

Chapter 10

Justice – Management of Provincial Court Workloads

1.0 MAIN POINTS

The Ministry of Justice (Ministry) supports the Provincial Court of Saskatchewan (Provincial Court) in managing court workloads. The Supreme Court of Canada has identified the key aspects of independence necessary to maintain a separation between the judiciary¹ and other branches of government. A Chief Judge is responsible for the sittings of the Provincial Court and provides the administrative link to the Ministry of Justice while preserving judicial independence.

The Ministry provides the Chief Judge with administrative support to manage the Provincial Court's workloads. Lack of effective support to manage these workloads could affect timely scheduling of the Provincial Court's hearings resulting in delays in delivery of justice. Such delays could also result in additional costs to hold the accused in detention centres and loss of public faith in our justice system.

For the twelve-month period ended December 31, 2013, the Ministry had effective processes to support the Provincial Court in managing court workloads except that it needs to:

- › Define clear and appropriate performance measures and targets for managing court workloads
- › Develop and implement a complete process to forecast budgetary resources needed to help manage court workloads
- › Develop and consistently use complete administrative procedures to manage court workloads
- › Complete a human resources plan that includes standardized training processes for staff to support the management of court workloads
- › Improve its collection, monitoring, analyzing and public reporting of information related to management of court workloads

We make six recommendations to help the Ministry improve its processes to support the Provincial Court in managing workloads.

¹ The judiciary, also known as the judicial or court system, is a system of courts that interprets and applies the law with judges overseeing the system.



2.0 INTRODUCTION

The Department of Justice Act (Act) makes the Ministry of Justice responsible for the supervision of all matters connected with the administration of justice in Saskatchewan.² This includes the responsibility to support the Provincial Court in managing workloads. The Ministry works with the Chief Judge³ to support the monitoring and management of workloads.

The court system needs to measure the amount and type of work performed. A court workload is based on several external factors including the number of charges laid, the number of court appearances, the number of accused, and case complexity. Court workload directly impacts an accused's time-to-trial⁴. Effective management of workload helps ensure that cases can be heard and decided in a timely manner.

This chapter reports the results of our audit of the Ministry's processes to support the Provincial Court in managing workloads.

3.0 SUPPORTING THE PROVINCIAL COURT OF SASKATCHEWAN

The Canadian justice system is complex and involves different levels of government, its agencies, and individuals. A key to Canada's justice system is the separation between the judiciary and the state (e.g., the federal and provincial governments). The Supreme Court of Canada has identified the key aspects of independence necessary to maintain a separation between the judiciary and other branches of government.

A Chief Judge is responsible for the sittings of the Provincial Court and provides the administrative link to the Ministry of Justice while preserving judicial independence. Under *The Provincial Court Act, 1998*, Cabinet appoints a Chief Judge of the Provincial Court. Duties of the Chief Judge include assigning provincial judges to hear cases, designating Provincial Court facilities, and scheduling and setting court dates.^{5,6} At December 2013, Saskatchewan had 48 Provincial Court judges. These judges preside over Provincial Court under the leadership of the Chief Judge.

The Provincial Court has civil and criminal jurisdiction. It hears cases related to criminal charges against adults and youths, civil claims for less than \$20,000, traffic safety violations, municipal bylaws, and some family law matters. As shown in **Figure 1**, Provincial Court is held in 13 permanent provincial offices and almost 70 circuit points. The Provincial Court has locations throughout the province.

² www.qp.gov.sk.ca/documents/English/Statutes/Statutes/D18-2.pdf (5 December 2013).

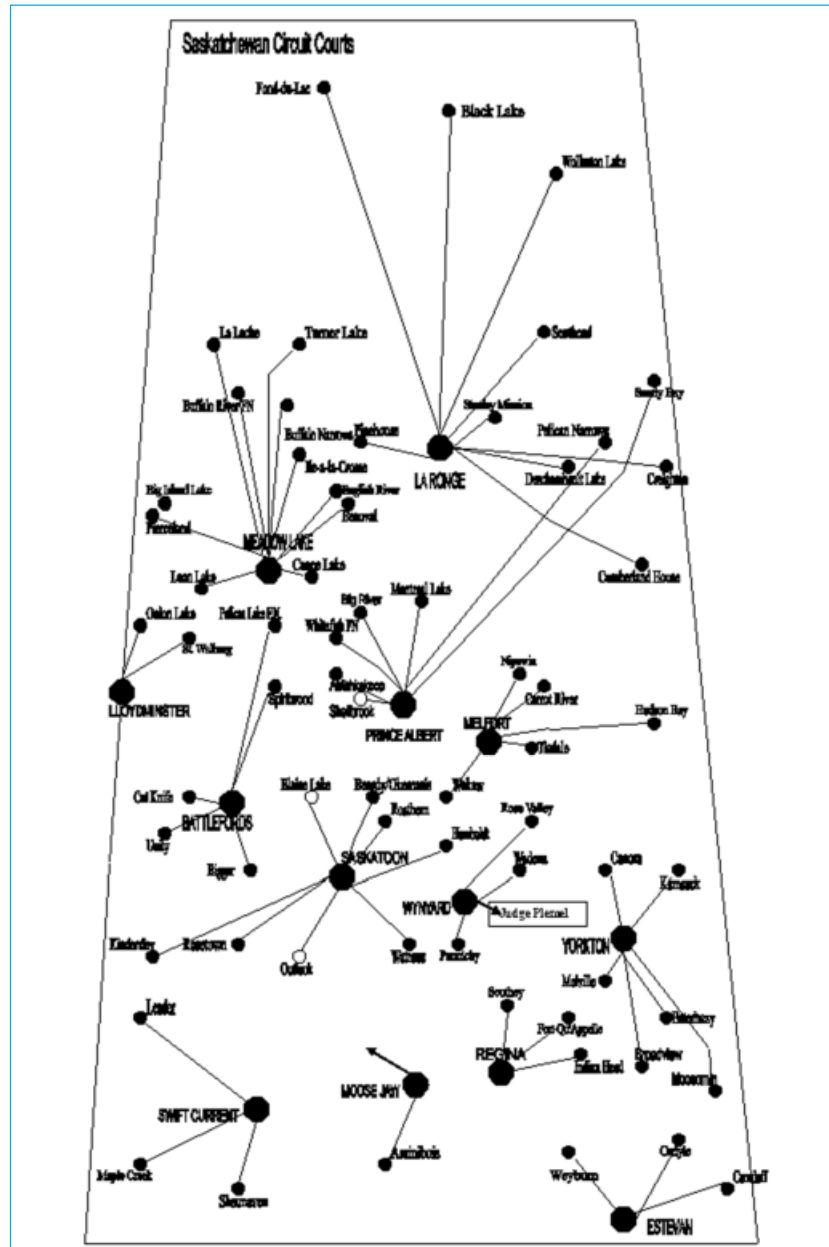
³ The Chief Judge is part of the judiciary which is distinct and operates independently of other justice system participants. The Chief Judge has administrative duties and powers in addition to being a judge.

⁴ The number of days an accused person has to wait for their trial once they indicate they want to have a trial.

⁵ www.qp.gov.sk.ca/documents/English/Statutes/Statutes/P30-11.pdf (12 December 2013).

⁶ www.courts.gov.bc.ca/about_the_courts/Judicial%20Independence%20Final%20Release.pdf (13 February 2014).

Figure 1—Provincial Court of Saskatchewan Circuit Court Points



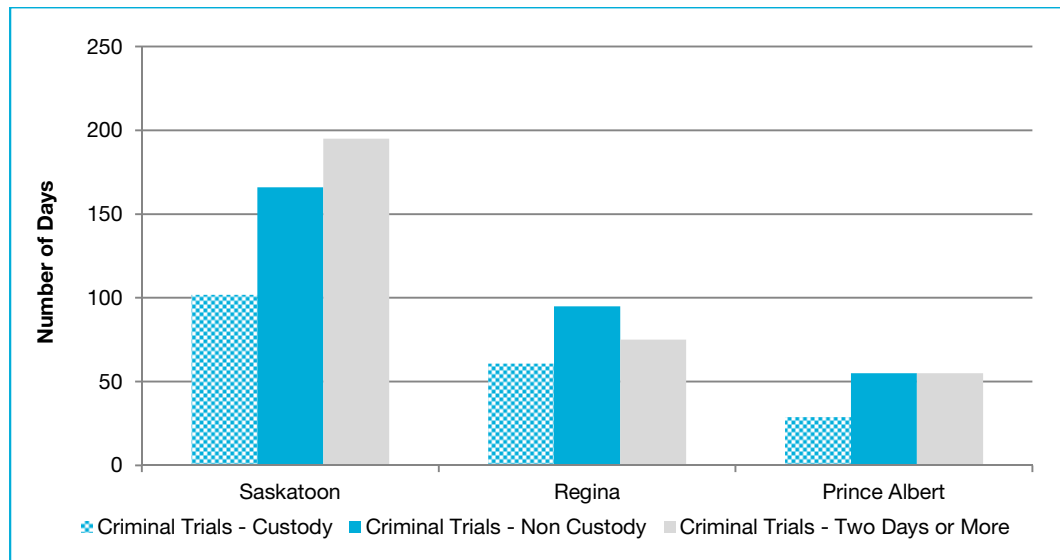
Source: Ministry of Justice

In criminal cases, timely delivery of justice is crucial. *The Canadian Charter of Rights and Freedom* states that a person charged with a criminal offence has a right to be tried within a reasonable timeframe. The Supreme Court of Canada gives a guideline of eight to ten months (i.e., 240 to 300 days) as a reasonable length of time for institutional delays in Provincial Courts.⁷ **Figure 2** shows, that in each of the three major Saskatchewan centres, the average wait time for all three types of criminal trials was less than 200 days in October 2013. However, in other centres, the wait time is much longer. For example, Ile-a-la-Crosse has a wait time of over 300 days.

⁷ Supreme Court of Canada, R.V. Morin, 1992 defines institutional delay as time that “runs from the time the parties are ready for trial and continues until the system can accommodate the proceedings”.



Figure 2—Provincial Court of Saskatchewan Adult Criminal Trials Wait Time (Time-to-Trial) in Major Urban Centres, October 2013



Source of data: Provincial Court of Saskatchewan

The Ministry provides the Chief Judge with administrative and financial support through its Court Services Division. In 2013-14, the Ministry expected to spend about \$45.7 million on providing judicial and operational support to the system (about 12% of its total budget) (2014-15 – \$49.8 million).⁸ This includes coordinating the production of court transcripts, maintaining court records and files, and providing enforcement services for legal judgments.

Since 1994, the workload of the Provincial Court has substantially increased.⁹ The annual numbers of total appearances in the Provincial Court have increased from about 600,000 in 2003 to over 800,000 in 2012 – an increase of over 37%.

Effective court operations depend on the timely and proper administrative and financial support from the Ministry. The public could be at greater risk if an accused is improperly released. The public could also lose faith in our justice system because of delays in the court's consideration of cases and in the timely delivery of justice. In addition, delays could result in additional costs incurred to hold accused in detention centres for an extended period of time.

4.0 AUDIT OBJECTIVE, SCOPE, CRITERIA, AND CONCLUSION

The objective of this audit was to assess whether the Ministry of Justice had effective processes to support the Provincial Court in managing workloads for the twelve-month period ended December 31, 2013.

Our audit did not assess the performance of the judiciary or the Chief Judge. Nor did it assess the judgments made by the Provincial Court.

⁸ Government of Saskatchewan, *2014-15 Estimates*, p. 92.

⁹ *Report and recommendations of the 2011 Judicial Compensation Commission*, p. 17-18.

We examined the Ministry's processes, policies, and procedures that relate to supporting the Provincial Court to manage workloads.

To conduct this audit, we followed the standards for assurance engagements published in the *CPA Canada Handbook – Assurance*. To evaluate the Ministry's processes, we used the following criteria based on reviews of literature including reports of other auditors, and consultations with management. **Section 6** sets out the key sources for these criteria. Management agreed with these criteria.

Figure 3—Audit Criteria

To have effective processes to support the Provincial Court of Saskatchewan in managing court workloads, the Ministry should:

- 1. Plan to support the Chief Judge in the management of court workloads**
 - 1.1 Forecast court workloads
 - 1.2 Include court personnel and related professionals (i.e., judiciary, police, lawyers) in developing plans to manage court workloads
 - 1.3 Produce plans for supporting management of court workloads
 - 1.4 Create clear and appropriate performance measures for court workloads
 - 1.5 Communicate expectations of plans to manage court workloads
- 2. Implement plans to support the Chief Judge in the management of court workloads**
 - 2.1 Collaborate with court personnel and related professionals (i.e., judiciary, police, lawyers) on plans to manage court workloads
 - 2.2 Implement systems (i.e., processes, IT) to help manage court workloads
 - 2.3 Commit appropriate resources (i.e., human, facilities) to help manage court workloads
 - 2.4 Put processes in place for continuous improvement
 - 2.5 Train staff used to implement plans to manage court workloads
- 3. Monitor and report information that supports the Chief Judge in the management of court workloads**
 - 3.1 Collect information on performance measures
 - 3.2 Identify important factors influencing court workload measures
 - 3.3 Analyze information influencing court workload measures
 - 3.4 Use analysis from monitoring court workloads
 - 3.5 Communicate performance about court workloads

We concluded that the Ministry of Justice had effective processes to support the Provincial Court of Saskatchewan in managing court workloads for the twelve-month period ended December 31, 2013, except that it needs to:

- › **Define clear and appropriate performance measures and targets for supporting court workloads**
- › **Develop and implement a complete process to forecast budgetary resources needed to help manage court workloads**
- › **Develop and consistently use complete administrative procedures to manage court workloads**
- › **Complete a human resources plan that includes standardized training processes for staff to support the management of court workloads**
- › **Improve its collection, monitoring, analysis and public reporting of information related to management of court workloads**



5.0 KEY FINDINGS AND RECOMMENDATIONS

In this section, we describe our key findings and recommendations related to the audit criteria in **Figure 3**.

5.1 Planning Processes Need Improvement

The Ministry of Justice *Plan for 2013-14*¹⁰ included actions to improve support to the court. However, the Ministry does not have a complete plan that sets out specific actions to support the management of court workloads including how the Ministry plans to measure its success in managing the workload (e.g., performance measures and targets). To effectively support the management of court workloads, the Ministry needs effective planning processes that allow it to accurately estimate its current and future capital, staffing, and equipment needs.

The Ministry has a five-year plan for capital improvements. The Ministry and judiciary meet regularly, as part of a judiciary-led facilities committee, to discuss facility issues.¹¹ However, the Ministry has not effectively considered the long-term capacity needs of all Provincial Court facilities. The Ministry last completed a comprehensive assessment of Provincial Court facilities in 2001.

The Ministry and the Chief Judge monitor time-to-trial. We noted that some Provincial Court locations in the province are approaching the maximum time-to-trial timeframes set out in the Supreme Court of Canada guidelines.

The Provincial Court has experienced a significant increase in its workload over the past 10 years. A key to effective management of court workloads is forecasting future resource demands. The Ministry needs such a forecast to determine staff, appropriateness and capacity of facilities, and equipment resources necessary to support the Provincial Court's work.

The Ministry uses its information system to track a number of factors related to court workloads. For example, the Ministry has data by Provincial Court location (e.g., Regina) on the length of time to conclude,¹² the number of appearances, and the number of charges laid and concluded. While these are important factors, we found that the Ministry does not use them to forecast court workloads. Nor did we identify other factors that the Ministry uses to accurately forecast staff, facilities, or equipment necessary to support court workloads.

The Ministry uses quarterly reports from Provincial Court locations to identify the potential time-to-trial issues. Ministry staff work with the Chief Judge who tracks the next available trial date at each Provincial Court location and sets the schedule of court hearings. For example, if the Chief Judge determines that time to the next normally-available trial date is long in a specific Provincial Court location, the Chief Judge and Ministry arrange to run extra court dates for a short period of time. The Ministry was unable to show us that it had fully identified the root causes of time-to-trial pressures

¹⁰ The Ministry of Justice, *Plan for 2013-14* www.finance.gov.sk.ca/PlanningAndReporting/2013-14/JusticePlan1314-Print.pdf (5 April 2014).

¹¹ The committee's purpose is to monitor whether court facilities meet physical and security standards.

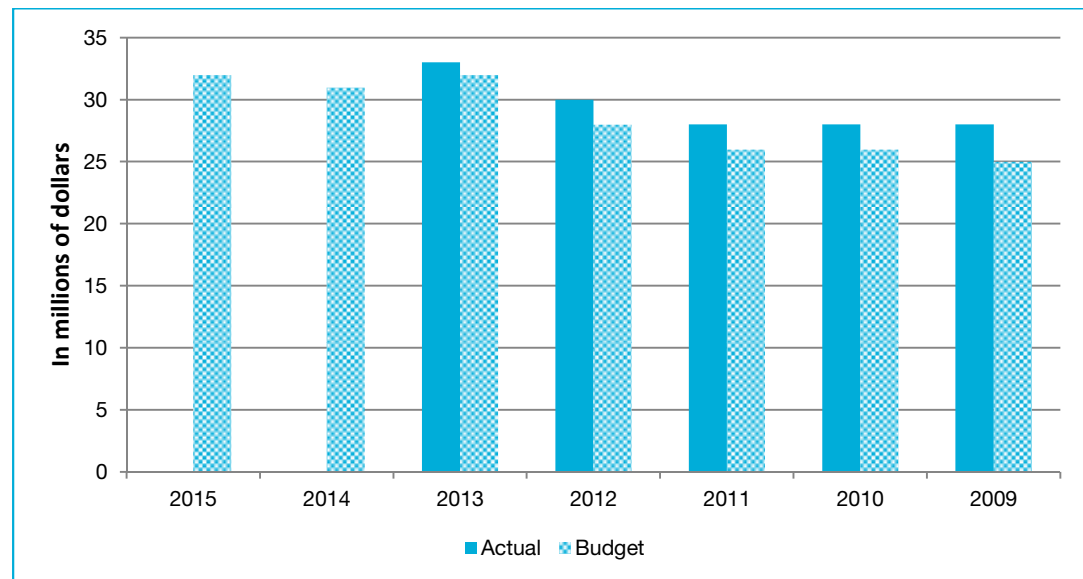
¹² The number of days between first court appearance and final (concluding) court appearance.

causing the need for extra court dates. Also, no performance measures and targets were set to support the management of court workloads.

The lack of a complete plan to support the management of court workloads can lead to increased overtime costs, inadequate facilities, and longer time-to-trial for accused.

1. We recommend that the Ministry of Justice define clear and appropriate performance measures and targets for supporting the management of Provincial Court of Saskatchewan workloads.

Figure 4— Comparison of Actual-to-Budgeted Court Service Expenses



Source: Ministry of Justice Annual Report and Government of Saskatchewan – Estimates
Actuals for 2014 and 2015 are not yet available

As shown in **Figure 4**, the Ministry's actual cost of providing resources to courts has exceeded its budget for several years. The Ministry explains, each year in its Annual Report, that increased costs are related to court security, workload pressures, and other operating pressures. This included hiring additional full-time equivalent positions for court services. Full-time equivalent positions hired to address Provincial Court workload pressures has increased by 20 since 2010.¹³ Overtime hours and costs have also increased significantly. Court services staff worked 4,331 overtime hours to support the Provincial Court in 2009. This increased to 6,110 overtime hours in 2013-14.¹⁴ **Section 5.2** identifies inconsistencies in determining staffing needs for court services.

Consistently exceeding its budget indicates a need for the Ministry to strengthen its budgeting and forecasting processes. Also, it indicates that while use of extra court dates can be effective short-term responses to address immediate time-to-trial pressures, they may not be cost-effective solutions over the mid to long term.

¹³ Ministry of Justice.

¹⁴ Ibid.



2. We recommend that the Ministry of Justice develop and implement a complete forecasting process that identifies administrative and financial resources (e.g., staff, facilities, and equipment) needed to support the management of court workloads.

The Ministry is developing a new information system to provide it with better information. The system will be implemented in three phases. The court information system is scheduled for implementation in 2016. Ministry officials advised us that the new system may require additional reporting enhancements to support a complete forecasting process.

5.2 Consistent Processes to Manage Court Workloads Needed

The Ministry has documented some administrative policies and procedures to guide court processes (e.g., recalling warrants and orders to lift prohibition orders). However, the Ministry has not defined policies and procedures for all key administrative processes. In addition, not all administrative processes are consistent. For example, some Court locations develop their own administrative procedures including key human resource procedures.

We found that staff use different documentation procedures at different Provincial Court locations (e.g., to document court appearances). The Ministry has not yet worked with the Chief Judge to fully identify procedural differences and potential solutions.

We also found that the Ministry does not have a complete human resource plan for all court services staff located across the province. The largest Provincial Court locations (i.e., Regina, Saskatoon, and Prince Albert) have identified some future human resource needs (e.g., succession plans for retiring staff). However, the process for identifying staffing needs is not consistent across the province. Also, at each location, training of new administrative staff typically occurs by having the new staff member work directly with an experienced staff member to learn what the job requires.

While some training materials are available, we found that the administrative procedures and staff training at Provincial Court locations are inconsistent. Consistent procedures would allow the Ministry to develop efficient and effective training programs and make it easier for staff to move between locations (either permanently or to help with extra court dates), help address future staff succession needs, and better identify staffing needs. A lack of standardized training combined with using different procedures at different Provincial Court locations can be inefficient and increase the risk of administrative errors.

3. We recommend that the Ministry of Justice develop and consistently use complete administrative procedures to support the management of Provincial Court of Saskatchewan workloads.

4. We recommend that the Ministry of Justice implement a complete human resources plan that includes standardized training processes for staff who support the management of Provincial Court of Saskatchewan workloads.

5.3 Monitoring and Reporting Need Improvement

A good decision-making process includes systematically collecting and analyzing key information about the courts to identify factors that influence workloads. The Ministry and Chief Judge can then use these analyses to make informed decisions.

The Ministry prepares reports on a quarterly basis. The reports include data about court workloads. For example, the reports identify the number of court appearances at each location.

As noted in **Section 5.1**, the Ministry has not yet identified all key factors that influence court workloads or analyzed the reports to determine root causes for why workloads are increasing. Ministry officials and the Chief Judge have cited a lack of resources to analyze court workload data.

We also found that although the Ministry periodically reviewed key areas of its court operations, it did not formally follow up on the recommendations of these reviews. For example, in December 2010, it assessed the efficiency and effectiveness of court operations. In 2011, it assessed its use of video conferencing technology. Both reports identified recommendations for how to improve operations. While the Ministry has taken steps to improve its processes, we found that it had not actively monitored or reported on the relevance or status of implementation of those recommendations. To achieve value from resources spent on review activities, senior management should require staff, on a periodic basis, to outline, in writing, actions to address recommendations and status of the implementation of those actions.

Not understanding all key factors that influence court workloads and not actively following up the results of reviews increases the risk of not properly planning for or managing court workloads. This may result in inefficient use of resources.

5. We recommend that the Ministry of Justice improve its collection, analysis, monitoring, and public reporting of information related to supporting the management of Provincial Court of Saskatchewan workloads.



The Ministry's last Annual Report (2013-2014) and most recent plan (2014-15) included limited plans and reporting on court initiatives (e.g., extent of use of video conferencing). Although the Ministry has cited, for a number of years, ongoing court workload pressures and operating pressures in court services as the reasons for increased spending, it does not make public the action plans it expects to use to address those court workload and operating pressures in court services. It also has not made public the extent to which it is achieving those plans. Providing this information to legislators and the public will help them understand the underlying reasons for the increased costs of court services and how the Ministry plans to manage them.

6. We recommend that the Ministry of Justice make public its key action plans to address operating pressures related to supporting the management of Provincial Court of Saskatchewan workloads.

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