

Chapter 40

Justice – Supporting Provincial Court of Saskatchewan to Manage Court Workloads

1.0 MAIN POINTS

By July 31, 2017, the Ministry of Justice had implemented one of the six recommendations we made in our 2014 audit of its processes to support the Provincial Court to manage court workloads. The Ministry developed standardized administrative policies and procedures for all court locations to use. While the Ministry made progress on other recommendations, it continues to need to:

- Set key targets for supporting the management of court workloads
- Develop and implement a comprehensive forecasting model to assess resources needed to support the management of court workloads
- Implement standardized training processes for court staff
- Improve its collection, analysis, monitoring, and public reporting of information related to supporting the management of court workloads
- Make public its key action plans to address operating pressures related to supporting the management of court workloads

Lack of effective support to manage Provincial Court’s workloads could affect timely scheduling of the Court’s hearings. This could result in delayed 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.

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.¹ The Supreme Court of Canada Jordan decision has set a new framework as of July 2016 in which the ceiling for cases to be tried in the provincial court is 18-months. If this ceiling is exceeded, the timeframe for trial is unreasonable.²

The Ministry of Justice must support the Provincial Court to effectively manage work pressures and wait times, so delays do not exceed the 18-month ceiling and cases are completed in a reasonable period.

¹ 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”.

² Supreme Court of Canada, R.V. Jordan, 2016 states the “presumptive ceiling is 18 months tried in the provincial court” and the institutional delay refers to R.V. Morin with “eight to ten months before the provincial court”. Source: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16057/index.do>. (25 September 2017).



2.0 INTRODUCTION

The Ministry of Justice, through its Court Services branch,³ 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 judiciary and other branches of government (e.g., executive). A Chief Judge is responsible for the schedule of the Provincial Court and is the administrative liaison with the Ministry of Justice while preserving judicial independence.

This chapter describes our follow up of management's actions on six recommendations we made in our 2014 audit of the Ministry's processes to support the Provincial Court to manage court workloads.⁴

To conduct this audit engagement, we followed the standards for assurance engagements published in the *CPA Canada Handbook – Assurance* (including CSAE 3001). To evaluate the Ministry's progress towards meeting our recommendations, we used the relevant criteria from the original audit. The Ministry's management agreed with the criteria in the original audit.

To carry out our follow-up, we interviewed staff at the Ministry, Provincial Court offices, and the Chief Judge, and reviewed relevant documents (e.g., strategic and operational plans).

3.0 STATUS OF RECOMMENDATIONS

This section sets out each recommendation including the date on which the Standing Committee on Public Accounts agreed to the recommendation, the status of the recommendation at July 31, 2017, and the Ministry's actions up to that date. We found that the Ministry had implemented one of our recommendations and partially implemented five of our recommendations.

3.1 Completed Plan Needed

We recommended that the Ministry of Justice define clear and appropriate performance measures and targets for supporting the management of Provincial Court of Saskatchewan workloads. (2014 Report

– Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Partially Implemented

The Ministry has not set all key targets in the Ministry's Court Services Strategic Plan.

The Ministry's Court Services Strategic Plan 2018-22 sets goals, strategies, key actions, and performance indicators that outline how the Ministry plans to achieve its goals. The Ministry has established quantitative annual targets for most performance measures that

³ Court Services is a branch in the Ministry of Justice that provides administrative support for the Provincial Court.

⁴ Our 2014 Report – Volume 1, Chapter 10 concluded that the Ministry of Justice had effective processes to support the Provincial Court of Saskatchewan in managing court workloads for the 12-month period ended December 31, 2013, except for the six areas in our recommendations.

support the management of court workloads. At July 2017, it was developing one performance measure.

It has identified the measure for reducing time to trial and case resolution but has not yet developed related targets. This specific measure is significant, as it will provide relevant information for the Ministry to effectively support the Provincial Court in managing court workloads.

Targets provide the benchmark to assess progress against. Without the targets in place, progress towards the end goal cannot be tracked and evaluated.

We recommended 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. (2014 Report – Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Partially Implemented

At July 2017, the Ministry was developing a comprehensive forecasting model to assess resources needed to manage court workloads. This work is not yet complete.

The Ministry's actual cost of providing resources to the Provincial Court continues to exceed the budget to meet growing workloads. The number of overtime hours worked to support the Provincial Court in 2016-17 was 6,571, which is a slight increase since our 2014 audit (2013-14: 6,110 overtime hours).

The Ministry completes annual forecasts for salaries and operating expenses for financial purposes but it does not forecast future court workloads.

We found that the Ministry forecasts facilities and courtroom usage to determine how often court will need to sit in each court or circuit point⁵ location. However, it has not consistently used the court schedule data to forecast the other resources (e.g., staff time) required to manage Provincial Court workloads.

The Ministry has a plan to implement a multi-year comprehensive forecast model, and has identified a tool that it hopes to use to assess resources required to support court workloads. This tool factors in staff time; available financial and human resources; and the number of courtrooms, judges, etc. required to support the courts to reduce future court workloads. However, the IT component of the tool did not receive Ministry funding approval for 2018-19. At July 2017, the Ministry had not considered an interim or alternate plan for a forecasting model.

Not having a complete plan to support the management of court workloads can lead to increased overtime costs and delays in the Provincial Court.

⁵ Court is conducted throughout the province at 13 locations with permanent court offices with resident judges. Provincial Court judges travel to approximately 60 other communities for court matters, known as circuit points. Source: sasklawcourts.ca/home/provincial-court/about-the-court (12 September 2017).



3.2 Processes to Manage Court Workloads Consistent

We recommended that the Ministry of Justice develop and consistently use complete administrative procedures to support the management of Provincial Court of Saskatchewan workloads. (2014 Report – Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Implemented

A Ministry-led review of Court Services' administrative policies and procedures resulted in adjustments to or creation of new policies.

The Ministry has a dedicated staff member to review and update policies and documents to keep staff resources relevant and current. The dedicated staff member updates policies and procedures based on legislative changes, requirements identified by judges, or ideas brought forward by staff members. The dedicated staff member discusses changes with court managers prior to implementation to identify the impact of the change, receive feedback, and answer questions.

Some of the major changes during our audit period included converting the Provincial Court Policy and Procedure Manual for the old IT system (JAIN) to the new IT system (Criminal Justice Information Management System, [CJIMS]), and the shift to the Standardized Endorsement Form, a formal recording of court proceedings, for use among all provincial courts.

We found that the Ministry developed standardized administrative policies and procedures for use by all court locations. It makes the policies and procedures available electronically on a common IT network drive to promote consistency and easy access for staff across the province. We found that Provincial Court staff were consistently using the administrative policy and procedure manual.

We recommended 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. (2014 Report – Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Partially Implemented

The Ministry's Court Services' human resources plan now includes standardized training. The Ministry expected to update the supporting training and procedure manual by October 2017.

The updated human resource plan includes:

- Human Resource Plan and Operational Plan for 2017-2021
- Succession planning templates
- Orientation Manual for New Employees
- Checklist for supervisors to use during training
- Standardized training materials

We found that the Provincial Court managers consistently use the standardized orientation manual and training materials for new staff, and offer continual training for existing staff.

The Ministry expected to review and update the Judicial Officer Training and Procedure Manual from 2011 in October 2017 following the final CJIMS implementation, as it was changing procedures based on the changes from the new IT system. This is a key manual as it provides comprehensive guidance on the procedures for Court. In addition, the Ministry was planning to implement a review process for all existing manuals. Using manuals that are not routinely updated results in staff not having current and relevant information on processes and procedures.

3.3 Monitoring and Reporting Need Further Improvement

We recommended 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. (2014 Report – Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Partially Implemented

At July 2017, the Ministry was in the process of implementing a new IT system (CJIMS). It expected the core functions of CJIMS to be fully implemented in October 2017 at which time its reporting aspect would be available to the Ministry.

CJIMS is to aid in the collection and analysis of workload data. It is anticipated the new system will allow the Ministry to count, track, and monitor items that have an impact on court workloads (e.g., the ability to count the number of individuals charged instead of just number of charges). Having access to different information will allow the Ministry to analyze and monitor data to support the management of Provincial Court workloads. In addition, the Ministry could give information to the Chief Judge for the Provincial Court to use for scheduling.

The Ministry has developed a Strategic Systems and Innovation (SSI) branch with a mandate that includes in-house data analytics. The SSI group is working on the development of a data warehouse to collect all Ministry data including Corrections, Prosecutions, and Provincial Courts. The data warehouse is expected to commence operational reporting related to court workloads by March 2018.

The Ministry's public reporting of information related to its support of court workloads had not been improved as of July 2017, but it had plans to increase public reporting of performance measures in 2018 and future years. It makes information public through the Ministry Plan and Annual Report. The Ministry expects to include information regarding the time to trial and case resolution within adult criminal courts in its next annual report, and include additional key actions in subsequent annual reports. By excluding this information for public reports, the readers are not aware of how work of the Ministry supports improving court wait times.



We recommended 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. (2014 Report

– Volume 1; Public Accounts Committee agreement February 13, 2015)

Status – Partially Implemented

The Ministry has developed key action plans to address operating pressures related to supporting the management of court workloads, and has plans to increase public reporting of the actions in the future.

We found the key action plans support the strategic goals of Court Services and aligns with the goals and strategies of the Ministry of Justice. The Ministry expects a number of the key actions to result in effective support for Provincial courts workload management and reduction of court wait times (e.g., increasing the use of video technology to reduce the number of adjournments⁶ and supporting the Time to Resolution Pilot project to increase the use of early assessment and resolution processes to reduce the time required to resolve disputes).⁷

The key action plans, although developed, had not been reported publicly as of July 2017. Going forward, the Ministry expects key actions to be reported on in the Annual Report, beginning with its next annual report. Including these key actions will improve public accountability and make the public aware of the Ministry's plans.

⁶ Definition of adjournment: “the postponement of a court proceeding or session until another date; may be with a specified date or without [...]”. Source: www.manitobacourts.mb.ca/general-information/definitions-understanding-legal-words/ (12 September 2017).

⁷ *Ministry of Justice Plan for 2016-17*. Source: www.finance.gov.sk.ca/PlanningAndReporting/2016-17/JusticePlan1617PRINT.pdf (12 September 2017).