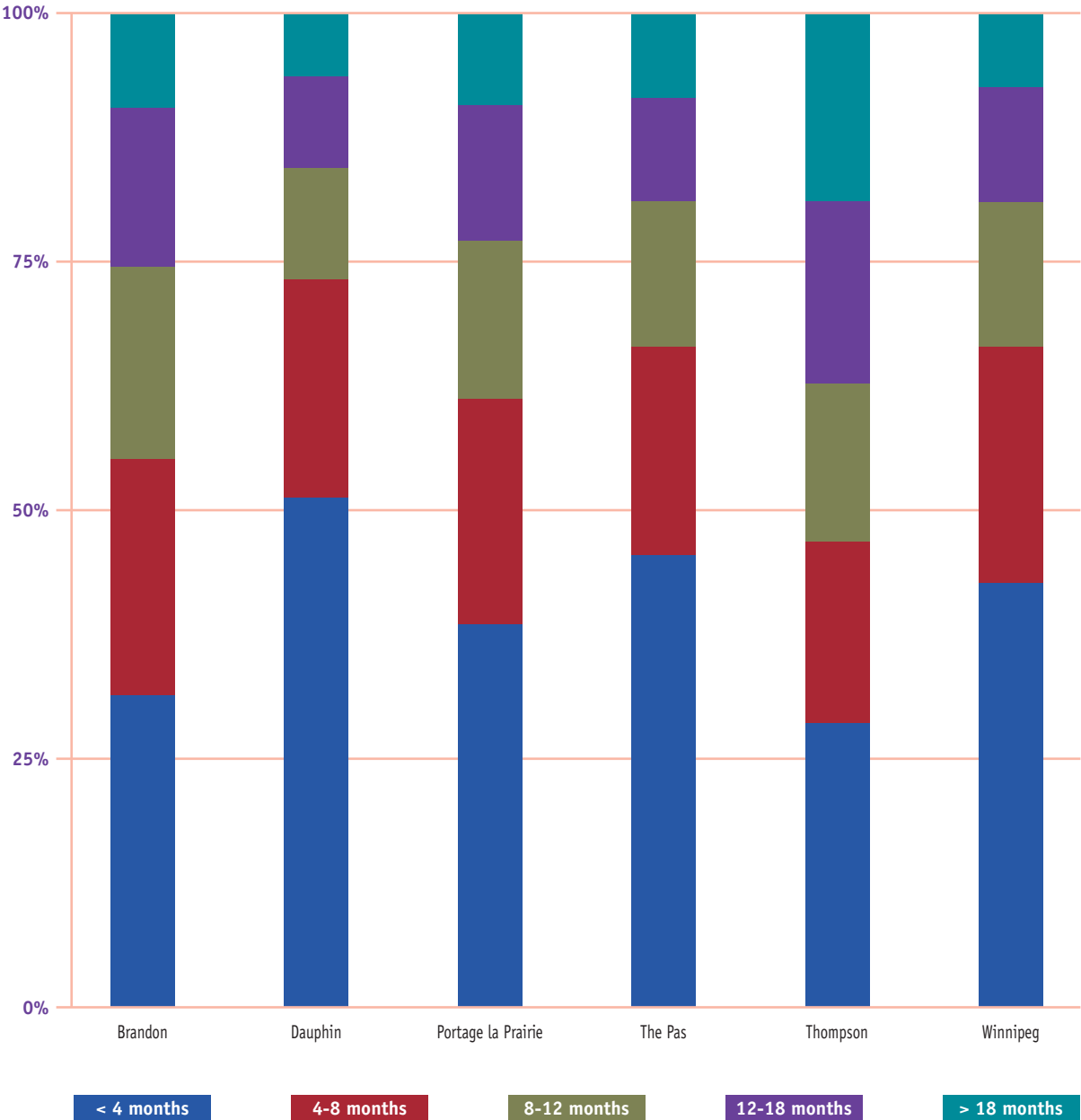
The charts below breakdown the average length of time taken for matters to be disposed of by judicial center.

Figure 2 – Informations disposed by court centre and time to disposition, 2021/2022

Court Centre	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
Brandon	962	719	588	488	287	3,044
Dauphin	789	333	172	141	99	1,534
Portage la Prairie	571	332	235	200	138	1,476
The Pas	641	293	208	145	120	1,407
Thompson	1,170	737	650	743	769	4,069
Winnipeg	9,383	5,210	3,214	2,535	1,611	21,953
Total	13,516	7,624	5,067	4,252	3,024	33,483

Provincial Court Performance Measures

Figure 2 – Informations disposed by court centre and time to disposition, 2021/2022



Provincial Court Performance Measures

Figure 3 below provides a breakdown by severity level of cases disposed of in the 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. 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 largely constant from year to 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 carefully considering whether particular conditions, imposed as part of a disposition or release, are necessary in the circumstances of a case. We continue to explore options with other justice system partners.

Figure 3 – Disposed informations by most severe included charge, 2021/2022

Most severe charge	Informations	Percentage of total	Percentage of level
Administration of Justice (AOJ)	13,902	41.52%	
AOJ Other	4,540	13.56%	33%
Police Release - Fail to Attend (FTA) Court	3,031	9.05%	22%
Adult Probation - Report	2,242	6.70%	16%
Court Release - Curfew	996	2.97%	7%
Police Release - FTA Ident/DNA/Register	847	3%	6%
Court Release - FTA Court	833	2.49%	6%
Police Release SP - Non-contact	523	2%	4%
Court Release - Reside/Remain/Notify	469	1.40%	3%
Court Release - Non-contact	421	1.26%	3%
Substantive level 1 (S1)	2,287	6.83%	
Impaired Operation	812	2.43%	36%
Other Controlled Drugs and Substances Act - Possession	546	1.63%	24%
S1 Other	428	1.28%	19%
HTA - Licence/Registration/Insurance	210	0.63%	9%
Refuse/Fail to Comply/Provide Sample - Causing Bodily Harm (CBH)	191	0.57%	8%
HTA - Drive While Disqualified	100	0.30%	4%

Provincial Court Performance Measures

Figure 3 – Disposed informations by most severe included charge, 2021/2022 (Continued)

Most severe charge	Informations	Percentage of total	Percentage of level
Substantive level 2 (S2)	6,746	20.15%	
Assault	2,591	7.74%	38%
Theft \$5,000 or under	1,025	3.06%	15%
Utter Threats	959	2.86%	14%
Mischief	923	2.76%	14%
Other Provincial Statutes	437	1.31%	6%
S2 Other	313	0.93%	5%
Assault Peace Officer	265	0.79%	4%
Obstruct/Resist Peace Officer	233	0.70%	3%
Substantive level 3 (S3)	6,447	19.25%	
Assault With a Weapon/CBH	1,548	4.62%	24%
Possession of Weapons	1,322	3.95%	21%
S3 Other	1,126	3.36%	17%
Other Controlled Drugs and Substances Act - Trafficking	928	2.77%	14%
Possession of Stolen Goods \$5,000 or under	425	1.27%	7%
Possession of Stolen Goods over \$5,000	415	1.24%	6%
Driving While Prohibited/Disqualified/Suspended (CCC)	380	1.13%	6%
Fraud	303	0.90%	5%
Substantive level 4 (S4)	2,748	8.21%	
Break and Enter	1,159	3.46%	42%
S4 Other	439	1.31%	16%
Weapons Possession Contrary to Order	348	1.04%	13%
Sexual Assault	341	1.02%	12%
Forcible Confinement	219	0.65%	8%
Sexual Interference	157	0.47%	6%

Provincial Court Performance Measures

Figure 3 – Disposed informations by most severe included charge, 2021/2022 (Continued)

Most severe charge	Informations	Percentage of total	Percentage of level
Firearms Documentation/Administration	85	0%	3%
Substantive level 5 (S5)	1,125	3.36%	
Robbery	574	1.71%	51%
Aggravated Assault	406	1.21%	36%
S5 Other	52	0.16%	5%
Weapons Trafficking/Manufacture	47	0%	4%
Sexual Exploitation by Person in Trust/Authority	46	0%	4%
Substantive level 6 (S6)	159	0.47%	
Discharge Firearm with Intent	101	0.30%	64%
Kidnapping	25	0.07%	16%
Incest	12	0.04%	8%
S6 Other	11	0.03%	7%
Aggravated Sexual Assault	10	0.03%	6%
Substantive level 7 (S7)	69	0.21%	
Murder 2nd degree	30	0.09%	43%
Attempted Murder	19	0.06%	28%
Manslaughter	17	0.05%	25%
S7 Other	3	0%	4%
Grand Total	33,483	100%	

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.

Overall, the vast majority of cases are still completed in 18 months or less, indicating the Court is generally in compliance with the Supreme Court of Canada’s *Jordan* guidance. However, over the last two years, the pandemic has left a significant impact on time to disposition. In 2019/20, the percentage of all cases which took longer than 18 months was 2.8%, last year that number had risen to 4.3%, and this year it is up further to 9% of all cases (including all severity levels).

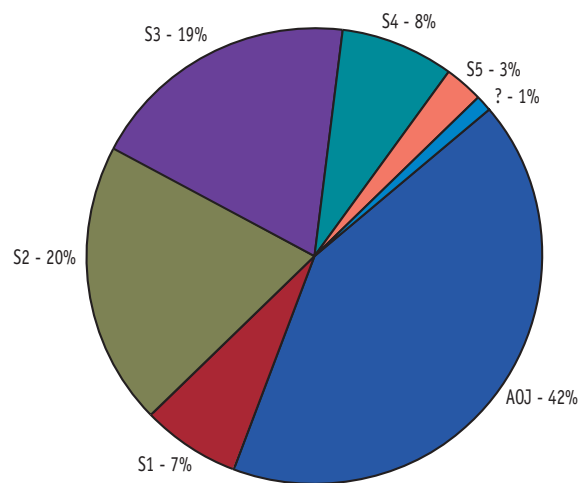
The Court would expect that the most serious cases in the system take the longest to complete, and the least serious, the least amount of time. Looking at the data from this perspective, the picture has worsened from that

prior to the pandemic. In 2019/20, 84% of all severity level one cases – largely composed of administration of justice (AOJ) offences like breaches of court orders – were completed in less than eight months. In 2020/21, this number declined to 79% of severity level one cases resolved in the same time frame and in 2021/22, 71.5%.

The Court tries to prioritize cases of highest severity, to ensure they are completed in a timely manner. Again, the last two years has seen this metric worsen. In 2019/20, 5.7% of all cases categorized as severity level 4 to 7, were completed in more than 18 months. In 2020/21, that number rose to 7.9% and in 2021/22, to 16.3%.

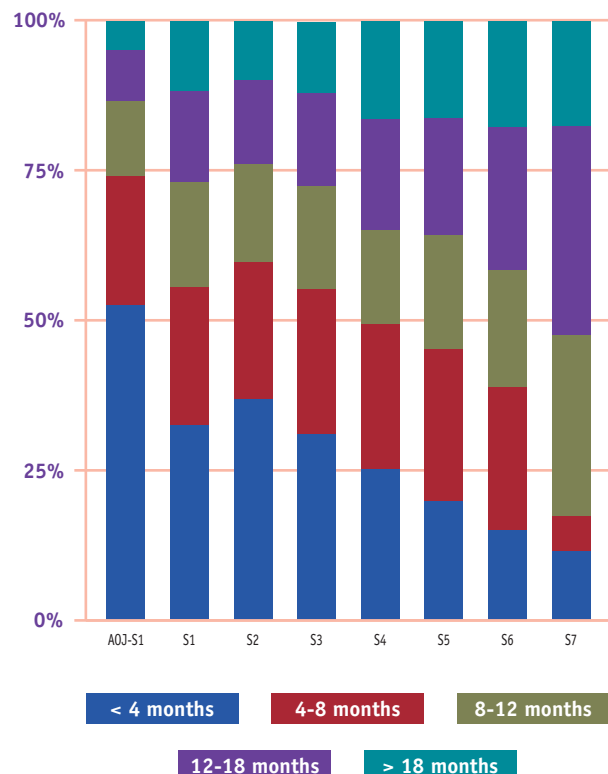
The Court is aware of the growing pandemic related backlog and has been working with other justice system stakeholders on options to address the backlog moving forward.

Figure 4 – Number of informations disposed in 2021/2022 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, 2021/2022



Provincial Court Performance Measures

Figure 5 – Disposed informations by offence type and time to disposition, 2021/2022

Most severe charge	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
A0J-S1	7,315	3,001	1,759	1,158	669	13,902
S1	746	528	403	346	264	2,287
S2	2,494	1,546	1,109	940	657	6,746
S3	2,005	1,560	1,103	1,015	764	6,447
S4	698	663	427	511	449	2,748
S5	226	284	214	220	181	1,125
S6	24	38	31	38	28	159
S7	8	4	21	24	12	69
Total	13,516	7,624	5,067	4,252	3,024	33,483

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 take the longest to complete, with the less serious cases completed in the least amount of time.

The time to disposition has increased for severity level 1 to 5 offences. The time to disposition for severity level six offences has remained the same as last year. The average time to disposition for severity level 7 cases decreased from 337 days to 326 days this year.

As the number of severity level 7 cases is relatively small (see figure 5 which shows 12 severity level 7 cases completed in more than 18 months), variations in the average number of days to disposition by court center may not be statistically significant.

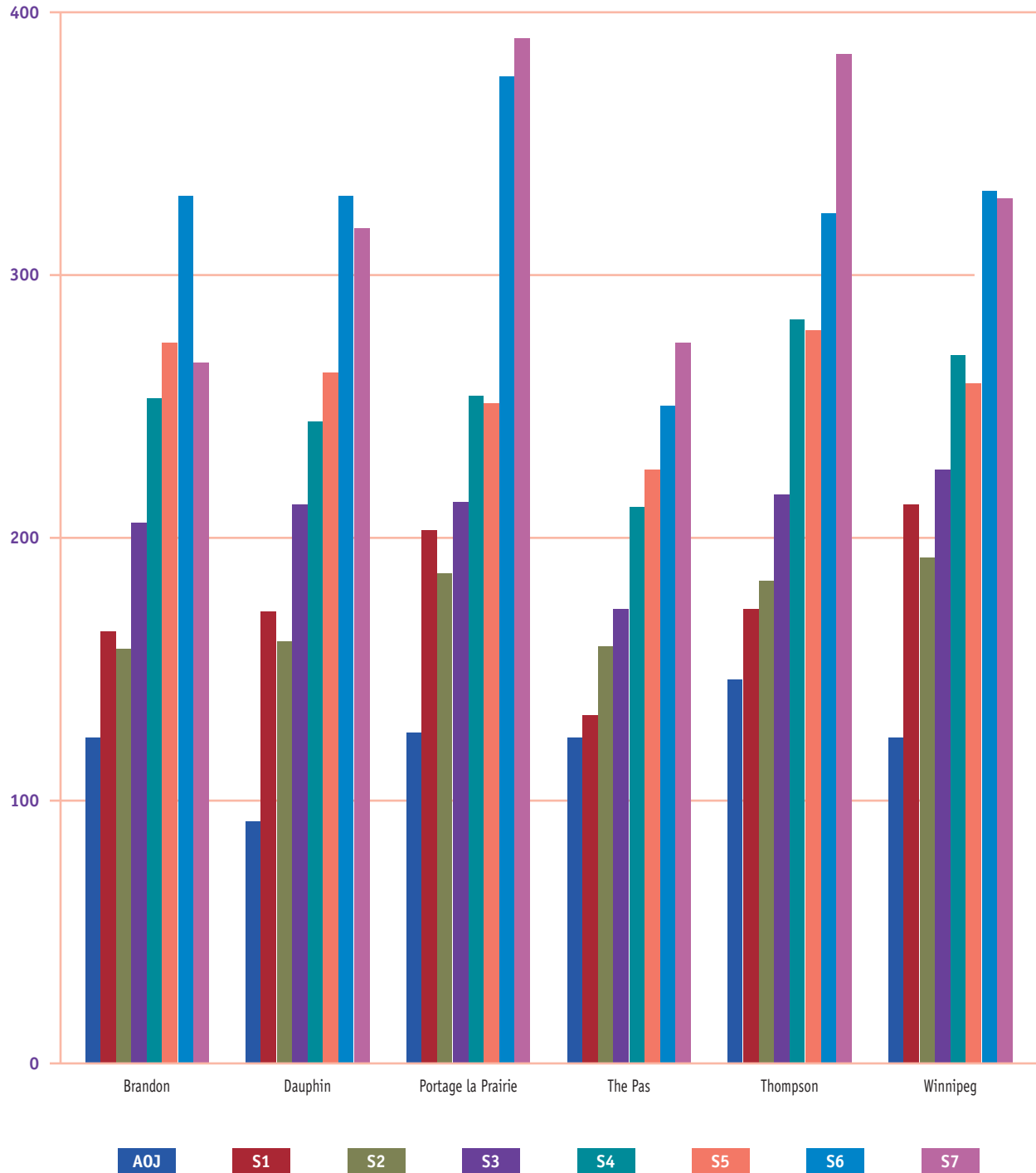
Figure 6 – Average days to disposition by court centre and offence type, 2021/2022

Court Centre	Type of most severe included charge							
	A0J	S1	S2	S3	S4	S5	S6	S7
Brandon	124	165	158	205	253	274	330	267
Dauphin	92	172	161	212	245	263	330	318
Portage la Prairie	126	203	187	214	254	251	376	390
The Pas	124	133	159	173	212	226	251	274
Thompson	146	173	184	217	283	279	323	384
Winnipeg	124	213	192	227	270	259	332	329
Global Average*	125	198	184	220	265	261	327	326

* 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, 2021/2022



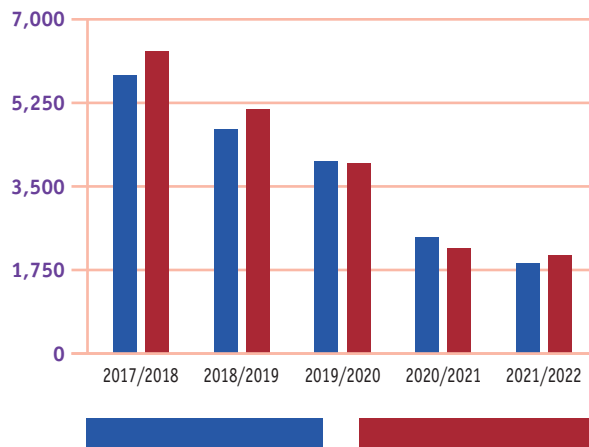
Provincial Court Performance Measures

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 a 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.

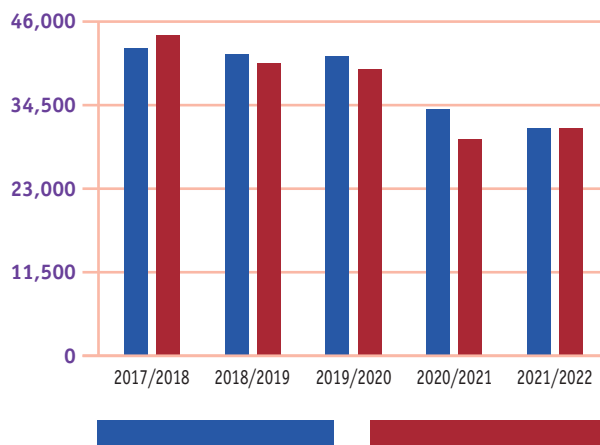
Last year, there were less cases disposed of than entered the justice system. This year, the court achieved an improved balance: in the youth system, it disposed of more cases than entered the system; in the adult system, it disposed of the same number of cases as entered the system.

Figure 7 – Youth Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2017/2018	5,839	6,337	109%
2018/2019	4,694	5,100	109%
2019/2020	4,002	3,987	100%
2020/2021	2,428	2,207	91%
2021/2022	1,865	2,067	111%

Figure 8 – Adult Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2017/2018	42,578	44,279	104%
2018/2019	41,668	40,427	97%
2019/2020	41,448	39,679	96%
2020/2021	33,989	29,758	88%
2021/2022	31,308	31,416	100%

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 1417 authorizations and JJPs reviewed 2867 requests for judicial authorizations for a total of 4284 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. There was a slight decline in total authorizations considered from last year, when a total of 4477 authorizations were considered.

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

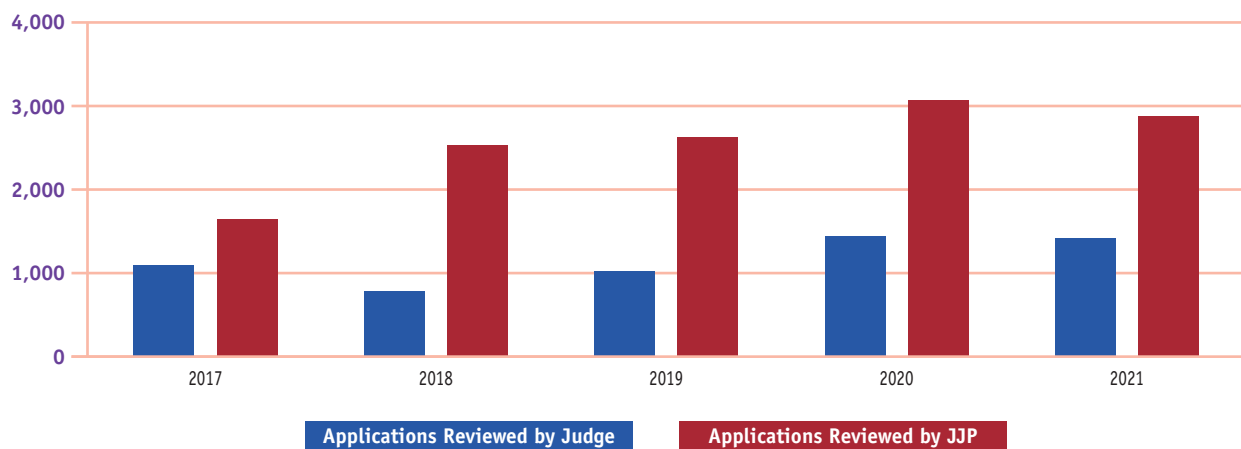
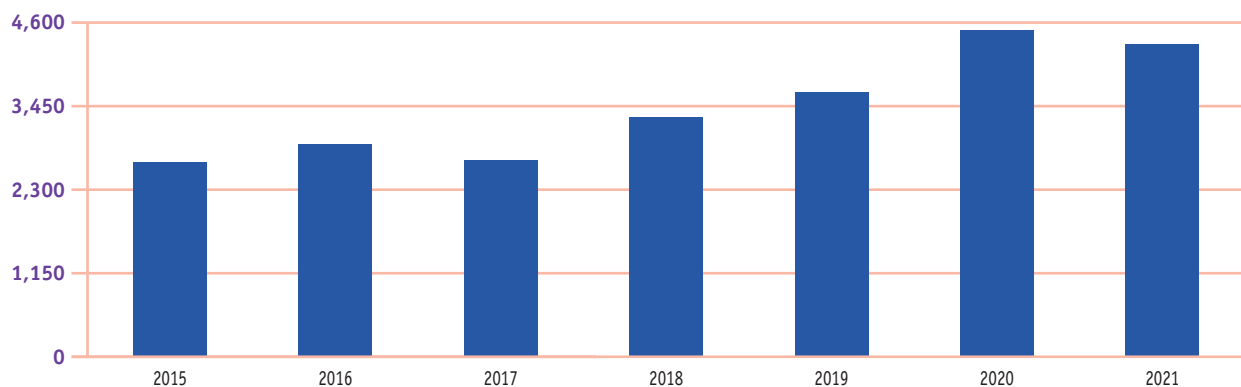


Figure 10 – Total Number of Judicial Authorizations



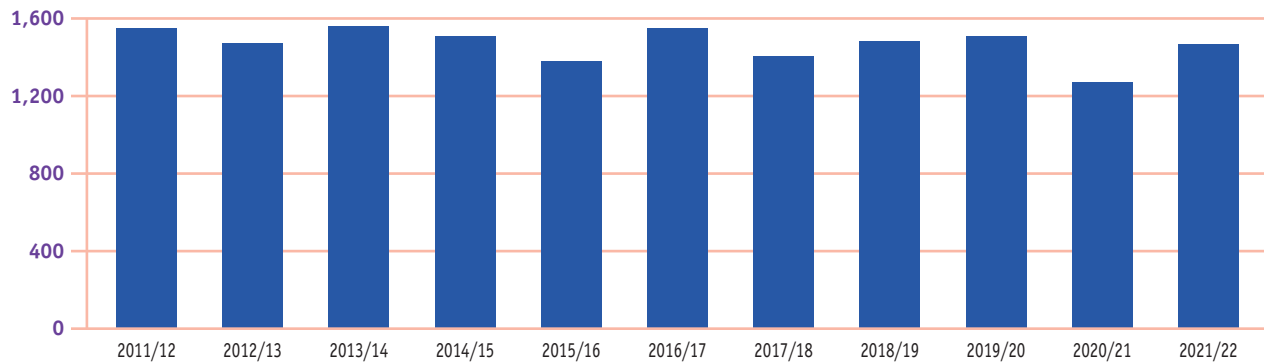
Protection Orders

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 by 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 Judicial Justice of the Peace 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.

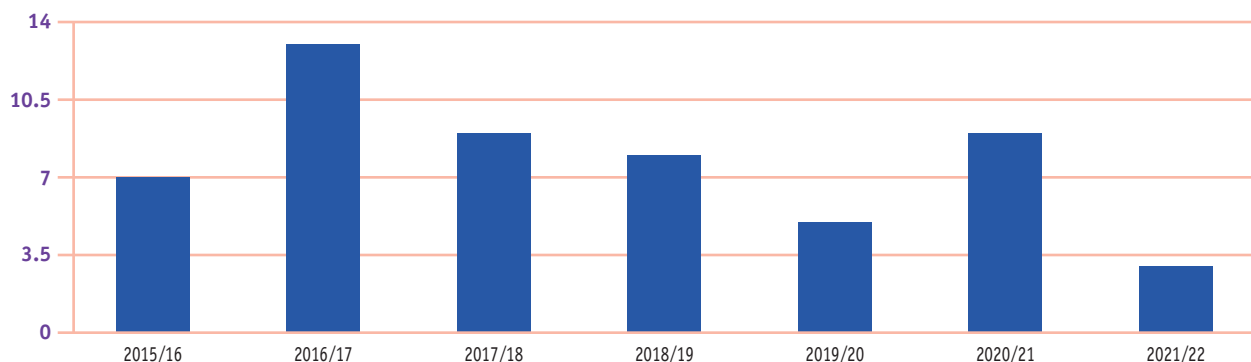
Figure 11 – Number of Protection Order Applications Under *The Domestic Violence and Stalking Act*



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 offence 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* matters proceeding to hearing.

Figure 13 – Number of Hearings Set

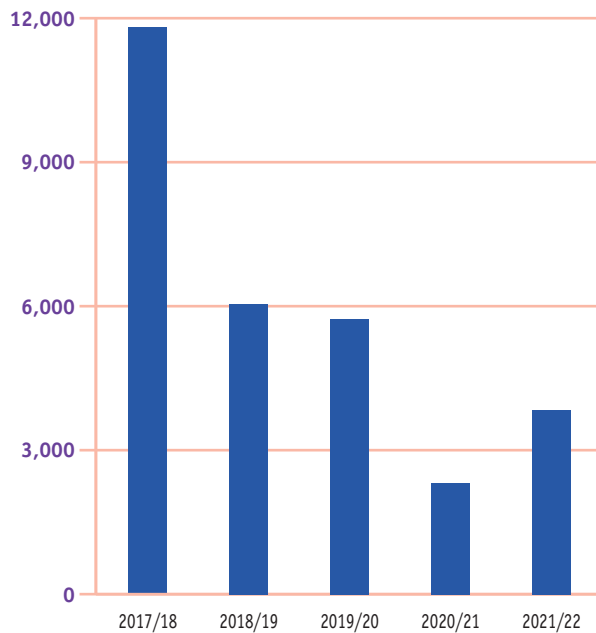
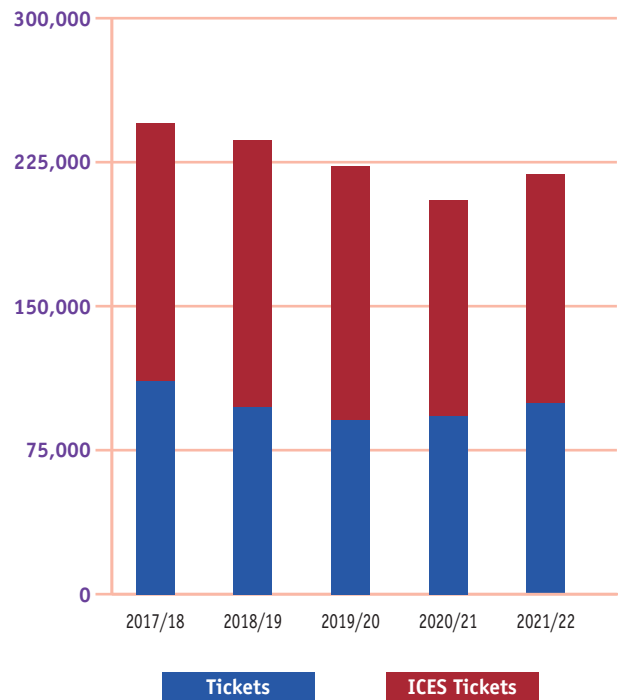


Figure 14 – Number of New Tickets Issued



Problem-Solving Courts

The Provincial Court of Manitoba has a number of Problem-Solving Courts. Problem Solving Courts, also known as specialty courts use a restorative justice team approach in which the Court partners 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 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 evaluation of this Court looked at data during the 2018/19 fiscal year. The full report, completed by University of Manitoba Associate Professor Colin Bonnycastle, can be found on the Manitoba Court's website. This report identified a number of shortcomings in the empirical data and made recommendations to address them. The report identified that on average, in one month, over 30 matters appeared in the Thompson Domestic Violence Court. The experiential responses from participants, appended to the report, reflect an overwhelmingly positive experience.

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 2021/22, the program received 34 applications for assessment for program amenability. There were 24 completed assessments, 5 people were denied admission or withdrew their applications and 21 people were admitted to the program. There were 22 assessments still to be completed as of March 31, 2022.

Including existing and new participants, the program discharged 12 individuals in 2021/22, 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 21 active participants. There were 8 graduations in 2021/22, meaning those participants successfully completed the program.

Westman Drug Treatment Court

We reported in the last annual report the foundational work which had been undertaken to open a Drug Treatment Court in Brandon for those persons who reside in the Westman region of the province. We are pleased to announce the Westman Drug Treatment Court opened this year.

During 2021/22, the program received five applications for assessment for program amenability. There were four completed assessments of which two people were denied admission or withdrew their applications and four people were admitted to the program. There were zero assessments still to be completed as of March 31, 2022.

Including existing and new participants, the program discharged one individual in 2021/22, 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 four active participants. There were two graduations in 2021/22.

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 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 is 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

The Waywayseecappo Circle Court sits on the Waywayseecappo First Nation, an Anishinaabe community, where the Ojibway language is spoken. The Court originated more than 30 years ago, thanks to the efforts of then Associate Chief Judges Brian Giesbrecht and Murray Sinclair. 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 *Child and Family Services Act* (child protection) and *Family Maintenance Act* matters in regional areas, outside Winnipeg. As in previous annual reports we report the number of “new” files opened in this fiscal year. There were 207 new child protection files opened in the Court in the 2021/22 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.

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 similar future circumstances. 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, 2022, there were eleven inquest hearings ongoing and 19 inquests had been called by the Chief Medical Examiner but had not yet been scheduled to commence or were scheduled to begin after March 31, 2022. Four of the 10 inquests that were still to be heard were later joined to be heard in one inquest. There were two inquests which had been completed with reports still to be released.

In 2021/22 there were two 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
Richard Kakish	July 9, 2021	18 days	6 months
William Saunders	May 20, 2021	6 days	2 months

This report speaks to the significant backlog of criminal cases arising from pandemic-related court closures. At the same time, there has been a dramatic rise in the number of inquests called in the last two years, which consume a significant amount of court time. So as to prioritize criminal cases and manage the limited resources of the Court, including court time for multi-day hearings, the Court will not be scheduling inquest hearings until at least the fall of 2023.

In 2018, the *Fatality Inquiries Act* (FIA) was amended to afford some discretion to the Chief Medical Examiner on when to call an inquest. For example when the circumstances of the death were already known or if another Act would already require a review and recommendations to prevent a death in similar circumstances, the medical examiner may opt not to call an inquest.

Strategic Plan

In the spring of 2018 the Court held a strategic planning session. We created a strategic plan and set priorities for our 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 identified five strategic priorities. We are pleased to report on the steps taken to further our priorities.

A Snapshot of the Strategic Plan



Strategic Plan

Timely Access to Justice

In the spring of 2021, to advance access to justice, the Court began working with Willowtree Consulting to explore:

- options to expedite resolving the backlog created by the pandemic;
- advancing the modernization of the criminal court, using technology where appropriate; and
- exploring approaches to target those most affected by the pandemic, specifically the impoverished and marginalized.

The consultant began by defining and assessing the backlog. They then analysed performance indicators, interviewed stakeholders, conducted surveys, and held interviews. As the year ended, the Court was engaged in evaluating this information, and in arranging a workshop with stakeholders to develop a plan moving forward.

An Innovative Court of Excellence

In Winnipeg, the Court developed and piloted a bail triage system presided over by the Judicial Justices of the Peace. This front-end work is completed by JJPs, facilitating contact between counsel and accused persons. If a matter is proceeding to a contested hearing, it is transferred to a judge. This ensures meaningful work is appropriately assigned to the judicial officer, and court time is used most efficiently. As the year ended, we were working on procuring additional video equipment to enhance options for counsel and the accused to appear remotely.

In Thompson, a new protocol is being developed in consultation with stakeholders. The new protocol will change how the Court manages and coordinates front-end processes. It will allow matters to appear before a Judge only when ready to proceed to a bail application, sentencing or trial. Pre-Trial Coordinators and JJPs will preside over triage or administrative dockets to manage front-end processes, such as disclosure, and communications between counsel and accused persons in order to move the matter forward.

Strengthen Public Trust and Confidence in the Justice System

This year saw the return of some in person judicial education. While many education programs were previously cancelled due to the pandemic, some organizations were able to offer online education programs for the judiciary. Having participated in both virtual and in-person training, the general consensus of the Court is that there are enhanced benefits of in-person education. The fiscal year ended with the Court planning its first in-person May education session in over two years. Planning was underway to make this a hybrid session, with speakers/educators appearing by video; some judges planned to attend virtually with others attending in person.

Strategic Plan

Focus on Indigenous Issues

The Court continues to work with Indigenous communities who have been affected by the Covid pandemic. We are in regular contact with communities to ensure when we attend court we do so in a manner which protects the community, the court party and the court participants.

The Indigenous Justice Committee continues to look at ways to increase the inclusion of Indigenous practices in the court. We are consulting on several initiatives, which have been impacted by Covid, but which will be rolled out in the next fiscal year.

Sound Infrastructure

Renovation plans continue for the Thompson and Dauphin courthouses. Renovations were completed at the Winnipeg Law Courts in October which increased physical accessibility and enhanced security.

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. The law is changing at a rapid pace as is the social context of our communities. It is important for judges to continue on 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.

Again, for much of this past year, education programs were online or virtual. In the fall, a few conferences proceeded in person. As a result of limited training availability, all judges appointed during this reporting period have been unable to attend programs for newly appointed judges. The Court has tried to address this gap by offering judicial education locally. The following list provides a sampling of topic areas in which Manitoba Provincial Court judges received education this past fiscal year:

- French language training
- Criminal Evidence
- A one day online program including the following topics: judicial wellness, a psychological look at the mind of a “batterer” in a domestic violence context, digital proceedings in the age of COVID, a review of the year's US Supreme Court decisions, procedural justice, and judicial independence (this training replaced the American Judges Association conference normally attended by members of the Court).
- Indigenous Peoples and the Law (this conference was offered in a hybrid format, where judges could attend in person or virtually.)
- Sentencing under the *Youth Criminal Justice Act*
- Race relations and the Rule of Law

- Legislative changes
- Ethical issues and disclosure obligations
- Review of Supreme Court of Canada and Manitoba Court of Appeal cases over the last year
- Conducting effective case management conferences
- Inclusive language
- Structuring your oral and written decisions
- Legal research tools
- Education leaders seminar

Judicial Justices of the Peace Education

The Judicial Justices of the Peace receive significant “on the job” mentoring and training. New JJPs undergo intensive 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. This fiscal year saw the proclamation of *The Provincial Offences Act* which significantly changed procedure, including the hearing process on summary conviction offences. Training was provided to ensure that JJPs were well informed on this new legislation. Other education topics covered in the 2021/22 fiscal year included:

- search warrants related to electronic devices
- What to expect in peace bond court
- Evidentiary rules in peace bond court
- Inclusive language and pronouns
- Protection orders
- *Mental Health Act* issues
- Winnipeg Police Service's Victim Services Domestic Violence pilot project

Law Enforcement Reviews & Hearings

The *Law Enforcement Review Act* (LERA) 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 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 2021/22 there was one review conducted by a Provincial Court Judge.

Hearings may be held where the Commissioner recommends a penalty for a disciplinary default and the complainant disagrees with the recommended penalty; and where the Commissioner refers the complaint to a judge for a decision on whether the complaint should result in disciplinary action. In 2021/22 there were four LERA hearings 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, 2022 (based on the premise of a judge retiring from judicial office with unused vacation leave) is \$965,731.14. The severance liability as of March 31, 2022 is \$397,546.52 for those Judges entitled to same and who were eligible to retire on March 31, 2022.

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, 2022 is \$1,363,277.60 (\$397,546.52 + \$965,731.14).



Available in alternate formats, upon request.