



The Provincial Court of Manitoba

# Annual Report

2019 ■ 2020





**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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**EIGHTEENTH ANNUAL REPORT  
PROVINCIAL COURT OF MANITOBA  
Fiscal Year Ending March 31, 2020**

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 Eighteenth Annual Report for the year ending March 31, 2020.

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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**DIX-HUITIÈME RAPPORT ANNUEL  
COUR PROVINCIALE DU MANITOBA  
pour l'exercice terminé le 31 mars 2020**

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-huitième rapport annuel pour l'exercice financier terminé le 31 mars 2020.

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



Annual reports are written after the year of the report has passed. As I write this, we are deep into the challenges presented by the global pandemic of COVID-19. While our next Annual Report will speak to many of the challenges presented and how the Provincial Court of Manitoba, and indeed courts across the country are dealing with the pandemic, this report will focus on the events in the life of the court in 2019-2020. There is a note of irony, in that we have consistently written about the need to be more technologically equipped. This report repeats that sentiment, as it speaks to the courts status in 2019/20. The reality is, in the present day, we have made many advancements in our technological capacity because of the pandemic. I look forward to sharing those advancements in the next report.

In this report, we will capture some of the highlights of the year, as well as some of the challenges. As an opening comment, it needs to be said; the Provincial Court of Manitoba is an exceptionally busy court. The number of matters we are hearing is increasing. The complexity of the matters we hear is increasing. The workload is increasing. While it is impossible to detail all of the happenings over the past year, we will highlight a few of the more significant events.

The Provincial Court of Manitoba remains focused on its strategic plan and the five strategic priorities. In this report, you will find an update on our progress. Of particular mention is the Strategic Goal of Focussing on Indigenous Issues. This year our court saw the introduction of the Eagle Feather to our court proceedings. The introduction of the Eagle Feather to bind the conscious of Indigenous people is a recognition of the need for the Court to be more inclusive in it's approach. It is also a step towards reconciliation as we seek to make interaction with court more culturally appropriate and meaningful. The introduction of the Eagle Feather was accompanied by a moving ceremony at the Forks in Winnipeg where the Eagle Feathers were blessed by Indigenous Elders in the presence of the judiciary and Indigenous leaders. A second meaningful ceremony held at the Winnipeg Courthouse in the grand courtroom 210, was in the form of a special sitting of the court. In attendance were singers, drummers, pipe carriers, and dignitaries, along with the judiciary from all three levels of Manitoba courts and the full complement of the Supreme Court of Canada Justices.

The Supreme Court of Canada Justices attended as part of a historical visit to Winnipeg organized by the Manitoba Court of Appeal and Chief Justice Chartier. This was the first time in history the Supreme Court presided over cases outside Ottawa. In Winnipeg, the full Court heard two cases, one criminal and one civil. One French and one English. The Supreme Court Justices also met with the Indigenous Community, the Metis Community, the Francophone Community, University and High School students as well as the general public. It was an honour to be able to attend and participate in many of the events with the Supreme Court of Canada. The Court was particularly honoured to meet with Justice Abella in Provincial Court Chambers to speak specifically about the work of our court.

Another positive highlight was the Court's trip to Saskatoon to meet with our Saskatchewan colleagues. Education for Judges is one important aspect of our duties as it is fundamental to the work we do. It is our obligation to stay on top of developments in the law as well as understanding social context in our work and learnings. In furtherance of this objective, in May 2019,



our Court travelled to Saskatchewan to attend an education session jointly with our Saskatchewan colleagues. It was a very successful and worthwhile collaboration and an important opportunity to learn together about issues, which affect both of our courts.

In other positive news, the Manitoba Government announced the renovations to the Thompson Courthouse will proceed. While we do not have a start date at this time, we look forward to breaking ground and moving to a space, which will complement our ability to do good work.

At the outset, I referred to technology. The Court has for years been struggling to work as efficiently as possible with the existing technology we have. We face many limitations including being unable to accurately report on and analyze our performance because of the archaic technological applications we use. This is why, we were very encouraged by the May 2019, government announcement of its Court Modernization Strategy. This initiative includes moving to a single integrated information system province wide; a reduction in manual paper based systems, improved functionality of our systems and improved public access to online systems. This is a positive development, as this initiative should assist the court in collecting more accurate statistical information, which will allow us to report on and improve our performance based on empirical data.

As mentioned above, the Provincial Court of Manitoba is a very busy court. We do not expect this to change in the future and in fact, given recent federal legislative amendments we expect the work of our Court to increase. One reason for the increase can be attributed to legislative amendments to the *Criminal Code* and the consequent implications for the Court. In June 2019, parliament passed Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts* and to make consequential amendments to other Acts<sup>1</sup>.

While the changes are many and we cannot report them all, we can note, the Bill amends over 110 offences that are punishable by a maximum penalty of 10 years or less and currently may only be prosecuted as an indictable

offence. Under the Bill, these offences become hybrid offences, meaning that they can be prosecuted either as an indictable offence or as a summary conviction offence (as decided by the prosecution). Summary offences proceed exclusively in Provincial Court. To the extent prosecutions proceed summarily, the work of the Court will increase. Another amendment in the Bill increases the general penalty for summary conviction offences for certain offences to two years less a day. It is expected this amendment will increase the number of offences that proceed summarily, exclusively in Provincial Court. The Court is concerned with the increase in its workload given its limited resources.

The consequence of the Provincial Court of Manitoba being a busy court, with high workload volume is an issue province wide, but particularly in the North. The Thompson Judicial Centre is an extremely busy court, serving Thompson proper as well as many remote northern communities. The three resident Thompson judges and two Judicial Justices of the Peace travel to 15 circuit courts to hold court in communities. There are many challenges to providing timely, meaningful access to justice in the North. Dealing with these challenges, including systemic issues has been the subject of much work. In 2018, the Court formed the Thompson Working Group to address the issues. All stakeholders were invited to participate in various meetings and discussions. The critical situation in Thompson was also the focus of discussion at our Strategic Planning Session with a commitment by the Court to address the systemic issues as best we could, with the limited resources available.

While the Court was planning changes in Thompson, the challenges became the subject of scrutiny in court as well as the press. Justice Martin of the Manitoba Court of Queen's Bench found the rights of two individuals were breached given the length of time they remained in custody waiting for a meaningful bail hearing<sup>2</sup>. This case highlighted many of the systemic challenges the Court faces in the North and why it was essential to the fundamental principles of justice that changes be made. Several changes were implemented as of January 2020, including changes to court policies, how the court schedules and hears matters, and how

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<sup>1</sup> *Legislative Summary of Bill C75 (parl.ca)*

<sup>2</sup> *R. v. Balfour and Young, 2019 MBQB 167 (CanLII)*

the court allocates the scarce resources across the court system. In the long term, until there are sufficient resources in the North to fully address the systemic issues, the Court will continue to face challenges. The Court is steadfastly committed to do the best it can for all the people involved in the criminal justice system.

Associate Chief Judge John Guy retired on July 1, 2019. ACJ Guy was appointed a Judge of the Provincial Court of Manitoba in 1989 and ACJ in 2013. ACJ Guy's accomplishments are too many to list. However, it must be noted he has been a strong leader on the Court. He has contributed to many committees including management, education, and goodwill. ACJ Guy focused his energies on the needs of the most vulnerable and disadvantaged members of our society. He has been wise counsel and a mentor to many. We thank him deeply for his service and wish him the best in retirement. He is missed.

With the departure of ACJ Guy, we were fortunate to welcome ACJ Lord to the Administrative Team. ACJ Lord has shown an unwavering commitment to Manitoba's justice system throughout her career, first as a Crown Attorney and later when appointed as a Judge in 2008. ACJ Lord's expertise and dedication will serve both the court and the public well in the new role of Associate Chief Judge.

As of March 2020, the two Chief Justices and Chief Judge of the Courts in Manitoba, as well as the executive members of Courts Administration have created a COVID task force to address the issues brought on by the COVID-19 global pandemic. After meeting with Justice Stakeholders the three courts announced on March 16, 2020, the Courts would be closed to the public, and while the Courts continued to hear all in custody and urgent matters, many other court hearings were adjourned. The Courts in Manitoba and indeed across the world, were about to embark on an unprecedented journey, the length and consequence of which we had no idea. This will be the subject of our next Annual Report.



## Juge en chef de la Cour provinciale du Manitoba



En général, un rapport annuel est rédigé après la fin de l'année visée. Or, j'écris ces lignes pendant que nous sommes plongés dans les défis lancés par la pandémie mondiale de COVID-19. Tandis que notre prochain rapport annuel décrira les nombreux problèmes rencontrés ainsi que la manière dont la Cour provinciale du Manitoba et les tribunaux de tout le pays composent avec la pandémie, le présent rapport porte sur les événements qui ont touché la Cour en 2019-2020. Il y a une note d'ironie car nous avons écrit régulièrement au sujet de la nécessité de mieux nous équiper sur le plan technologique. Le présent rapport réitère ce sentiment, qui a un rapport avec l'état de la Cour en 2019-2020. La réalité est qu'aujourd'hui, nous avons accompli de nombreux progrès quant à notre capacité technologique en raison de la pandémie. Je décrirai ces progrès dans le prochain rapport.

Dans le présent rapport, je souligne certains faits saillants de l'année et certains défis. En guise de commentaire d'introduction, il faut le dire : la Cour provinciale du Manitoba est un tribunal exceptionnellement achalandé. Le nombre d'affaires que nous entendons augmente, tout comme leur complexité. La charge de travail est en hausse également. Puisqu'il est impossible de présenter en détail tous les événements de la dernière année, je souligne quelques-uns des plus importants.

La Cour provinciale du Manitoba reste concentrée sur son plan stratégique et les cinq priorités stratégiques. Le présent rapport présente nos progrès. Mentionnons notamment le but stratégique du traitement des questions autochtones. Cette année, la plume d'aigle a été introduite dans nos instances judiciaires. L'adoption de la plume d'aigle visant à unir la conscience des Autochtones témoigne de la nécessité pour la Cour d'être plus inclusive dans son approche. Elle représente aussi une étape vers la réconciliation alors que nous cherchons à rendre l'interaction avec le tribunal plus adaptée et pertinente sur le plan culturel. L'introduction de la plume d'aigle a été marquée par une cérémonie émouvante à La Fourche, à Winnipeg, lorsque les plumes d'aigle ont été bénies par des aînés autochtones en présence de la magistrature et de leaders autochtones. Une deuxième cérémonie pleine de sens, tenue dans la grande salle d'audience 210 du palais de justice de Winnipeg, a pris la forme d'une séance spéciale de la Cour. Étaient présents des chanteurs, des joueurs de tambour, des gardiens du calumet et des dignitaires, ainsi que la magistrature des trois paliers des cours du Manitoba et l'ensemble des juges de la Cour suprême du Canada.

Les juges de la Cour suprême du Canada étaient présents dans le cadre d'une visite historique à Winnipeg organisée par la Cour d'appel du Manitoba et le juge en chef Chartier. Pour la première fois dans l'histoire, la Cour suprême a présidé des audiences ailleurs qu'à Ottawa. À Winnipeg, la Cour a entendu deux affaires, une criminelle et une civile. Une en français et une en anglais. Les juges de la Cour suprême ont aussi rencontré des représentants des communautés autochtone, métisse et francophone, des élèves du secondaire et des étudiants d'université ainsi que des membres du public. J'ai eu l'honneur d'assister et de participer à bon nombre des activités des juges de la Cour suprême du Canada. La Cour a été particulièrement honorée de rencontrer à son cabinet la juge Abella pour discuter du travail de nos tribunaux.

Autre fait saillant positif : le voyage de la Cour à Saskatoon pour rencontrer les collègues de la Saskatchewan. La formation des juges est un aspect important de nos tâches, car elle est fondamentale dans le travail que nous faisons. Nous avons l'obligation de nous tenir au courant des développements concernant le droit et de comprendre le contexte social dans nos travaux et nos apprentissages.

Afin de favoriser la réalisation de cet objectif, notre Cour s'est rendue en Saskatchewan en mai 2019 pour assister à une séance de formation en compagnie de nos collègues de cette province. Cette collaboration très réussie et productive a été une occasion importante de nous informer ensemble sur des enjeux qui touchent nos deux cours.

Autre nouvelle positive : le gouvernement du Manitoba a annoncé la réalisation des rénovations au palais de justice de Thompson. Nous n'avons pas encore de date de début, mais nous avons hâte de lancer les travaux et d'occuper des locaux qui appuieront notre capacité de faire du bon travail.

Au début, j'ai parlé de technologie. Depuis des années, la Cour s'efforce de travailler le plus efficacement possible avec la technologie existante. Nous sommes confrontés à de nombreuses limitations, y compris l'incapacité d'analyser précisément notre rendement et d'en faire état à cause des applications technologiques archaïques que nous utilisons. C'est pourquoi nous avons été très encouragés par la déclaration du gouvernement de mai 2019 concernant sa stratégie de modernisation des tribunaux. Cette initiative comprend le passage à un système informatique unique intégré à l'échelle de la province, la réduction des systèmes manuels basés sur le papier, l'augmentation de la fonctionnalité de nos systèmes et l'amélioration de l'accès public aux systèmes en ligne. C'est un développement positif, car cette initiative devrait aider la Cour à recueillir des données statistiques plus précises qui nous permettront d'améliorer notre rendement et d'en faire état en nous fondant sur des données empiriques.

Comme je le mentionne ci-dessus, la Cour provinciale du Manitoba est très achalandée. Nous prévoyons que cela ne changera pas à l'avenir; en fait, étant donné les récentes modifications législatives fédérales, nous nous attendons à ce que la charge de travail de la Cour augmente. On peut dire qu'une des causes de la hausse est l'ensemble des modifications apportées au Code criminel et leurs conséquences pour la Cour. En juin 2019, le Parlement a adopté le projet de loi C-75, intitulé Loi modifiant le Code criminel, la Loi sur le système de justice pénale pour les adolescents et d'autres lois et apportant des modifications corrélatives à certaines lois<sup>1</sup>.

Nous ne pouvons pas décrire toutes les modifications prévues par cette loi, mais nous pouvons mentionner qu'elles touchent plus de 110 infractions punissables d'une peine d'au plus 10 ans qui doivent être traitées comme des actes criminels. En application de cette loi, ces infractions deviennent des infractions mixtes, ce qui signifie qu'elles peuvent être traitées comme des actes criminels ou des infractions punissables par procédure sommaire (la décision appartient au poursuivant). Les infractions punissables par procédure sommaire sont traitées exclusivement par la Cour provinciale. Dans la mesure où les poursuites seront traitées par procédure sommaire, le travail de la Cour augmentera. Une autre modification prévue par la Loi accroît la peine générale associée à certaines infractions punissables par procédure sommaire, la faisant passer à deux ans moins un jour. On prévoit que cette modification fera augmenter le nombre d'infractions traitées par procédure sommaire, qui, encore une fois, sont traitées exclusivement par la Cour provinciale. La Cour est préoccupée par la hausse de sa charge de travail, compte tenu de ses ressources limitées.

Les conséquences de l'achalandage et de la lourde charge de travail de la Cour provinciale du Manitoba se font sentir dans toute la province, mais particulièrement dans le Nord. Le centre judiciaire de Thompson est extrêmement achalandé, car il dessert, en plus de Thompson, de nombreuses collectivités éloignées du Nord. Les trois juges résidents de Thompson et les deux juges de paix judiciaires se déplacent entre 15 collectivités pour tenir leurs séances. La fourniture d'un accès rapide et utile à la justice pose de nombreux problèmes dans le Nord. Le traitement de ces problèmes, y compris des enjeux systémiques, a fait l'objet de beaucoup de travaux de la Cour. En 2018, la Cour a formé à Thompson un groupe de travail chargé de traiter ces questions. On a invité toutes les parties prenantes à participer à diverses réunions et discussions. La situation critique à Thompson a aussi fait l'objet de discussions lors de notre séance de planification stratégique, et la Cour s'est engagée à traiter de son mieux les enjeux systémiques, compte tenu de la rareté des ressources disponibles.

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<sup>1</sup> Résumé législatif du projet de loi C-75 ([parl.ca](http://parl.ca))



Pendant que la Cour planifiait des changements à Thompson, les problèmes ont attiré l'attention des tribunaux et des médias. Le juge Martin, de la Cour du Banc de la Reine du Manitoba, a conclu que les droits de deux personnes avaient été violés étant donné la longueur de leur détention provisoire précédant l'enquête sur le cautionnement<sup>2</sup>. Cette affaire a fait ressortir bon nombre de problèmes systémiques auxquels la Cour est confrontée dans le Nord et la raison pour laquelle il était essentiel d'apporter des changements pour assurer le respect des principes fondamentaux de la justice. Plusieurs changements ont été apportés en janvier 2020, y compris des modifications touchant les politiques des tribunaux, la fixation des dates d'audience, les modes d'audition des affaires et l'affectation par la Cour des rares ressources dans l'ensemble du système judiciaire. À long terme, jusqu'à ce qu'il y ait dans le Nord des ressources suffisantes pour régler complètement les enjeux systémiques, la Cour continuera à rencontrer des problèmes. La Cour reste inébranlable dans sa détermination à faire de son mieux pour toutes les personnes concernées par le système de justice criminelle.

Le juge en chef adjoint John Guy a pris sa retraite le 1<sup>er</sup> juillet 2019. Monsieur Guy a été nommé juge de la Cour provinciale du Manitoba en 1989, puis juge en chef adjoint en 2013. Ses réalisations sont trop nombreuses pour que je les énumère. Toutefois, il faut mentionner qu'il a été un leader solide de la Cour. Il a contribué aux travaux de nombreux comités, y compris en ce qui concerne la gestion, la formation et la bonne volonté. Monsieur Guy a concentré ses énergies sur les besoins des membres les plus vulnérables et défavorisés de notre société. Il a prodigué de sages conseils et a souvent joué le rôle de mentor. Nous le remercions sincèrement pour ses services et lui souhaitons une excellente retraite. Il nous manque.

Après le départ de monsieur Guy, nous avons eu la chance d'accueillir la juge en chef adjointe Lord dans l'équipe administrative. Madame Lord a fait preuve d'un engagement indéfectible envers le système de justice du Manitoba tout au long de sa carrière, d'abord à titre de procureure de la Couronne, et depuis qu'elle a été nommée juge en 2008. Tant la Cour que le public bénéficieront de la compétence et du dévouement de madame Lord dans ses nouvelles fonctions de juge en chef adjointe.

En mars 2020, les deux juges en chef et le juge en chef des Tribunaux du Manitoba, de concert avec les membres des Services administratifs des tribunaux judiciaires, ont mis sur pied un groupe de travail pour aborder les enjeux découlant de la pandémie mondiale de COVID-19. Le 16 mars 2020, après avoir rencontré les intervenants du système de justice, les trois tribunaux ont annoncé que les tribunaux seraient fermés aux membres du public, et bien que les tribunaux continueraient à entendre les causes visant les détenus et les causes urgentes, plusieurs audiences des tribunaux allaient être ajournées. Les tribunaux au Manitoba et même dans le monde entier étaient sur le point d'entreprendre un périple sans précédent dont nous ne connaissions pas la durée ni les répercussions. Il s'agira du thème de notre prochain rapport annuel.

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<sup>2</sup> *R. v. Balfour and Young*, 2019 MBQB 167 (CanLII)

# 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 that are 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 and 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 Shauna Hewitt-Michta was appointed in Brandon and is the Regional ACJ. Her term ends August 5, 2020. ACJ John Guy was appointed in Winnipeg. His term ended October 17, 2020, however he chose to retire on July 1, 2019. ACJ Anne Krahn was appointed in Winnipeg. Her term ends September 8, 2022. ACJ Tracey Lord was appointed to fill the vacancy left by ACJ Guy. Her term began on July 2, 2019 and ends on July 1, 2026.

ACJ John Guy provided 30 years of dedicated service to the Provincial Court and the citizens of Manitoba. ACJ Guy will be much missed for his wit, quiet wisdom and unflinching support for the most vulnerable in our society. ACJ Guy was instrumental in the establishment of the Court's drug treatment and mental health courts. He served as President of the Provincial Judge's Association of Manitoba and President of the Canadian Association of Provincial Court Judges to name a few of

the leadership positions he held during his outstanding career. ACJ John Guy will be and has been missed. We thank him for the many years of service to our Court and the citizens of Manitoba.

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

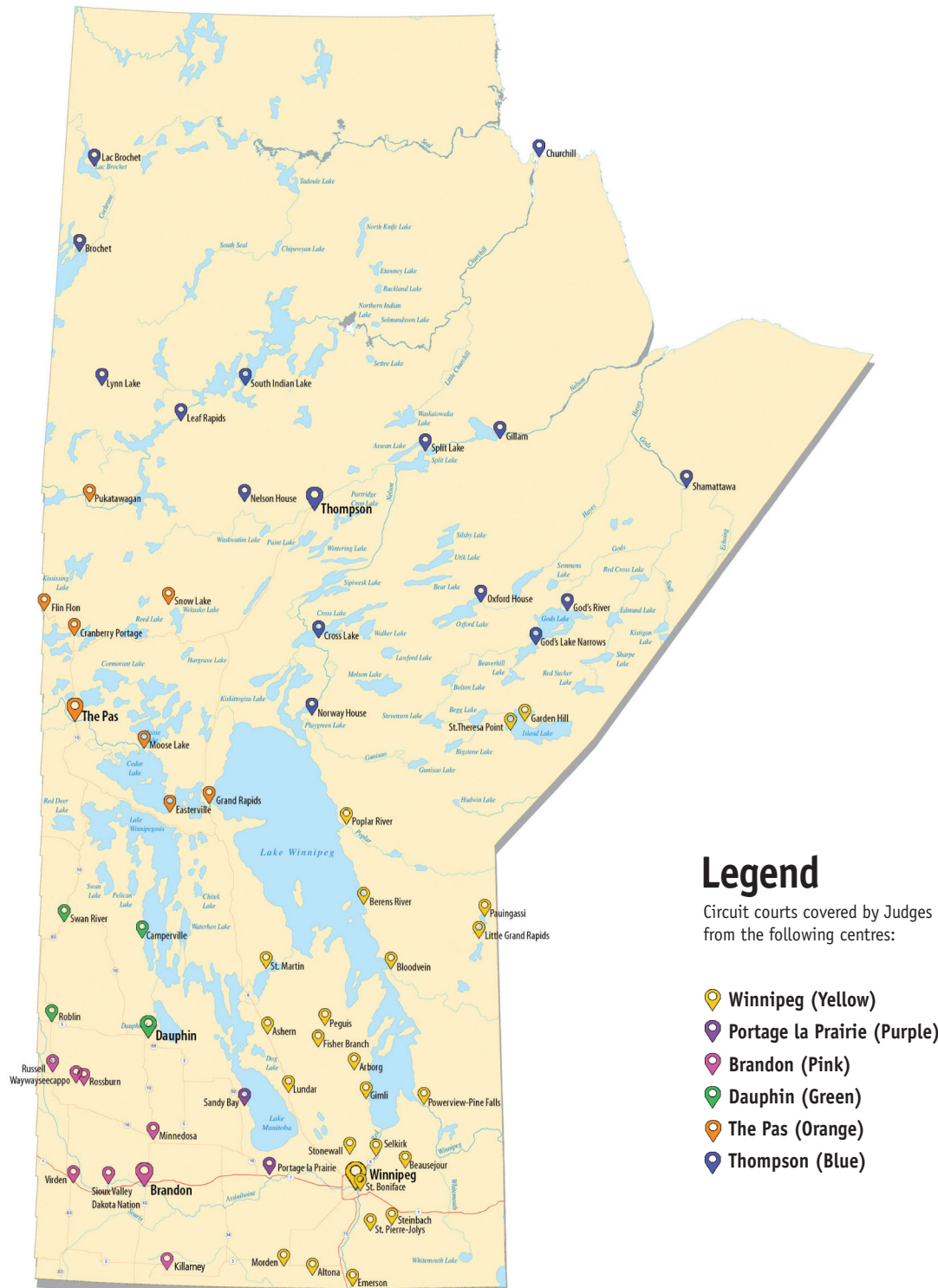
- Winnipeg – thirty judges
- Brandon – three judges
- The Pas – two judges
- Dauphin – two judges
- Portage la Prairie – one judge
- Thompson – three judges

There are 57 locations outside of the six court 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 Sittings



### 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 41 full time 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 continue to receive the benefit of experienced judges and the flexibility to cover needed court assignments. In February 2017 the *Senior Judges Regulation* was amended to allow for the equivalent of two full-time judges' salaries to be used in the fiscal year for Senior Judge assignments, the second allotment to be used only when there was a vacancy on the Bench. In December 2019, the equivalent of two Judge's salaries became a permanent addition to the judicial complement. We are grateful for this recognition, filling an ongoing need for the Court. In 2019/20, the Court relied on the Senior Judges on 398 days (out of the 436 day allotment) to provide much needed support. The Senior Judges program continues to be an essential part of meeting the Court's scheduling demands so that it can provide timely access to justice.

## Judicial Justices of the Peace

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

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

# Roles and Authorities of the Court

## Changes in Judicial complement from April 1, 2019 to March 31, 2020

The Court saw a number of retirements during the 2019-2020 fiscal year.

Associate Chief Judge John Guy retired after over 30 years serving the citizens of Manitoba as a Judge of the Provincial Court as we have noted above.

Judge Don Slough retired in November 2019 after almost 10 years on the Bench. Judge Slough was appointed on July 28, 2010 and served the City of Dauphin and surrounding communities. Judge Slough contributed to the Court in Manitoba and nationally as a member of the Canadian Association of Provincial Court Judges. Judge Slough will continue to serve the citizens of Manitoba as a Senior Judge.

Judge Brian Corrin retired after 34 years of service to the citizens of Manitoba as a Provincial Court Judge. Judge Corrin was appointed on March 4, 1988. Judge Corrin was passionate about many things but Indigenous Justice issues in particular. He served on the Court's Indigenous Justice committee and was a staunch advocate on Indigenous issues. He was appointed a Senior Judge in February 2020.

We are fortunate to continue to have the benefit of their experience as Senior Judges.

In February, 2020, Judge Christine Harapiak retired after 15 years of service to Manitoba, and in particular, to the citizens of Dauphin, Manitoba. Judge Harapiak was a sought after speaker, locally and nationally, on topics of judicial ethics, judges and social media. She was very active in her local community with young people and drama. Her dedication will be missed by the Court as a whole and in Dauphin. Judge Harapiak chose to remain with the Court as a Senior Judge.

Judge Shauna McCarthy was appointed to the Court of Queen's Bench on June 27, 2019.

The vacancies left by these retirements were filled by Judges Antonio Cellitti and Victoria Cornick, who were appointed on August 7, 2019 and Judge Stacy Cawley who was appointed on November 21, 2019 in Winnipeg. Judges Geoffrey Bayly and Christina Cheater were appointed in the Dauphin Judicial Centre on February 19, 2020.

JJP Myriam Rosset retired in the spring of 2019, after serving the citizens of Manitoba for 13 years as a Judicial Justice of the Peace. JJP Lisa Pillipow was appointed in The Pas on May 8, 2019.



# 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 this information to report on the work of the Court as we are able.

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

The Court was gratified to see the Minister of Justice, Cliff Cullen, announce on May 28, 2019:

*The province is moving forward with plans to modernize Manitoba's courts through the implementation of an Integrated Case Management System (ICMS), improving efficiency and access to justice for Manitobans, Justice Minister Cliff Cullen announced today.*

*"The new Integrated Case Management System will revolutionize the way information is handled right across our court system," said Cullen. "Our government is committed to modernizing Manitoba's courts and this is another critical step."*

*The ICMS will be a state-of-the-art information technology system that will support the operations of all three levels of Manitoba courts and its various branches. Currently, there are more than 20 different systems throughout Manitoba courts that are not integrated, and the majority of the systems are paper based and require manual updating.*

*"This project is an important initiative to replace antiquated, outdated systems. Once the new system is implemented, it will help ensure more Manitobans all across our province have access to justice information," Cullen said.*

*The minister noted the ICMS will reduce the reliance on paper and provide many other benefits including:*

- *province wide access to court information,*
- *a single system with integrated modules that share information, and*
- *improved public access to online systems.*

We support and endorse this important initiative.

The Court has seen the benefit of an expansion of video technology. This technology allows an offender in custody to appear before the court by video, which in many cases is preferable to transport from a correctional centre. There continue to be technological barriers to implementing a video link in Stony Mountain Correctional Institution. All of the persons incarcerated in this federal institution must be transported to appear in the courtrooms around the province in person.

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

# Provincial Court Performance Measures

## Average Number of Appearances

The 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. This can be explained by a higher volume of charges and the greater frequency of court sittings. Matters are remanded for shorter time periods but appear more frequently.

Over five years, all court centres appear to be showing a slight upward trend. The Court remains committed to a simplified process for the disposition of charges before the court as a way to promote access to justice. We will continue to monitor these trends.

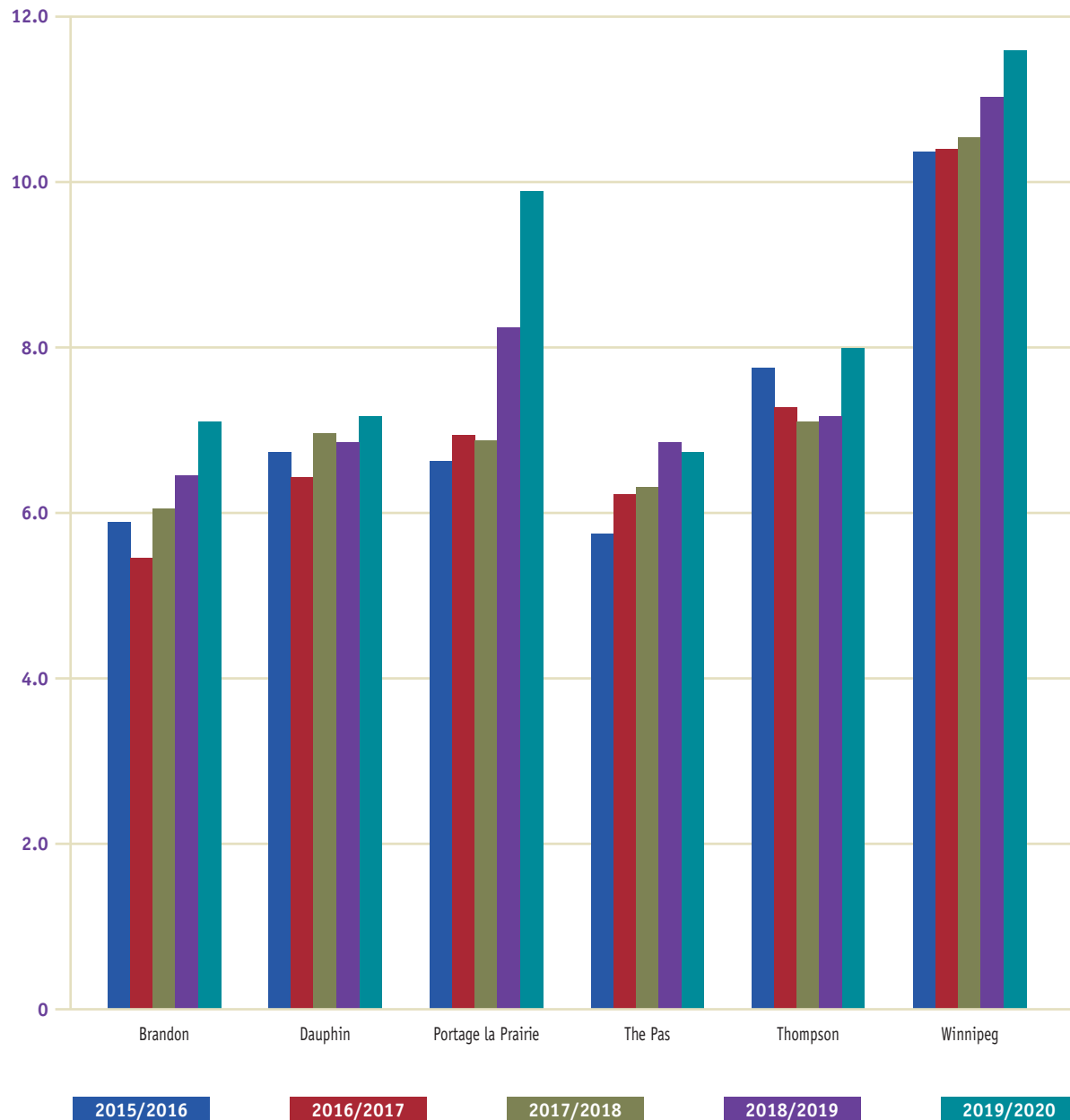
**Figure 1 – Average number of appearances to disposition by court centre, last 5 years**

Court Centre	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	Average
Brandon	5.9	5.5	6.0	6.5	7.1	6.2
Dauphin	6.7	6.4	7.0	6.9	7.2	6.8
Portage la Prairie	6.6	6.9	6.9	8.3	9.9	7.7
The Pas	5.8	6.2	6.3	6.9	6.8	6.4
Thompson	7.8	7.3	7.1	7.2	8.0	7.4
Winnipeg	10.4	10.4	10.5	11.0	11.6	10.8
<b>Global Average*</b>	<b>9.1</b>	<b>9.1</b>	<b>9.1</b>	<b>9.6</b>	<b>10.2</b>	<b>9.4</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, 2019/2020





# Provincial Court Performance Measures

## Time to Disposition

The Court disposed of 44,090 cases during the 2019/20 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 1466 from last year.

The vast majority of informations (97%) were concluded in less than 18 months. This is fairly consistent with last year where 96.7% of charges were disposed of in Provincial Court in less than 18 months. In *R. v. Jordan* 2016 SCC 27 the Supreme Court of Canada set a presumptive deadline that cases in Provincial Court should be heard within 18 months. If they are not, the delay risks breaching the charged person's *Charter* right to trial in a reasonable time. Last year we reported 77.4% of cases were disposed in less than 8 months, this year was similar in that 77.1% of all cases were disposed in less than 8 months. The number of cases disposed of in the 8 to 18 month range increased from 19.3% last fiscal year to 20% this year. The number of cases that took longer than 18 months to complete decreased slightly from 3.2% to 2.8% this year.

In October 2019, the Court took over the scheduling of all trials in Winnipeg. Previously, the Crown's office was responsible for scheduling trials. It is well known within the criminal justice system that a high number of trials collapse on the trial day. We do not have systems data to demonstrate how many trials proceed and how many are resolved in another fashion.

We have begun to keep track of the number of trials which do proceed in a manual way and have found over 80% of trials set in Winnipeg do not proceed. Many charges are stayed or resolved with a guilty plea on the day of trial. The Courts' trial coordinators reach out to counsel in advance of the trial date to determine if the matter is proceeding in order to make the most effective use of court time. While the resolution of a matter on a trial date is in itself not that concerning, the rate of collapse means that trial coordinators book more trials on a given day than could be heard, in order to make the most effective use of court time. On occasion, albeit, rarely, there are more trials ready to proceed than there are available courtrooms or court time. This is why it is important to have a good understanding of the reasons for a matter not proceeding to trial as scheduled. This information again should be captured in a systemic way to optimize the scheduling of judicial resources.

The chart below breaks down the average length of time it took for matters to be disposed of by judicial center.

**Figure 2 – Informations disposed by court centre and time to disposition, 2019/2020**

Court Centre	Time to Disposition					Total
	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
Brandon	2,488	1,023	492	265	89	4,357
Dauphin	909	334	190	99	38	1,570
Portage la Prairie	911	432	244	172	54	1,813
The Pas	1,188	496	209	69	39	2,001
Thompson	3,355	1,446	910	545	173	6,429
Winnipeg	14,621	6,779	3,702	1,960	858	27,920
<b>Total</b>	<b>23,472</b>	<b>10,510</b>	<b>5,747</b>	<b>3,110</b>	<b>1,251</b>	<b>44,090</b>

# Provincial Court Performance Measures

Figure 3 below provides a breakdown by severity level of cases disposed of in the Provincial Court. Severity level is a way in which 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 virtually identical to that of last year.

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

**Figure 3 – Disposed informations by most severe included charge, 2019/2020**

Most severe charge	Informations	Percentage of total	Percentage of level
<b>Administration of Justice (AOJ)</b>	<b>18,367</b>	<b>41.66%</b>	
AOJ Other	6,481	14.70%	35%
Police Release - Fail to Attend (FTA) Court	3,435	7.79%	19%
Adult Probation - Report	2,940	6.67%	16%
Court Release - FTA Court	2,033	4.61%	11%
Court Release - Curfew	944	2.14%	5%
Court Release - Abstain	768	1.74%	4%
Court Release - Reside/Remain/Notify	610	1.38%	3%
Court Release - Non-contact	587	1.33%	3%
Court Release - FTA Ident/DNA/Register	569	1.29%	3%
<b>Substantive level 1 (S1)</b>	<b>3,650</b>	<b>8.28%</b>	
Impaired Operation	1,440	3.27%	39%
Other Controlled Drugs and Substances Act - Possession	774	1.76%	21%
S1 Other	630	1.43%	17%
HTA - Licence/Registration/Insurance	307	0.70%	8%
HTA - Drive While Disqualified	237	0.54%	6%
Refuse/Fail to Comply/Provide Sample - Causing Bodily Harm (CBH)	147	0.33%	4%
HTA - Speeding & Other Unsafe Driving	115	0.26%	3%

# Provincial Court Performance Measures

**Figure 3 – Disposed informations by most severe included charge, 2019/2020** *(Continued)*

Most severe charge	Informations	Percentage of total	Percentage of level
<b>Substantive level 2 (S2)</b>	<b>9,311</b>	<b>21.12%</b>	
Assault	3,595	8.15%	39%
Theft \$5,000 or under	2,116	4.80%	23%
Utter Threats	1,211	2.75%	13%
Mischief	990	2.25%	11%
S2 Other	381	0.86%	4%
Obstruct/Resist Peace Officer	373	0.85%	4%
Assault Peace Officer	333	0.76%	4%
Other Provincial Statutes	312	0.71%	3%
<b>Substantive level 3 (S3)</b>	<b>7,939</b>	<b>18.01%</b>	
Assault With a Weapon/CBH	1,910	4.33%	24%
Possession of Weapons	1,726	3.91%	22%
S3 Other	1,103	2.50%	14%
Other Controlled Drugs and Substances Act - Trafficking	858	1.95%	11%
Possession of Stolen Goods over \$5,000	606	1.37%	8%
Possession of Stolen Goods \$5,000 or under	599	1.36%	8%
Fraud	528	1.20%	7%
Driving While Prohibited/Disqualified/Suspended (CCC)	365	0.83%	5%
Theft of a Motor Vehicle	244	0.55%	3%



# Provincial Court Performance Measures

**Figure 3 – Disposed informations by most severe included charge, 2019/2020** *(Continued)*

Most severe charge	Informations	Percentage of total	Percentage of level
<b>Substantive level 4 (S4)</b>	<b>3,179</b>	<b>7.21%</b>	
Break and Enter	1,392	3.16%	44%
S4 Other	562	1.27%	18%
Weapons Possession Contrary to Order	384	0.87%	12%
Sexual Assault	382	0.87%	12%
Forcible Confinement	239	0.54%	8%
Sexual Interference	220	0.50%	7%
<b>Substantive level 5 (S5)</b>	<b>1,384</b>	<b>3.14%</b>	
Robbery	797	1.81%	58%
Aggravated Assault	477	1.08%	34%
S5 Other	110	0.25%	8%
<b>Substantive level 6 (S6)</b>	<b>146</b>	<b>0.33%</b>	
Discharge Firearm with Intent	83	0.19%	57%
Kidnapping	24	0.05%	16%
Incest	14	0.03%	10%
Aggravated Sexual Assault	11	0.02%	8%
Anal Intercourse	8	0.02%	5%
S6 Other	6	0.01%	4%
<b>Substantive level 7 (S7)</b>	<b>114</b>	<b>0.26%</b>	
Murder 2nd degree	46	0.10%	40%
Attempted Murder	35	0.08%	31%
Manslaughter	28	0.06%	25%
Murder 1st degree	5	0.01%	4%
<b>Grand Total</b>	<b>44,090</b>	<b>100%</b>	

# Provincial Court Performance Measures

## Time to Disposition by Severity Level

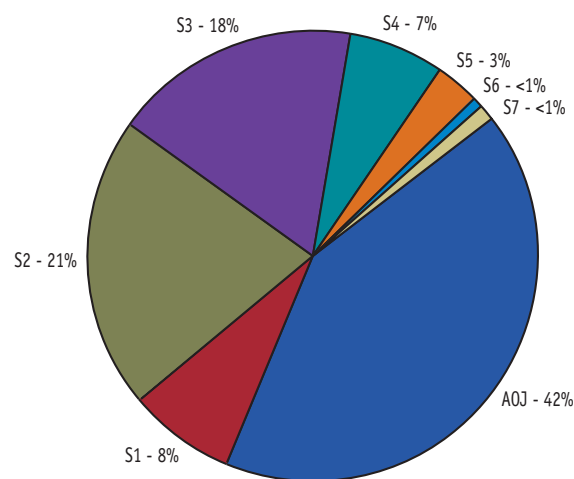
The charts below break down the average amount of time it takes to dispose of each case by severity level.

The time to disposition remains similar to last year. The cases taking longer than 18 months to conclude saw a slight decrease from 3.2% last year to 2.8% of cases this year.

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

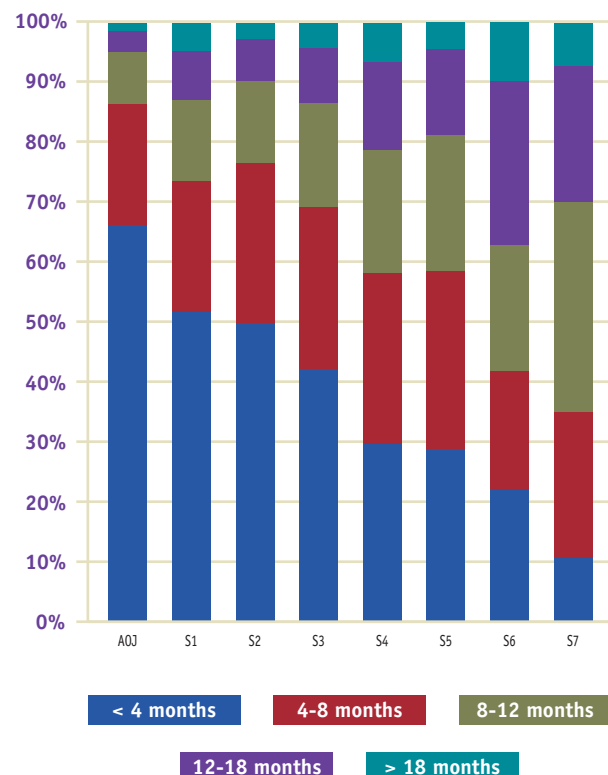
Overall, the vast majority of cases are completed in 18 months or less, indicating the Court is generally in compliance with the Supreme Court of Canada's guidance that cases should conclude in 18 months in the Provincial Court.

**Figure 4 – Number of informations disposed in 2019/2020 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, 2019/2020**



# Provincial Court Performance Measures

Figure 5 – Disposed informations by offence type and time to disposition, 2019/2020

# of informations:	Time to Disposition					Total
Most severe charge	<4 months	4-8 months	8-12 months	12-18 months	>18 months	
A0J	12,154	3,723	1,584	652	254	18,367
S1	1,879	812	492	302	165	3,650
S2	4,707	2,438	1,263	676	227	9,311
S3	3,348	2,159	1,372	734	326	7,939
S4	942	908	652	479	198	3,179
S5	398	413	313	201	59	1,384
S6	32	29	31	40	14	146
S7	12	28	40	26	8	114
<b>Total</b>	<b>23,472</b>	<b>10,510</b>	<b>5,747</b>	<b>3,110</b>	<b>1,251</b>	<b>44,090</b>



# Provincial Court Performance Measures

## Average Number of Days to Disposition

The average number of days to disposition is another way to look at how quickly matters were dealt with in the Provincial Court. It must be remembered that this number is an average. For example, the Severity level 6 cases taking more than 18 months to complete amounted to a total of 14 cases. Generally, the most serious cases take the longest to complete.

The Provincial Court average number of days to dispose of the most serious charges at severity level 7 has gone up from last year to 365 as a provincial average, from 318 days last year. There was a significant average increase in severity level 7 cases in both Thompson and Winnipeg from last year. Last year the Thompson average number of days to disposition for severity level 7 cases was 306, this year it is 404 days.

In Winnipeg, for severity level 7 cases the average rose from 302 days to 377 days. Brandon saw a significant drop from last year when the average days to disposition for severity level 7 cases was 482 while this year it is 282 days. Dauphin, Portage la Prairie and The Pas show some variation but not at significant levels. The variation is more marked for severity level 7 cases because there are a small number of these types of cases, and so one or two lengthy cases can greatly effect the average time to disposition. Further, 18 months is 547.5 days, so, even considering the significant jumps in some court centres, the majority of level 7 cases are completed in 18 months.

The provincial average for the other severity levels of cases did not change significantly from last year.

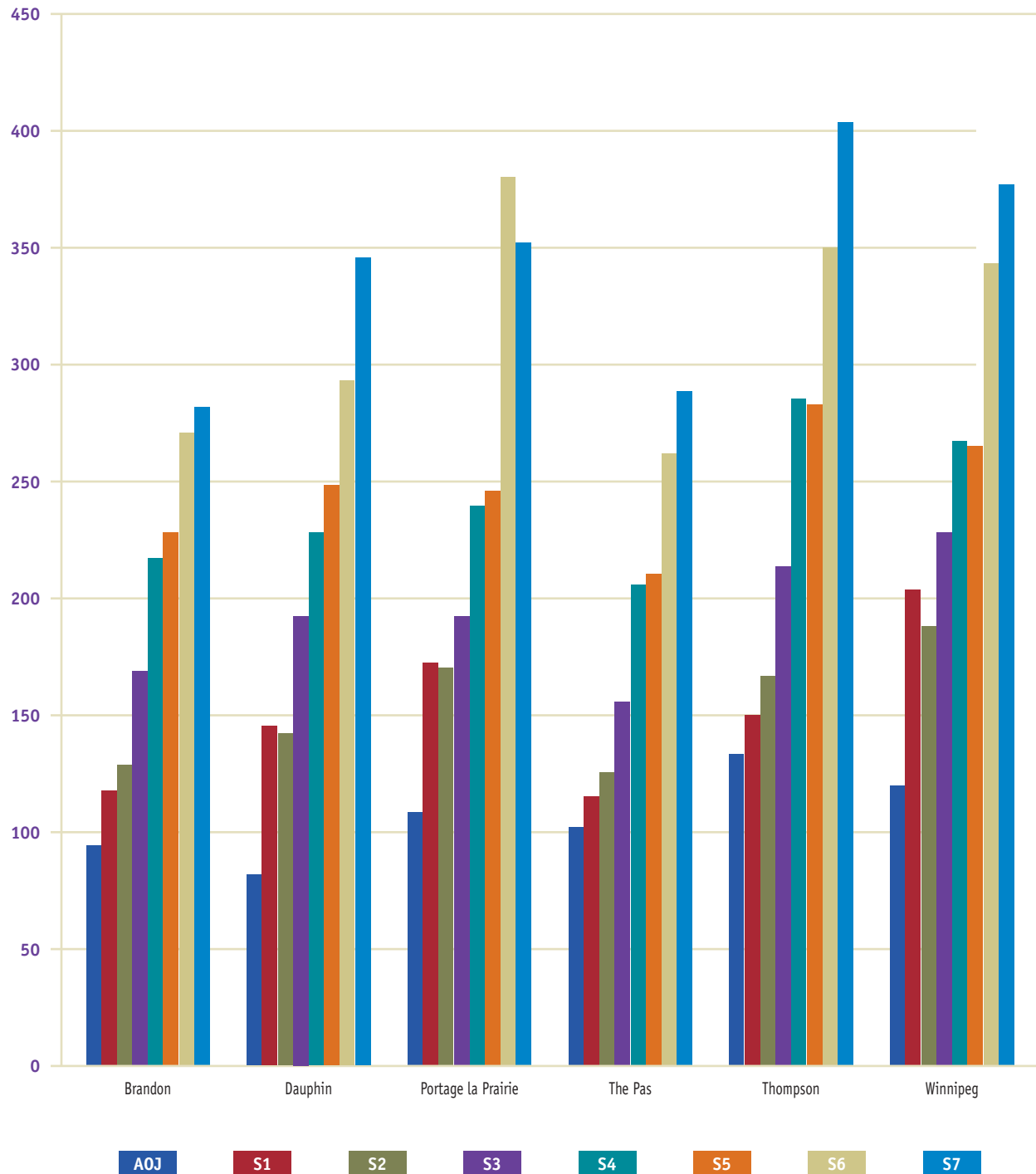
**Figure 6 – Average days to disposition by court centre and offence type, 2019/2020**

Court Centre	Type of most severe included charge							
	A0J	S1	S2	S3	S4	S5	S6	S7
Brandon	95	118	129	170	217	228	271	282
Dauphin	82	146	142	192	228	248	293	346
Portage la Prairie	108	173	171	193	240	247	380	352
The Pas	102	116	126	156	206	210	261	289
Thompson	134	150	167	214	285	283	350	404
Winnipeg	119	203	188	228	268	265	343	377
<b>Global Average*</b>	<b>117</b>	<b>179</b>	<b>171</b>	<b>214</b>	<b>260</b>	<b>262</b>	<b>331</b>	<b>365</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, 2019/2020



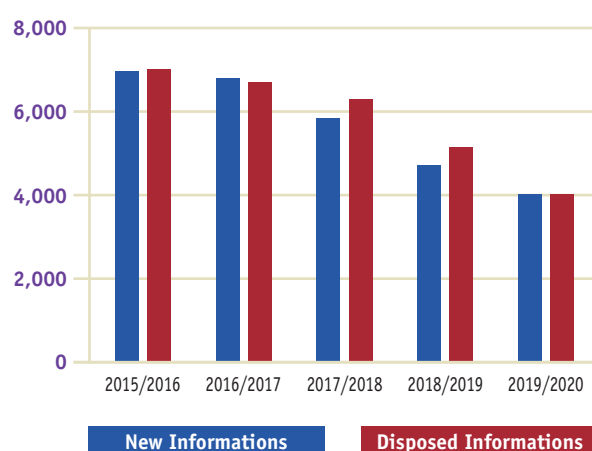
# Provincial Court Performance Measures

## 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.

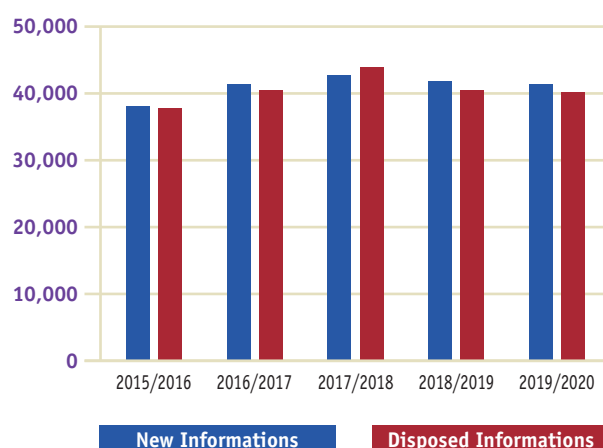
For adult cases, the Court disposed of less cases than entered the system. However, this is not a significant variation from other years.

Figure 7 – Youth Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2015/2016	6,930	7,022	101%
2016/2017	6,791	6,718	99%
2017/2018	5,839	6,279	108%
2018/2019	4,704	5,112	109%
2019/2020	4,003	4,032	101%

Figure 8 – Adult Clearance Rate



Year	New informations	Disposed informations	Clearance rate
2015/2016	37,939	37,605	99%
2016/2017	41,480	40,589	98%
2017/2018	42,578	43,944	103%
2018/2019	41,661	40,366	97%
2019/2020	41,448	40,058	97%

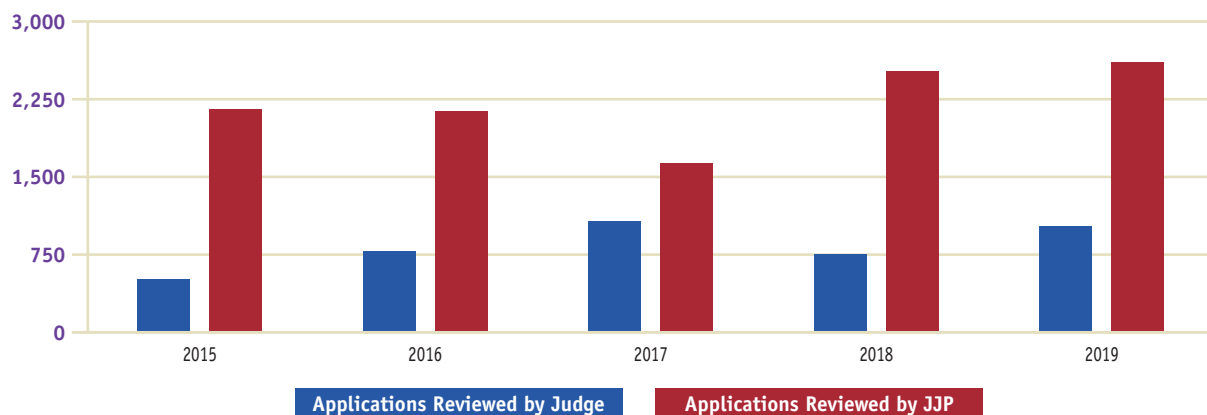
# Judicial Authorizations

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 1018 authorizations (an increase from last year's 764) and JJPs reviewed 2610 (an increase from last year's 2524) requests for judicial authorizations

for a total of 3628 authorizations. Law enforcement officers must submit affidavits to the Court for review and analysis in order to seek these judicial authorizations. The affidavits to support these requests for authorizations range anywhere from a few pages to hundreds of pages. The total number of authorizations considered reflect the significant trend upward over several years of this work for the Provincial Court. Over the years, the *Criminal Code* has been amended numerous times and additional types of judicial authorizations have been added.

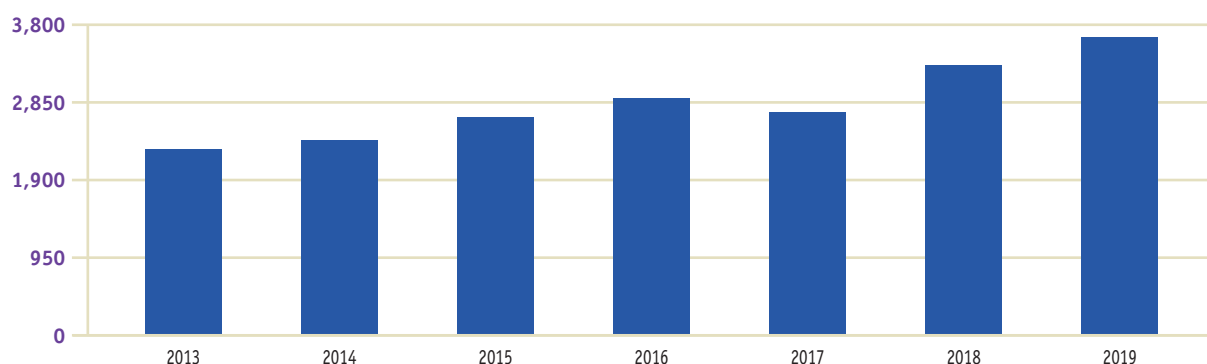
**Figure 9 – Number of Judicial Authorizations made by Judges and JJPs**



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

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

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





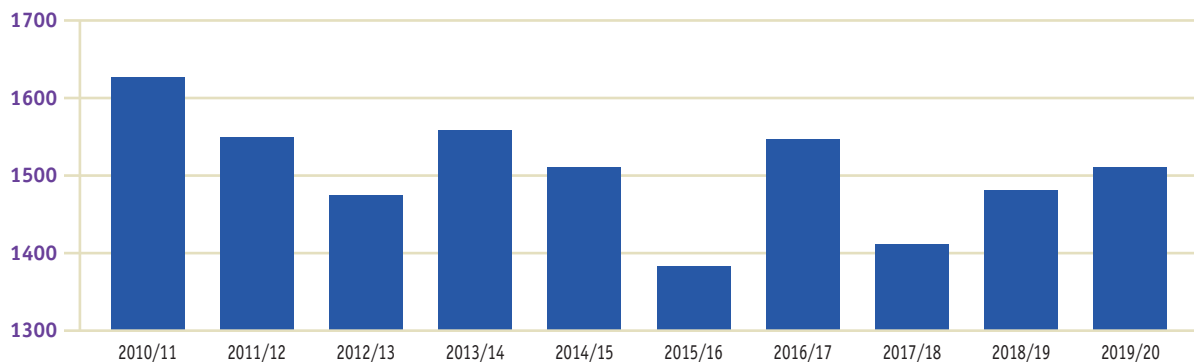
# Protection Orders

A person subjected to domestic violence and/or stalking can seek a protection order on an urgent basis from a Judicial Justice of the Peace. *The Domestic Violence and Stalking Act* provides for hearings to occur in person or 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 have occurred and the person seeking the order reasonably believes it will continue

they are able to grant a protection order. The protection order may contain conditions including prohibiting the respondent from contacting the applicant or attending any place where the applicant resides or works.

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

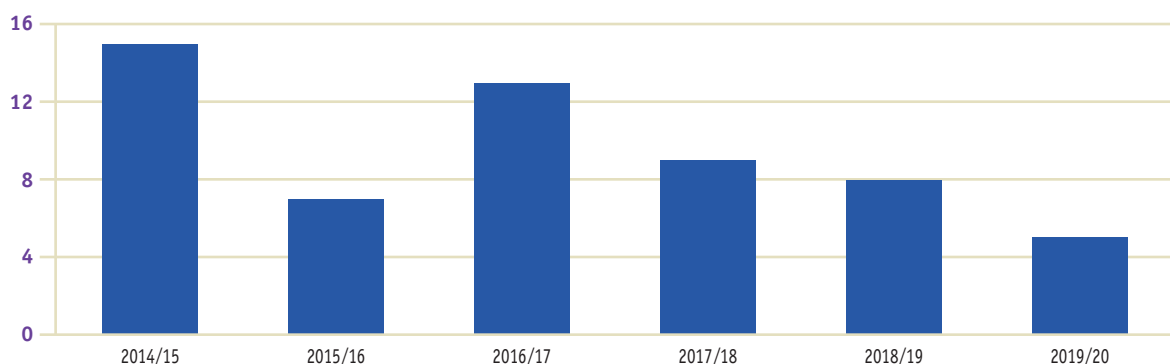
**Figure 11 – Number of Protection Order Applications Under *The Domestic Violence and Stalking Act***



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*, proclaimed in November 2017, which changed the trial process there has been a significant reduction in the number of *Highway Traffic Act* matters proceeding to hearing.

Figure 13 – Number of Hearings Set

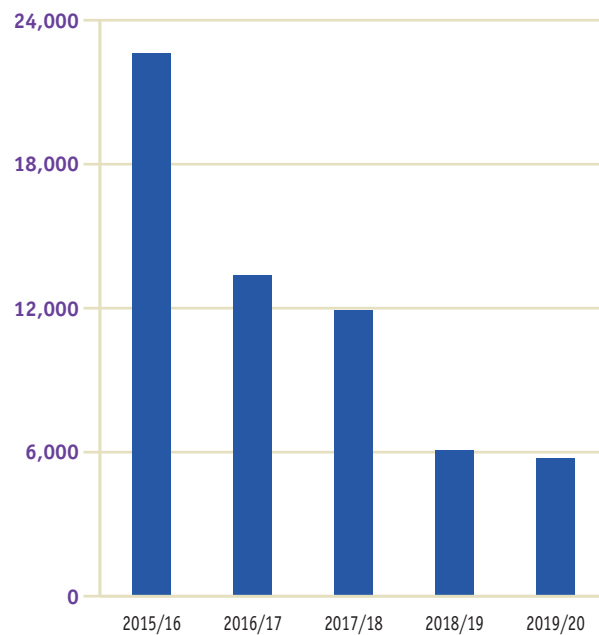
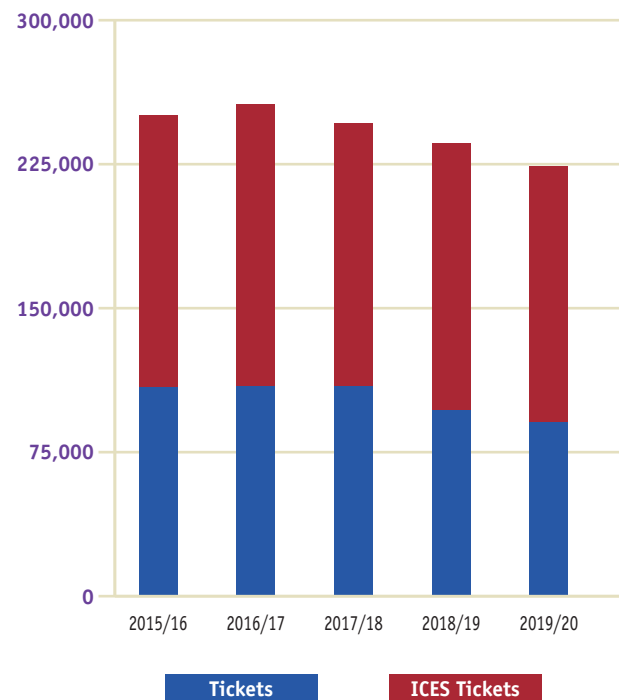


Figure 14 – Number of New Tickets Issued



# 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 Associate Professor Colin Bonnycastle, University of Manitoba, can be found on the Manitoba Court's website under Provincial Court specialty courts. 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 by participants.

## Drug Treatment Court

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

During 2019/20, the program received 40 applications for assessment for program amenability. There were 34 completed assessments, 8 people were denied admission or withdrew their applications and 27 people were admitted to the program. There were 10 assessments still to be completed as of March 31, 2020.

Including existing and new participants, the program discharged 13 individuals in 2019/20, 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 10 graduations in 2019/20, 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 2019/20, the program received 7 applications for assessment for program amenability. There was one transfer from Winnipeg. There were 8 completed assessments of which 2 people were denied admission or withdrew their applications and 6 people were admitted to the program. There were 0 assessments still to be completed as of March 31, 2020.

Including existing and new participants, the program discharged 3 individuals in 2019/20, 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 4 active participants. There were 0 graduations in 2019/20.

# 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.





# 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. In previous annual reports and in this one we report the number of “new” files opened in this fiscal year. There were 268 new child protection files opened in the Court in the 2019/20 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. A third year law student was placed with the Court and provided valuable legal research for the judges of the Court, for a course credit. The program has proved to be a valuable support for the judges of the Court and a rewarding experience for the law student.

# Inquests

The *Fatality Inquiries Act* authorizes the Chief Medical Examiner to determine when an Inquest should be held. An inquest is presided over by a Provincial Court Judge. The inquest is to inquire into the circumstances of a death. The inquest judge does not express an opinion or make a determination about who is or could be blamed in a way that could reasonably identify a person at fault. At the end of the inquest, the inquest judge provides a written report to the Minister of Justice and the Chief Medical Examiner. The report is to include any recommendations by the inquest judge concerning the laws of the province, programs, policies or practices of government or relevant public agencies or institutions, which, in the opinion of the inquest judge, would reduce the likelihood of deaths in similar circumstances in the future. 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, 2020, there were five inquest hearings ongoing and 10 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, 2020. 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 and the reports were still to be released.

In 2019/20 there were four 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
Bradley Greene	June 11, 2019	24.5 days	6 months
Mark Dicesare and Haki Sefa	October 9, 2019	8.25 days	4 months
Jean Paul Beaumont	November 8, 2019	14 days	6 months
Freeman Zong	December 17, 2019	14 days	4 months

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

We reported last year the Provincial Court spent the spring of 2018 researching and preparing for a strategic planning retreat. 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

During this fiscal year the Provincial Court has continued to assume the responsibility for scheduling of dispositions and trials. This had been the responsibility of the Crown previously. Assuming the scheduling of criminal matters has furthered transparency as all available dates in Winnipeg are posted on the Court's website and allows the Court to manage the timely provision of disposition and trial dates. Prior to the Courts scheduling matters in Winnipeg, there were often delays of several weeks for disposition or special sitting dates, now the Court is generally able to offer available dates within one week. In the majority of the regional centers, the Court had been responsible for scheduling for some time.

In January 2020, the Court began to transition to a new schedule for Thompson Courts. The new schedule relies heavily on remote support from other Regional Centers, particularly Judges from Dauphin appearing by video, to facilitate timely judicial interim release hearings and disposition dates. This schedule ensures there are bail courts before Judges five days a week in Thompson, with no additional judicial resources. In order to accomplish this, the Court was required to reduce some sittings of circuit courts. The Court continues to be very concerned about the volume of work in Northern Manitoba and the need for additional justice resources to more effectively meet the justice needs of this area of the province. The Court is grateful for the tireless work of ACJ Hewitt-Michta and her expertise in leveraging existing resources to try to address some of the issues surrounding the timely access to justice proceedings in Northern Manitoba.

A Child Protection 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. In June of 2019, the Court issued a practice directive to clarify the expectations of counsel appearing on child protection hearings. The committee would like to see the expansion of child protection sittings in the communities where these cases arise, however, to further expand court sittings with existing judicial resources has not been feasible.



# Strategic Plan

## An Innovative Court of Excellence

The FASD Court, the first of its kind in Canada, has continued to work with justice system participants to educate all parties on the relationship between Fetal Alcohol Spectrum Disorder, offending behaviour and moral culpability.

We are also happy to report, as we have elsewhere in this report, that an additional drug treatment court has opened in Brandon, Manitoba. The Court continues to look for other opportunities to collaborate with stakeholders and expand the number of problem-solving courts in the province.

## Strengthen Public Trust and Confidence in the Justice System

We were most pleased, along with the Court of Appeal and Court of Queen's Bench of Manitoba to witness the historical first sitting of the Supreme Court of Canada, outside of Ottawa.

It was a large public event open to everyone, with all nine judges attending. The Supreme Court of Canada heard two cases while sitting in Manitoba:

<https://www.scc-csc.ca/case-dossier/cb/2019/38532-p-eng.aspx> *R. v. K.G.K. 2020 SCC 7 (CanLii)*.

This case was about the right to a criminal trial within a reasonable time. The Supreme Court had to decide if the time a judge takes to decide a case should count when deciding if a trial is taking too long.

<https://www.scc-csc.ca/case-dossier/cb/2019/38332-p-eng.aspx> *Conseil scolaire francophone de la Colombie-Britannique v. British Columbia 2020 SCC 13 (CanLii)*. This case was about language education rights for French speakers in British Columbia. The Supreme Court had to decide what school services B.C. must have for its French-speaking community.

The Provincial Court was pleased to meet with Madam Justice Rosalie Abella who recognized the important work of our Court.



# Strategic Plan

## Focus on Indigenous Issues

A committee of the Court meets regularly to discuss a variety of ways to promote understanding of Indigenous Issues. This year we were very pleased to collaborate with Indigenous Leadership in a number of events that saw us receive the gift of Eagle Feathers which can now be used in any court sitting in the province to bind a person's conscience.

### Sunrise Ceremony

In the early morning hours on September 26, 2019 more than 100 people gathered at Oodena Celebration Circle in Winnipeg to welcome a new day in Manitoba's justice system. For the first time people giving evidence or speaking in court will be able to do so using an eagle feather. The day began at the Forks with a sunrise ceremony to bless the 45 feathers gifted to Manitoba courts. In the afternoon of September 26, 2019 a special ceremony was held in courtroom 210, with drummers, pipe carriers, dignitaries, judges from all three levels of Manitoba Courts and the full complement of the Supreme Court of Canada Judges.



*Presentation Ceremony of eagle feathers to the Court of Queen's Bench and the Provincial Court of Manitoba. (Photo from SCC collection)*



*Eagle Feathers on Buffalo Rug were gifted by Joyce Noonon, Barry French and William "Buffalo Bill" Crompton. (Photo from SCC collection)*



*Elder Ed Azure at the Sunrise Ceremony.*



*Sunrise Ceremony at Oodena Celebration Circle.*



*From left to right standing are Elders Mark Hall, Cathy Daniels, Ernie Daniels, Arthur McKay, Wally Richard, Lee Gott and Chief Judge Wiebe. From left to right sitting are Elders William Campbell, Mary Wilson and Ed Azure.*

# Strategic Plan

## Sound Infrastructure

In April 2019, we were pleased to see the addition of WI-FI connectivity in the Thompson Courthouse. We also look forward to the announced renovations of the Thompson and Dauphin Courthouses.

As noted above, the Court is pleased to see the announcement of the Integrated Case Management System as part of the government's Court's Modernization Strategy. We have consistently emphasized in this report the need for improved technology to address the work of the Court.

The Courthouse at 408 York Avenue, in Winnipeg is also under renovation. These renovations will increase physical accessibility and enhance security.

## Global Pandemic

On March 16, 2020, the Provincial Court of Manitoba was forced to suspend all circuit court sittings and out of custody proceedings due to the global Covid-19 pandemic. The Court continued to hear all in custody matters in its six major court centers. The next annual report will report on this unprecedented period of rapid change for the Court.



# Judicial Education

## Judges' 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 a path of life-long learning to maintain their skill level and knowledge base to inform the important decisions they make every day. In addition to education arranged and planned by the Court's judicial education committee, there are numerous national organizations which provide high quality judicial education. The National Judicial Institute is an internationally recognized organization creating and providing education programs to all judges in Canada, at all levels of court. The Canadian Association of Provincial Court Judges organizes an annual conference every year focused on the educational needs of provincial court judges. There are other recognized institutions which provide quality judicial education opportunities.

The annual education conference of the American Judges Association was held in September, 2019. The AJA is an association of American and Canadian judges which meets regularly to provide education to judges and for judges to exchange ideas and information as to the latest challenges in terms of legal issues, social science trends and findings relative to evidence, judicial ethics and domestic violence matters. The September, 2019 session offered judicial education sessions about the admissibility, relevance and evolution of social media evidence; judicial ethics in the virtual world; LGBTQ issues in the courtroom; the science of marijuana and driving; the opioid crisis, and innovative ideas by courts to deal with the influx of opioid cases in court and with the opioid crisis in the community. The sessions provided practically oriented solutions to the myriad of new and challenging issues the courts are facing in the virtual world, and updates to help judges better understand the impact of marijuana on driving and of opioids on crime in our communities. Several judges attended this conference.

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

- New Judges Substantive Criminal Law Program
- Skills training for new judges, including delivering oral judgments
- Judgment Writing Skills
- French Language training
- Charter law
- Evidence
- Sexual Assault law
- Managing Expert Evidence
- Reasonable Expectation of Privacy in the Digital Age
- Search and Seizure law
- Indigenous law and applying Gladue/Ipeelee
- Impaired driving law and Charter Issues
- Federation of Law Societies – National Criminal Law program
- The Art and Craft of Judging
- The Modern Court
- Judging in a Small Community
- Dialogue on Judging
- Forensic Science in Criminal Cases
- National Association of Drug Court Professionals Conference

## Judicial Justices of the Peace Education

The Judicial Justices of the Peace (JJPs) receive significant “on the job” mentoring and training. New JJPs undergo intensive training and job shadowing. In addition, there are two education sessions annually, which all JJPs attend, amounting to at least four days. A JJP Education committee chaired by an Associate Chief Judge meets regularly to identify and plan education opportunities for JJPs. The education topics covered in the 2019/20 fiscal year included:

- Search and Seizure
- Guns and Drugs
- *Provincial Offences Act*
- Youth and Adult bails (including new Criminal Code amendments)
- Vicarious trauma

# 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 2019/20 there was 1 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 2019/20 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, 2020 (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, 2020 is \$397,546.52 for those Judges entitled to same and who were eligible to retire on March 31, 2020.

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, 2020 is \$1,363,277.60 (\$397,546.52 + \$965,731.14).





Available in alternate formats, upon request.