

Chapter 33

Justice and Attorney General—Supporting Provincial Court of Saskatchewan to Manage Court Workloads

1.0 MAIN POINTS

By June 2020, the Ministry of Justice and Attorney General had implemented three of the five remaining recommendations we made in our 2014 audit of its processes to support the Provincial Court of Saskatchewan (Provincial Court) to manage court workloads. The Ministry:

- Developed performance measures and set related targets
- Made public its key action plans to address operating pressures related to supporting the management of court workloads
- Implemented a human resources plan that includes up-to-date procedure manuals

The Ministry still needs to develop and implement a complete forecasting model to support the management of court workloads and improve its collection, analysis, monitoring and public reporting of information related to supporting the management of court workloads.

Having a complete forecasting plan to support the management of court workloads can help reduce unnecessary overtime costs and delays in the Provincial Court. Improving collection, analysis, and monitoring of information related to supporting the management of court workloads will help the Ministry improve its understanding of key factors that influence workloads. Public reporting on key factors will help keep the public aware of the Ministry's actions.

Effective support to manage Provincial Court's workloads can help ensure timely scheduling of the Court's hearings. This, in turn, can help to avoid delayed delivery of justice, and additional costs that may result from delays (e.g., costs to hold accused in detention centres).

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.

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.^A 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.^B

Source: scc-csc.lexum.com/scc-csc/scc-csc/en/item/16057/index.do (26 August 2020).

^A 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".

^B 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".



2.0 INTRODUCTION

The Ministry of Justice and Attorney General, through its Court Services Branch, supports the Provincial Court of Saskatchewan in managing court workloads.¹

A Chief Judge is responsible for the schedule of the Provincial Court and is the administrative liaison with the Ministry while preserving judicial independence. 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, legislature).

This chapter describes our second follow-up audit of management's actions on the five remaining recommendations we first made in our *2014 Report – Volume 1*, Chapter 10.² We concluded for the twelve-month period ended December 31, 2013, the Ministry had effective processes to support the Provincial Court in managing court workloads except in the areas of our six recommendations. In our 2017 follow-up, the Ministry had implemented one recommendation, and had partially implemented the remaining five.³ It had developed standardized administrative policies and procedures for all court locations to use.

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

To carry out our follow-up audit, we interviewed Ministry staff 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 June 25, 2020, and the Ministry's actions up to that date.

3.1 Performance Measures and Targets Developed and Related Key Actions Publicly Reported

We recommended the Ministry of Justice [and Attorney General] define clear and appropriate performance measures and targets for supporting the management of Provincial Court of Saskatchewan workloads. (2014 Report – Volume 1, p. 73, Recommendation 1; Public Accounts Committee agreement February 13, 2015)

Status—Implemented

¹ Court Services is a Branch within the Ministry that provides administrative support for the Provincial Court.

² *2014 Report – Volume 1*, Chapter 10, p.67-77 (1 October 2020).

³ *2017 Report – Volume 2*, Chapter 40, p. 277-282 (1 October 2020).

The Ministry of Justice and Attorney General has clear and appropriate performance measures and targets related to supporting the management of Provincial Court workloads.

The Ministry's *Court Services Strategic Plan 2020-2024* sets goals, strategies, key actions, and performance measures outlining how the Ministry plans to achieve its goals. As shown in **Figure 1**, the Strategic Plan includes five performance measures that directly contribute to supporting the Provincial Court in managing court workloads. We found the Ministry also has targets and benchmarks to help it assess the success of each measure.⁴

Figure 1—Performance Measures Related to Supporting the Provincial Court in Managing Court Workloads

By March 31, 2024, the Ministry plans to:	
➤	Work with the Chief Judge to: <ul style="list-style-type: none"> - Reduce time to case resolution in adult criminal court - Improve access to justice by increasing the percentage of appearances heard by video-conferencing - Improve access to justice by reducing the average number of court adjournments
➤	Increase effective people management and employee responsiveness by increasing employee engagement
➤	Increase effective people management and responsiveness by maintaining a minimum employee retention rate

Source: Adapted from Ministry of Justice and Attorney General, *Court Services Strategic Plan 2020-2024*, pp. 68-70.

Performance measures and targets provide a benchmark to assess progress. Having measures and targets in place to support management of Provincial Court workloads can help management determine work effort needed to achieve desired goals, and to track and evaluate progress towards meeting those goals.

We recommended the Ministry of Justice [and Attorney General] 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, p. 76, Recommendation 6; Public Accounts Committee agreement February 13, 2015)

Status—Implemented

The Ministry of Justice and Attorney General is using its publicly available Annual Report and Annual Plan to make public key actions it is using to address operating pressures related to supporting management of Provincial Court workloads.

We found its key action plans included in its last annual report and plan published as of June 2020 (see **Figure 2**) support the strategic goals of its Court Services Branch and align with the Ministry's goals and strategies. The Ministry expects these key actions to result in effective support for management of Provincial Court's workloads and reduction of court wait times.

⁴ These measures are currently used for internal purposes. We assessed the targets and benchmarks and found they were appropriate to help the Ministry assess its work related to supporting the management of Provincial Court of Saskatchewan workloads.



Figure 2—Published Key Actions Related to Supporting the Provincial Court in Managing Court Workloads

<p>2018-19 progress related to key actions^A</p> <ul style="list-style-type: none">➤ Video-conferencing equipment was expanded to more locations and for more users within the court system to reduce the amount of offender transport and improve timelier resolution of charges:<ul style="list-style-type: none">- Video court locations were expanded to increase use of video conferencing, resulting in 20 additional locations.- The growth in the number of charges heard through video conferencing was consistent with the overall growth in charges heard in court.- Work continued with officials at correctional centres, defence counsel and in court locations to increase capacity, including providing multiple units and replacing older units.➤ Developing data analytics to better understand the workload of the courts and utilizing this knowledge to inform the 10-year capital planning for court houses including client service, capacity, technology and security needs. <p>2019-20 planned key actions^B</p> <ul style="list-style-type: none">➤ Completing a facility review of all court locations to develop a capital plan to meet capacity, client, and technology needs.➤ Improving practices to reduce time to trial and sentencing for those on remand.
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^A Adapted from Ministry of Corrections and Policing, Ministry of Justice and Attorney General, *Annual Report for 2018-19*, p. 16
^B Adapted from Ministry of Justice and Attorney General and Ministry of Corrections and Policing, *Plan for 2019-20*, pp. 5 and 6.

Regularly publishing key actions and progress made helps keep Legislators and the public aware of the Ministry's plans to address operating pressures the Provincial Court faces.

3.2 Implementation of Forecasting Process Needed

We recommended the Ministry of Justice [and Attorney General] 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, p. 74, Recommendation 2; Public Accounts Committee agreement February 13, 2015)

Status—Partially Implemented

The Ministry of Justice and Attorney General has developed a model to forecast administrative and financial resources necessary to support the management of court workloads. It plans to put this model into use by the end of 2021-22 fiscal year.

Ministry staff supporting the Provincial Court continue to routinely incur overtime. The growth in overtime has slowed to less than 1% in 2018-19. In 2018-19, overtime hours were 6,940 compared to 6,887 in 2017-18.⁵ Improved forecasting processes would help the Ministry manage overtime.

Our review of the forecasting model found it is appropriately designed to collect and facilitate analysis of key information impacting the management of court workloads. This includes offender and offence counts, employee counts and related vacancies, overtime costs, training and equipment costs, and other operational costs.

Having a complete forecasting process to support the management of court workloads can help the Ministry better determine administrative and financial resources necessary to

⁵ Based on information from the Multi-Informational Database Applications system (MIDAS – Ministry's financial and human resource IT system), provided by the Ministry.

support the management of the Provincial Court. This in turn will help it avoid incurring unnecessary overtime costs and causing delays in the Provincial Court, and any additional costs that may result from these delays (e.g., costs to hold accused in detention centres).

3.3 Processes to Manage Court Workloads Consistent

We recommended the Ministry of Justice [and Attorney General] 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, p. 75, Recommendation 5; Public Accounts Committee agreement February 13, 2015)

Status—Implemented

The Ministry of Justice and Attorney General uses its Judicial Officer Training and Procedures Manual to provide staff with key information about processes to support the management of the Provincial Court in addition to information included in its human resources plan.

As at June 2020, there are about 156 full-time equivalent Ministry staff supporting the management of the Provincial Court of Saskatchewan’s workloads. These staff are located throughout the province.

The Ministry updated the Judicial Officer Training and Procedure Manual in December 2017, and continues to make minor updates. We found this manual provides comprehensive guidance on the procedures for administering the Provincial Court’s business, orders and dispositions.⁶

In 2019, the Ministry created a staff position whose responsibilities include updating policies and procedures related to supporting court workloads. On an annual basis, this position is responsible for developing a work plan listing activities to be updated in the upcoming year.

Our review of this position’s 2019-20 work plan found it included updating policies and procedures and establishing timeframes for review and implementation of policies. We found the Ministry communicates its updates to the Judicial Officer Training and Procedure Manual to staff via email.

Our review of the Ministry’s human resource plan in place in June 2020 found it includes the following:

- Human Resource and Operational Plan for 2019-20
- Succession planning templates (last fully updated in 2017 with plans to update in 2020)
- Orientation manual for new employees
- Checklist for supervisors to use during training
- Standardized training materials

⁶ Court orders and dispositions are the courts final determination of a lawsuit or criminal charge.



Using up-to-date manuals reduces the risk of staff using outdated and irrelevant information on processes and procedures and helps to ensure consistency in training for staff who support the management of Provincial Court workloads.

3.4 Improvement in Analysis, Monitoring and Reporting Needed

We recommended the Ministry of Justice [and Attorney General] 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, p. 75, Recommendation 5; Public Accounts Committee agreement February 13, 2015)

Status—Partially Implemented

Since 2018, the Ministry of Justice and Attorney General improved its processes to collect key information about supporting the management of Provincial Court workloads.

We found the Ministry collects information related to each of its five key performance measures related to supporting management of Provincial Court workloads (See **Figure 1**). However, at June 2020, the Ministry was not analyzing, monitoring or reporting on them. Rather, its periodic analysis was limited to one measure (employee engagement). In addition, the Ministry had not yet determined how often it will conduct analysis, or who will receive the results of this analysis (e.g., internally to various branches, the Chief Judge).

The Ministry obtains data from employee engagement surveys and the Ministry's financial and human resource IT system, the Multi-Informational Database Applications system (MIDAS). In addition, the Ministry's full implementation of its IT database, Criminal Justice Information Management System (CJMIS), in August 2018 has allowed it to collect key information related to supporting the management of court workloads. This system also gives the Ministry ability to more easily report on information collected.

We found the Ministry's Strategic Systems and Innovation Branch appropriately used information in the IT database about the length of time to case resolution to establish a baseline of 259 days (based on 2018-19 data), and that the Court Services Branch used the information appropriately to develop a target for the time to case resolution performance measure.⁷ The Ministry plans to use this baseline and target to measure its success in reducing time to case resolution for adults, and to use future annual reports to report progress.

As of June 2020, the Ministry senior management does not yet receive data or analysis on four of five performance measures related to its management of Provincial Court of Saskatchewan workloads (see **Figure 1**). Rather they receive and review quarterly reports including current and historical information on court appearances, video conferencing usage, ticket numbers, and new and concluded charges. The Ministry notes that it plans to continue to enhance its analysis of court services data, and reporting thereon. It plans to provide Ministry senior management with analysis on the other four measures by September 30, 2021.

⁷ The mandate of the Strategic and Systems Branch includes in-house data analytics including coordinating all aspects of Court Services' data collection, research, and analysis to increase business intelligence.

Improving collection, analysis, and monitoring of key information related to supporting management of court workloads will help the Ministry improve its understanding of key factors influencing workloads. Understanding key factors will help it make evidence-based decisions. Also, public reporting on progress in achieving its key performance measures and plans to address key factors will help Legislators and the public understand the operating pressures affecting court workloads and the Ministry's actions to address them.

