

Chapter 8

Justice and Attorney General and Corrections, Policing and Public Safety—Implementing Strategies to Reduce Short-Term Remand in Saskatoon and the Surrounding Area

1.0 MAIN POINTS

Short-term remand is the primary reason for ongoing year-over-year increases in the average annual count of adults in custody in Saskatchewan, and presents challenges for the provincial correctional system. Short-term remand refers to individuals held in correctional centres for 31 days or less; typically time on remand is uncertain and frequently short in duration.

Individuals held on remand represent almost two-thirds of individuals admitted into custody, and over 40% of the annual average daily counts of individuals in custody in Saskatchewan. In 2020, individuals on short-term remand represented an overwhelming majority of total remand admissions to the Saskatoon Correctional Centre.

Since 2015, the Ministries of Justice and Attorney General and of Corrections, Policing and Public Safety have recognized the need to reduce the total remand population. In 2017, the Ministries applied three strategies to reduce the short-term remand population in Saskatoon and the surrounding area—Early Case Resolution, Rapid Remand Response, and Community Alternatives to Remand—by fall 2020, the Ministries were approximately five years into their commitment, and have expanded these strategies to other areas of the province.

The Ministries appropriately use committees to strategically engage and coordinate policing and justice services in their remand-reduction strategies. However, the Ministries need to determine the specific information needs of these committees. Not defining expectations for information-sharing increases the risk of committee members not being sufficiently engaged or informed to make effective decisions that contribute towards reducing the number of individuals on remand.

Also, by September 2020, the Ministries have not decided by how much and by when they expect their various remand strategies to contribute to reducing the number of individuals on remand. In addition, they are not yet measuring and reporting on how quickly, and to what extent their strategies are reducing the number of individuals in short-term remand. They need to set measurable targets, and collect key information from key external partners (e.g., police), and regularly analyze that information. This would help them determine whether their strategies contribute to reducing the remand population, and make timely adjustments to the strategies, where warranted.

The process for decreasing the remand population is complex, requiring changes in policing and justice services. Change requires a long-term commitment. Meaningful progress requires ongoing coordination and careful balancing of two competing principles—respecting the liberty rights of the accused, and ensuring public safety.



2.0 INTRODUCTION

This chapter presents the results of our audit of the Ministry of Justice and Attorney General's and the Ministry of Corrections, Policing and Public Safety's processes to implement their strategies for reducing short-term remand in Saskatoon and the surrounding area for the 12-month period ending September 30, 2020.

Remand, also known as pre-trial detention, refers to the temporary detention of accused persons prior to trial or a finding of guilt.¹ Short-term remand refers to those held and subsequently discharged from provincial custody within 31 days or less. This audit does not include examining processes used by the Ministries to rehabilitate inmates or offenders or questioning the appropriateness of related decisions made by police, prosecution, legal aid, or judges.²

2.1 Legislative Responsibilities Related to Remand

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety have legislative responsibilities to remand people appropriately. While the Ministries have a duty to ensure appropriate use of remand, the choices of the accused (e.g., significance of their actions that bring them before the courts) also impact remand decisions.

- The Minister of Justice and Attorney General is responsible for administration of public affairs in accordance with the law and providing superintendence of all matters connected with the administration of justice in Saskatchewan.³ This includes ensuring people on remand are treated in accordance with *The Canadian Charter of Rights and Freedoms* and *The Criminal Code* (Canada) (Figure 1).
- The Minister of Corrections, Policing and Public Safety is responsible for providing assistance to the courts in pre-trial or pre-sentence decision making and providing correctional services and programs (including assessing, supervising, control and custody of offenders).⁴

Figure 1—Excerpts Related to Remand from *The Canadian Charter of Rights and Freedoms* and from *The Criminal Code* (Canada)

Excerpts from *The Canadian Charter of Rights and Freedoms* related to remand

- Sections 8 through 14 of the Charter specify the circumstances under which the deprivation of life, liberty and security of the person violate the principles of fundamental justice and in turn are in violation of the Charter.
- With respect to remand, the Charter specifies that everyone has the right not to be arbitrarily detained or imprisoned and the right on arrest or detention to have the validity of the detention determined in a reasonable time within the circumstances and to be released if the detention is not lawful.
- Further, any person charged with an offence has the right to be presumed innocent until proven guilty and to not be denied reasonable bail without just cause.

¹ www150.statcan.gc.ca/n1/pub/85-002-x/2017001/article/14691-eng.htm (3 March 2021).

² We examined the former Ministry of Corrections, Public Safety and Policing's processes to rehabilitate inmates in correctional facilities in our *2008 Report – Volume 1*, Chapter 2, and its processes to rehabilitate adult offenders in communities in our *2011 Report – Volume 1*, Chapter 3. People on remand do not typically receive rehabilitative services.

³ *The Justice and Attorney General Act*, section 9(1).

⁴ *The Correctional Services Act*, section 4(1).

Excerpts from *The Criminal Code (Canada)* related to remand

- The Code provides guidance with respect to the circumstances and procedures surrounding the arrest of a person and the decisions relating to judicial interim release and remand to custody.^A The Code stipulates that unless released by the police, an arrested person detained in custody must be brought before a justice of the peace without unreasonable delay, when one is available, within a period of 24 hours. Where a justice of the peace is not available within 24 hours, the person is to be taken before the justice of the peace as soon as possible.
- The Code provides the reasons for which custodial remand is justified. It stipulates that, except in reverse onus situations, the prosecutor must show cause, in respect of the offence, why the detention of the accused in custody is justified.^B The detention of an accused is justified on the following grounds:
 - To ensure his or her attendance in court
 - For the protection or the safety of the public
 - On any other just cause being shown and where the detention is necessary in order to maintain confidence in the administration of justice

Source: Adapted from *The Canadian Charter of Rights and Freedoms*, sections 9, 10(c) and 11(e). www.laws-lois.justice.gc.ca/eng/const/page-15.html and from *The Criminal Code (Canada)*, sections 503(1) and 515(10). www.laws-lois.justice.gc.ca/eng/acts/c-46/ (8 March 2021).

^A Judicial interim release is a term used in *The Criminal Code (Canada)* to refer to the more commonly known process of pre-trial release of a person accused of a crime (i.e., bail).

^B Reverse onus is a provision within *The Criminal Code (Canada)* (Section 515(6)) that requires an accused person to prove or disprove something, such as an element of an offence or a defence.

2.2 Remand in Saskatchewan

Between 1998 and 2018, the average annual count of adults in custody in Saskatchewan increased by 48 percent. A continued increase in the count of adults on remand was the primary reason (i.e., 99 percent) for this increase.⁵

As shown in **Figures 2** and **3** below, for five years from 2014 to 2019, people on remand (short-term and long-term) consistently represent a significant proportion of custodial admissions and counts in Saskatchewan.

Figure 2—Remand (Overall) as a Percentage of Total Custodial Admissions in Saskatchewan Correctional Facilities, 2014–15 to 2018–19

	2014–15	2015–16	2016–17	2017–18	2018–19
Total custodial admissions ^A	12,193	13,186	13,392	13,304	13,160
Remand ^B	7,476	8,274	8,547	8,374	8,369
% on remand	61.3%	62.7%	63.8%	62.9%	63.6%

Source: www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510001401 (10 March 2021). The figure above includes the most current statistics available from Statistics Canada as of March 2021.

^A Total custodial admissions are totals of sentenced (including intermittent sentences), remand and other custodial status admissions.

^B Remand is the detention of a person in custody while awaiting a further court appearance. These persons have not been sentenced and can be held for a number of reasons (e.g., risk that they will not appear for their court date, danger to themselves and/or others, risk to re-offend). Remand is the responsibility of provincial/territorial correctional services.

Figure 3—Remand (Overall) as a Percentage of Annual Average Daily Counts in Saskatchewan Correctional Facilities, 2014–15 to 2018–19

	2014–15	2015–16	2016–17	2017–18	2018–19
Annual average daily count ^A	1,702	1,812	1,900	1,884	1,923
Remand	664	769	885	917	983
% on remand	39.0%	42.4%	46.6%	48.7%	51.1%

Source: www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510015401 (30 March 2021). The figure above includes the most current statistics available from Statistics Canada as of March 2021.

^A The annual average daily count is the yearly average total of persons held in custody under sentence, remand or who are otherwise legally required to be in custody at the time of the counts.

⁵ Adapted from Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety: *Provincial Remand Initiative: Overview and Project Descriptions* (25 November 2019), p. 3.



The Ministry of Corrections, Policing and Public Safety operates several correctional facilities that hold people on remand. Starting in 2017, the Ministries initially applied their strategies to reduce short-term remand in Saskatoon and the surrounding area (including the Saskatoon Correctional Centre) in the hopes it would serve as the model for other regions of the province.⁶ The Ministries have since rolled out strategies in Prince Albert and Regina.

During 2020, individuals on short-term remand made up approximately 82% of the total adults on remand in the Saskatoon Correctional Centre. As illustrated in **Figure 4**, individuals on short-term remand typically comprised about three-quarters of all people on remand at the Centre.

Figure 4—Saskatoon Correctional Centre Annual Short-Term Remand Admissions

Year ^{B, C}	Total Remand Admissions	Short-Term Remand ^A	
		# of Admissions	% of Total Remand
2014	2,463	1,957	79%
2015	2,698	2,101	78%
2016	2,772	2,090	75%
2017	2,574	1,940	75%
2018	2,565	1,966	77%
2019	2,417	1,821	75%
2020	2,122	1,740	82%

Source: Adapted from information provided by the Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety.

^A Short-term remand refers to those held on remand for 31 days or less.

^B For the period January 1 to December 31 annually.

^C Starting in 2017, the Ministries initially applied their strategies to reduce short-term remand in Saskatoon, as represented by the shaded cells in **Figure 4**.

The increased use of short-term remand in Saskatchewan over the past decade poses additional case management and operational challenges for the provincial correctional system. These include the following:

- Secure custody bed space is expensive to build and maintain, and its availability is limited. According to Statistics Canada, in 2018–19, the Ministries paid, on average, \$178 per day, per person in custody (e.g., \$64 thousand per year, per person in custody) to operate its correctional facilities.⁷
- Persons on remand awaiting trial may require transportation to and from court—increasing costs and the opportunity to bring contraband into correctional institutions, which may pose a safety risk for the entire population in custody.
- Persons on remand (particularly those on short-term remand) typically do not participate in rehabilitation programming. This is due to the presumption of innocence (i.e., case management is not offered until a finding of guilt). In addition, structured programming (e.g., substance abuse treatment, anger management) usually requires a minimum time commitment, whereas time on remand is uncertain for the accused and frequently short in duration.

⁶ Police services may also hold individuals on remand until an individual's first court appearance.

⁷ www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510001301 (10 March 2021).

Strategies the Ministries use to reduce short-term remand in Saskatoon and the surrounding area include:

- **Early Case Resolution (Early Resolution)** – this strategy began operating on weekends in Saskatoon during 2017. It involves a prosecutor and Legal Aid duty counsel meeting on Sundays to review weekend arrest files to identify and prepare cases that could be concluded or advanced on Mondays.⁸
- **Rapid Remand Response (Rapid Response)** – this strategy began operating on weekdays (Monday through Thursday) in Saskatoon during 2018. It consists of a dedicated prosecutor who identifies new arrest cases daily for possible rapid resolution (i.e., cases are held over until the afternoon court docket to give counsel time to discuss case resolution prior to a hearing).
- **Community Alternatives to Remand (Community Alternatives)** – this program began operating in Saskatoon during 2017. It is intended to assist identified accused who may be detained on remand but could voluntarily remain in the community with appropriate supports (e.g., case management services, provision of short-term residential beds for accused without a stable residence). In February 2021, the Ministries announced their decision to discontinue the Community Alternatives program, effective March 31, 2021.

Taking effective measures to reduce the number of people on short-term remand is complex. It involves the long-term commitment, coordination and engagement of policing and justice services. It requires balancing the competing principles of respecting the liberty rights of the accused, and ensuring public safety. Furthermore, it requires operating within public-sector financial constraints; recognizing societal and government views on law and order issues, and tolerance for risk; and the links between the criminal justice system and other social issues, such as poverty and substance abuse.⁹

3.0 AUDIT CONCLUSION

The Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety had, other than the following areas, effective processes to implement their strategies for reducing short-term remand in Saskatoon and the surrounding area for the 12-month period ending September 30, 2020.

The Ministries need to:

- **Establish target(s) conducive to measuring whether they are reducing short-term remand**
- **Focus on collecting data for key measures, and routinely analyze data, associated with the remand strategies**

⁸ Duty counsel refers to a lawyer, paid by a provincial legal aid agency, who provides representation to an accused, remanded individual at their first court appearance. Adapted from: www.legalaid.sk.ca/about/legal_services.php and www.legalaid.sk.ca/legal_help/nature_of_problem/criminal.php (09 March 2021).

⁹ Adapted from Office of the Auditor General – Manitoba. (2014). *Annual Report to the Legislature, Chapter 6: Managing the Province's Adult Offenders*. Winnipeg: Author.



- **Collect and analyze key information from external partners when evaluating the remand strategies**
- **Include context, data limitations, and key assumptions relevant to making informed decisions within evaluations of the remand strategies**
- **Determine the information needs of the remand committees used to support the remand initiative**

Figure 5—Audit Objective, Criteria and Approach

<p>Audit Objective:</p> <p>The objective of this audit is to assess whether the Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety have effective processes to implement their strategies for reducing short-term remand in Saskatoon and the surrounding area for the 12-month period ending September 30, 2020.</p> <p>Audit Criteria:</p> <p>Processes to:</p> <ol style="list-style-type: none">1. Support implementation of planned strategies to reduce short-term remand<ul style="list-style-type: none">• Determine key success factors of strategies (e.g., indicators, measures, impact of unexpected events)• Coordinate resources (internal, external) for strategies (e.g., assign responsibility, engage third parties, obtain personnel with certain skills or in certain locations, facility space, technology, data)• Deliver strategies as planned• Mitigate risks (e.g., internal or external resource availability, COVID-19) to strategy implementation2. Determine if strategies reduce short-term remand<ul style="list-style-type: none">• Measure progress regularly• Adjust strategies as required• Keep key stakeholders informed of progress <p>Audit Approach:</p> <p>To conduct this audit, we followed the standards for assurance engagements published in the <i>CPA Canada Handbook—Assurance</i> (CSAE 3001). To evaluate the Ministries' processes, we used the above criteria based on reviews of literature including reports of other auditors, and consultations with management. Ministries' management agreed with the above criteria.</p> <p>We examined the Ministries' procedures relating to strategies for reducing short-term remand in Saskatoon and surrounding area. We interviewed staff responsible for strategies to reduce short-term remand and examined relevant documentation (e.g., agreements, reports, committee minutes). We assessed the Ministries' draft evaluation plan for the remand strategies and reviewed associated evaluations prepared by the Ministries. For a sample of months, we tested whether the Ministries' key branches appropriately monitored their budgets and expenditure forecasts, and whether the Ministries received required reporting from community-based organizations. We also tested the accuracy of spreadsheets the Ministries used to record cases processed through the Early Resolution and Rapid Response strategies, and evaluated users' access to the relevant IT system (i.e., Criminal Justice Information Management System). In addition, we used an independent consultant with subject matter expertise in the area to help us identify good practice and assess the Ministries' processes.</p>

4.0 KEY FINDINGS AND RECOMMENDATIONS

4.1 Responsibility Established, Required Resources Identified

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety established responsibility for the remand initiative and appropriately identified the necessary internal and external resources required to support strategies related to reducing the remand population. Though, improved collection and analysis of data from all external partners may assist the Ministries with co-ordinating resources for the remand strategies.

The Ministries established the provincial remand initiative in 2015 to help address the growth in remand in Saskatchewan.¹⁰ Along with the provincial remand initiative, the Ministries created the Provincial Steering Committee, a multi-sector group responsible for providing strategic direction, support and oversight of the remand initiative—including the remand strategies (i.e., Early Resolution, Rapid Response, and Community Alternatives program).¹¹ Senior staff from Public Prosecutions and the Research and Implementation Branch co-chaired this Committee.¹²

We found the Committee met approximately every two months during our audit period.

Effective November 2020, the Ministries replaced the Provincial Steering Committee with two new committees—the Custody Population Consultation Committee and the Remand Initiative Committee.

The Ministries clearly established the roles and responsibilities of these new committees as illustrated in **Figure 6**—with decision-making authority associated with the remand initiative clearly resting with the Ministries.

Figure 6—Responsibility for Oversight of Remand Initiative Effective November 2020

	Custody Population Consultation Committee	Remand Initiative Committee
Purpose	Information sharing and discussion forum as it relates to the Saskatchewan provincial custody population (e.g., sentenced and remanded inmates) among key justice system partners	High-level strategy, oversight and recommendations for the remand initiative—including oversight of pilot programs, remand initiative funding, strategic approaches to improving use of remand, approval of new program and program evaluations, communication approaches, and promotion of a one-team approach to remand
Membership	<p>Executive Sponsors:</p> <ul style="list-style-type: none"> ➤ Deputy Minister, Ministry of Justice and Attorney General ➤ Deputy Minister, Ministry of Corrections, Policing and Public Safety <p>Internal Ministry Members:</p> <ul style="list-style-type: none"> ➤ Research and Implementation Branch ➤ Policing and Community Safety Services ➤ Community Safety and Well-being ➤ Custody, Supervision, and Reintegration Services ➤ Public Prosecutions <p>External:</p> <ul style="list-style-type: none"> ➤ Legal Aid Saskatchewan ➤ Police Services (Regina, Saskatoon, Weyburn, Moose Jaw, Prince Albert) ➤ Royal Canadian Mounted Police 	<p>Internal Ministry Members Only:</p> <ul style="list-style-type: none"> ➤ Community Engagement ➤ Custody, Supervision, and Reintegration Services ➤ Public Prosecutions ➤ Policing and Community Safety Services ➤ Research and Implementation Branch

Source: Adapted from information provided by the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety.

¹⁰ The provincial remand initiative does not specifically differentiate between short-term remand (i.e., less than 31 days) and long-term remand (i.e., greater than 31 days). The Ministries' remand strategies (i.e., Early Resolution, Rapid Response, and Community Alternatives) are designed to address short-term remand in the province.

¹¹ The Provincial Steering Committee is comprised of officials from the Ministry of Justice and Attorney General, Ministry of Corrections, Policing and Public Safety, Royal Canadian Mounted Police, municipal police services, and Legal Aid Saskatchewan.

¹² The Research and Implementation Branch is located within Integrated Justice Services and is a part of both the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety. Integrated Justice Services' purpose is to enable the strategic integration of the justice system through the provision of joint services, processes and functions to the Ministries. Functionally, this Division is the joint responsibility of both Deputy Ministers.



Branches within the Ministries (i.e., Research Implementation Branch, Public Prosecutions and Community Corrections), and relevant external partners (i.e., Legal Aid Saskatchewan, police and community based organizations), are responsible for providing and monitoring the resources they each provide to support the remand strategies. We found:

- The Ministries appropriately identified the internal resources necessary to support the remand strategies—these are largely human resources, such as the time of prosecutors, administrative staff, probation officers, court house staff, and research staff. Other resource requirements include physical space to review case files and communicate with the accused and their counsel, along with communication tools (e.g., phone, email).

The Ministries' human resources associated with the remand strategies reside within Public Prosecutions, Community Corrections, and the Research and Implementation Branch.

We found the branches did not separately budget for the internal resources associated with the remand strategies—this is reasonable as the required resources are largely an extension of staff's regular duties. For two months tested, we found these branches appropriately monitored their budgets and prepared expenditure forecasts.

- The Ministries' assignment of responsibility for the remand strategies aligned with relevant legislation that ensures that people are remanded appropriately.¹³
- The Ministries contracted with two community based organizations (CBOs) in Saskatoon to provide short-term residential and case management services (e.g., mental health and substance use supports) to accused awaiting trial through the Community Alternatives program.¹⁴ The CBOs provide the Ministries with monthly reports regarding delivery of the Community Alternatives program (e.g., number of program participants, services provided to participants).

For two months tested, we found the two CBOs in Saskatoon provided the Ministries with reports as set out in their agreements.

- The Ministries contracted with the University of Regina (five-year agreement starting in 2018) and the University of Saskatchewan (five-year agreement starting in 2020) to perform research and analysis (e.g., data analytics, economic analysis) on requested areas, including the remand strategies. In the 12-month period ending September 2020 (our audit period), the Ministries renewed the research agreement with the University of Saskatchewan.

We found the Ministries appropriately approved the new agreement and associated payment to the University of Saskatchewan.

Management explained to us that the Provincial Steering Committee meetings were a key aspect for the Ministries' coordination of external resources associated with the remand strategies. We found that senior management from within the Ministries participated in the Committee meetings during our audit period. In addition, our review of Committee minutes found evidence of members appropriately discussing the resourcing needs of external

¹³ *The Justice and Attorney General Act*, section 9(1). *The Correctional Services Act*, section 4(2).

¹⁴ The Ministry of Corrections, Policing and Public Safety entered into contracts with the Elizabeth Fry Society of Saskatchewan and the Salvation Army Saskatoon.

partners (e.g., Legal Aid Saskatchewan expressed challenges in staffing for the Rapid Response strategy).

Coordinating resources (internal and external) results in key stakeholders being sufficiently engaged with, or providing enough resources and commitment to, activities related to reducing remand.

However, as described in **Section 4.4**, the Ministries did not collect or analyze data from all external partners as planned—the analysis of such information may provide the Ministries with valuable information to assist with co-ordinating future resources for the remand strategies. See **Recommendation 3** about collecting and analyzing information from key external partners.

4.2 A Focus on Key Measures for Remand Strategies Necessary

The Ministry of Justice and Attorney General's and Ministry of Corrections, Policing and Public Safety's draft evaluation plan for the remand initiative did not set out key measures that provide sufficient information about the impacts the remand strategies have on remand populations.

In January 2019, the Ministries established a draft evaluation plan setting out three types of measures (i.e., baseline, process, and outcome) for evaluating the remand initiative. Within these types of measures, the Ministries identified 48 measures across several categories—policing, courts, corrections, prosecutions, Legal Aid, supervised bail, community-based organizations, and individual (i.e., accused persons).

Our review of the draft evaluation plan found the following:

- The draft evaluation plan remained in draft form (two years after its initial creation). While the Provincial Steering Committee was responsible for providing strategic direction, support and oversight of the remand initiative, we found it was not clear whether the draft evaluation plan for the remand initiative has been approved.
- The broad scope of and large number of measures in the draft evaluation plan may reduce the Ministries' ability to appropriately evaluate the strategies in a timely manner. While the draft evaluation plan included numerous measures, we found they provide limited insight into areas that may impede the success of the remand initiative. For example, they do not consider courtroom unavailability, frequency of cases not proceeding through the Early Resolution or Rapid Response strategies because the prosecution and duty counsel could not agree on how to proceed, frequency that the Early Response and Rapid Response strategies were operational—such as the average number of cases reviewed, or weekends or weeks not operational.
- The Ministries did not establish data definitions for the measures set out in its draft evaluation plan. Data definitions explicitly describe and explain, in writing, the meaning of each measure and the context in which the measure is used. They should include the source of information (e.g., which IT system), and how frequently the data is collected (e.g., quarterly, annually).



- The draft evaluation plan did not formally establish the timing of the Ministries' periodic program evaluations. Not documenting decisions about when program reviews are required could result in inefficiencies, or processes not operating as intended (e.g., information not collected when required), if the Ministries experience turnover in positions that are directly involved with managing the strategies. See **Section 4.6** for our findings associated with the timing of the Ministries' evaluation of its remand strategies.

Data collection takes time and effort. Not focusing on collecting data on key measures increases the risk of ineffective use of resources, and disengaging partners who may be asked to provide data that is either not used or used sparingly. When selecting key measures, not incorporating measures about the operation of the remand strategies reduces the Ministries' ability to understand whether it is the remand strategies, versus other factors (e.g., police behaviour), that are impacting their target to maintain zero growth in remand.

In addition, not clearly establishing data definitions associated with key measures can increase the risk of users not sufficiently understanding, using and interpreting the data—this can be especially important in the event of turnover among staff responsible for collecting and analyzing data. Furthermore, having data definitions could help the Ministries decide if data collected for a measure is meaningful to measuring the progress of the short-term remand initiative—whether it is a key measure and worthwhile collecting.

- 1. We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety focus on collecting data for key measures, and establishing associated data definitions, for evaluating the strategies to reduce short-term remand.**

4.3 Targets for Reduction of Remand Not Established

While the Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety have established a target to maintain zero growth of overall remand, this target is not conducive to achievement of the outcomes the Ministries established for the remand initiative.

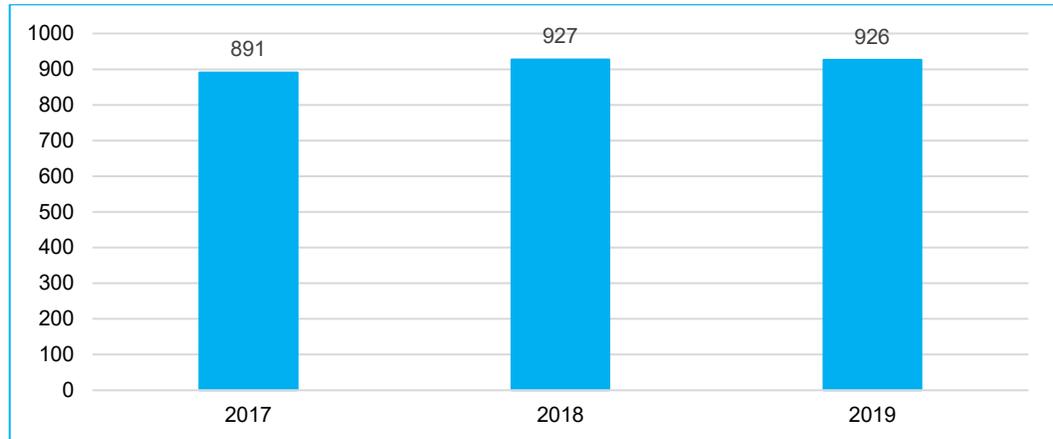
In 2015, the Ministries approved the following outcomes for the remand initiative:

- Reduce unnecessary time related to police detention and court processes
- Reduce unnecessary time on remand
- Develop effective community alternatives to police detention (e.g., alternative housing), court reviews and short-term remand
- Work to reduce the rate of new charges and breaches while accused are awaiting trial in the community¹⁵

¹⁵ Adapted from Ministry of Justice and Attorney General Ministry of Corrections, Policing and Public Safety: *Provincial Remand Initiative: Overview and Project Descriptions* (25 November 2019), p. 2.

As part of the initiative, the Ministries jointly established a target to maintain zero growth in overall remand, within a range of five percent over or under that target. As set out in **Figure 7**, there was an average of 891 accused persons on remand when the Ministries first started the remand strategies in 2017. The Ministries achieved their target, as remand grew to an average of 926 accused persons on remand in 2019—an increase of 3.9 percent.

Figure 7—Average Number of Accused on Remand between 2017 and 2019



Source: Adapted from information provided by the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety.

While the Ministries established a target in relation to remand, the target is not conducive to achieving the remand initiative's outcomes. That is, it does not measure whether the remand initiative helps reduce unnecessary time involving police detention and court processes and reduce unnecessary time involving remand.¹⁶ As the outcomes for the remand initiative reflect, these areas are essential to sustainable reduction in short-term remand.

Targets set out how quickly, and to what extent, an organization expects to make progress. Not having targets that provide insight into measuring these outcomes makes it difficult for the Ministries to know whether the remand initiative is making sufficient progress.

2. **We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety establish target(s) conducive to measuring whether they are reducing short-term remand.**

4.4 Need to Collect and Analyze Key Data From External Partners

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety collected and validated data for some measures in their draft evaluation plan but did not collect key data from two of their external partners as planned.

For the measures in its draft evaluation plan, we found the Ministries collected associated data for 33 of its 48 measures—from internal sources (e.g., Ministries' IT system, Public

¹⁶ We found that other jurisdictions have not publicly stated a remand reduction target, but the Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety have done so as recently as 2017-18 (i.e., targeting a fifty percent reduction in the overall remand population).



Prosecutions) and community-based organizations that deliver the Community Alternatives program. For example, it collected custody counts, court data, and demographic data about Community Alternatives' participants. We found the Ministries used reasonable processes to validate data they obtained—including processes to compare data to other sources, recalculate data, and search for duplicate records.

However, we found the Ministries did not collect key data from police (e.g., number of arrests per day) or Legal Aid Saskatchewan (e.g., number of cases reviewed or accepted). The draft evaluation plan lists these as measures.

Collection of key data from external partners would give the Ministries information about the partners' operations allowing for assessment of possible impacts on the remand strategies. For example, obtaining information from police about arrests or undertakings can assist the Ministries in assessing whether changes in remand are a result of police behaviour changes (e.g., use of more discretion), versus the operation of the remand strategies themselves.¹⁷ Such information may be particularly important when the Ministries assess the impact of COVID-19 on remand populations.

Without appropriate key data from external partners, the Ministries cannot appropriately analyze progress for the remand initiative's outcomes (i.e., reducing unnecessary time involving policy detention and court processes). Lack of key data may also impact the Ministries' ability to determine whether key external partners are committed and sufficiently engaged in reducing short-term remand. Not gathering relevant information may result in the Ministries not effectively analyzing or forming timely conclusions about program impacts.

3. We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety collect and analyze key information from external partners when evaluating strategies to reduce short-term remand.

4.5 Criteria Used For Selecting Accused Suitable for Remand Strategies

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety established suitable criteria for selecting accused for their remand strategies.

For the **Early Resolution** and **Rapid Response** strategies, senior crown prosecutors use their knowledge and experience (i.e., prosecutorial discretion) to determine which cases to admit through the strategies. They select those accused persons' cases, where in their judgment, the cases could be concluded during an accused's first court appearance and avoid unnecessary remand. Prosecutors discuss identified cases with duty counsel in order to come to an understanding as to how a case will proceed at first appearance.

¹⁷ An undertaking is a document created by either a court or the police that places the person being charged with an offence under certain conditions (e.g., promise to appear back in court, abstaining from drugs or alcohol). Adapted from www.tomrees.ca/what-is-an-undertaking/ (09 March 2021).

Public Prosecutions uses spreadsheets to record cases that have gone through the Early Resolution and Rapid Response strategies.¹⁸ For the 12-months ending September 30, 2020, 142 accused persons' cases went through the Early Resolution strategy in Saskatoon. For the same period, 417 accused persons' cases went through the Rapid Response strategy in Saskatoon.

For 30 accused persons tested, tracked in these spreadsheets, we found Public Prosecutions accurately and completely maintained information about the accused's court appearances (i.e., the information agreed to data maintained within the Ministries' IT system).

For the **Community Alternatives** program, the Ministries make this program available to two types of accused—those that can meet the eligibility criteria set out in **Figure 8** and:

- Can safely reside in the community and be supervised through Community Corrections, while awaiting resolution of their legal situation (also known as bail supervision)¹⁹
- Are already under bail supervision but at risk for breaching bail conditions (e.g., failing to report to their probation officer).

Figure 8—Eligibility Criteria for Community Alternatives to Remand Program

- Both types of accused must also meet the following eligibility criteria established by the Ministries:
- The offence must involve a stand-alone bail undertaking^A
 - The accused must have had an arrest and/or conviction for administration of justice within the past 12 months^B
 - The accused must not have any pending violence charges if the current arrest charge(s) includes violence

Source: Community Alternatives to Remand Referral Form.

^A An undertaking is a document created by either a court or the police that places the person being charged with an offence under certain conditions (e.g., promise to appear back in court, abstaining from drugs or alcohol). A stand-alone bail undertaking is when an accused is released on bail. Adapted from www.tomrees.ca/what-is-an-undertaking/ (09 March 2021).

^B Administration of justice charges are a specific type of violation of the law, mostly committed when pre-trial conditions or sentences from a previous conviction are disobeyed. This includes failures such as not complying with conditions of release, not appearing in court, and disobeying a court order. Adapted from www.victimfirst.gc.ca/res/pub/GFO-ORE/AJO.html (09 March 2021).

For the 12-month period ended September 30, 2020, 74 accused persons participated in the Community Alternatives program in Saskatoon. We found the Ministries considered the eligibility criteria associated with the Community Alternatives program as part of their evaluation of the program in 2020—as further noted in **Section 4.6**.

Establishment of admission requirements for the remand strategies helps the Ministries to admit the accused to the programs in a consistent manner.

4.6 Lack of Formal Data Analysis on a Routine Basis

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety used various processes to monitor and evaluate the remand strategies, but they did not formally analyze data on a routine basis.

¹⁸ Public Prosecutions resides within the Ministry of Justice and Attorney General. The Division represents the interests of the general public in the criminal justice system. It provides legal advice to government and law enforcement agencies. Prosecutors assess investigation results provided by law enforcement agencies and determine whether the available evidence meets the standard for prosecution. The Division also plays a large role in training law enforcement officials.

¹⁹ Community Corrections resides within the Ministry of Corrections, Policing and Public Safety's Custody, Supervision and Rehabilitation Services Division. This Division provides varying levels of offender care, control and supervision, and designs and provides programs aimed at reducing reoffending and improving the ability of offenders to reintegrate into their communities.



The Research and Implementation Branch primarily leads the Ministries' monitoring and evaluation of the remand strategies, along with the assistance of Public Prosecutions. These branches used both formal and informal processes to monitor and evaluate the three remand strategies (see **Section 2.2** for a description of each strategy).

Periodic Program Evaluations

The Ministries' key method of evaluating the remand strategies is through periodic program evaluations.

By February 2021 and since the start of the remand strategies in 2017, the Ministries had evaluated one of the three strategies—the Community Alternatives program.

The Research and Implementation Branch completed an evaluation for the Community Alternatives program in fall 2020—approximately three years after implementation of the program. The Branch assessed whether the Community Alternatives program was operating as intended. The Branch plans to complete similar evaluations for the Early Resolution and Rapid Response strategies in fall 2021.

Our review of the fall 2020 Community Alternatives evaluation found:

- The Research and Implementation Branch appropriately communicated the evaluation results to senior management (i.e., Assistant Deputy Ministers, Assistant Deputy Attorney General)
- The evaluation included data collection and analysis associated with:
 - Client program participation (e.g., analysis of bed utilization, client demographics)
 - Estimation of the costs associated with the program (e.g., for Saskatoon—total cost of \$321,930 and a daily cost per accused of \$147)²⁰
 - Evaluation of the extent the Ministries and their partners implemented the Community Alternatives program as intended
 - Four options associated with the future of the Community Alternatives program (e.g., eliminate the program, continue the program with varying levels of modification)
- The evaluation included eight of 10 possible measures as set out in the draft evaluation plan—the evaluation did not assess two measures, as the Ministries had not yet collected data for those measures. See **Recommendation 1** about focusing on collecting data for key measures.

Management explained that the lack of collection of data for all measures was partly due to time constraints associated with the Community Alternatives evaluation, along with the Ministries making cost-benefit decisions associated with the extent of analysis to perform. We found the evaluation report did not clearly explain these limitations.

²⁰ According to Statistics Canada, in 2018–19, the Ministries paid, on average, \$178 per day, per person in custody to operate its correctional facilities.

- The evaluation report did not clearly set out the context of the evaluation (e.g., time constraints, extent of analysis) or acknowledge data limitations (e.g., lack of a control group in the analysis and rationale for not including a control group).²¹

Management indicated they discussed the context of the evaluation and data limitations with the evaluation team during fall 2020.

- The economic analysis within the evaluation report did not clearly set out key assumptions made in the analysis. For example, we found the report did not include the Research and Implementation Branch's assumption that clients primarily benefited from the Community Alternatives program if they remained in the program for at least one week.

Without robust and clear documentation of data limitations (e.g., unavailability of data) and analysis to support the Ministries' program evaluations, key decision makers may not have sufficient information to make informed decisions.

4. We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety include context, data limitations, and key assumptions relevant to making informed decisions within evaluations of the strategies to reduce short-term remand.

The Ministries shared the results of the Community Alternatives evaluation with senior management and the Provincial Steering Committee in fall 2020. In February 2021, the Ministries announced their decision to discontinue the Community Alternatives program based on the results of the evaluation, effective March 31, 2021.²²

While the Ministries regularly collected information about the Community Alternatives program from community-based organizations (e.g., number of intakes, time in program), we found the Ministries did not take a proactive approach to evaluate this information on a routine basis. Such evaluation may have enabled the Ministries to identify necessary program adjustments that could have contributed to the success of the program.

Although the Ministries had been receiving information about the program's utilization from CBOs since the beginning of the program, they did not formally evaluate the information and consider possible root causes for low program utilization until the 2020 evaluation (e.g., program criteria may have been too restrictive). The Community Alternatives evaluation highlighted that accused persons underutilized the program (i.e., bed utilization of 58% in Saskatoon).

Routine analysis (i.e., periodically throughout the year) of whether remand strategies operate as intended can assist the Ministries in being more proactive in their response to making informed decisions about necessary changes to the strategies.

5. We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety routinely analyze data for key measures associated with the strategies to reduce short-term remand.

²¹ The Ministries required the Community Alternatives evaluation results to help inform the future of the Community Alternatives program, as their agreements with the related community-based organizations expired at the end of fiscal 2020-21.

²² thestarphoenix.com/news/local-news/remand-diversion-program-set-to-end-next-month (09 March 2021).



Other Monitoring Activities

In addition to the periodic program evaluations, we found the Ministries also used the following processes to monitor the implementation of the remand strategies:

- The Research and Implementation Branch provided senior management with updates about the remand growth rate at quarterly strategic update meetings. Due to COVID-19, the Ministries suspended these quarterly updates in March 2020. Instead the Research and Implementation Branch began providing senior management with daily statistics about custody populations in provincial correctional facilities.

We reviewed the presentations for the two quarterly updates during the 12-month period ending September 30, 2020 and found the Research and Implementation Branch included high-level information about the remand strategies (e.g., actions taken to support the strategies) and progress to date on the Ministries' remand growth rate target.

Our review of daily communication from the Research and Implementation Branch to senior management about custody populations found it provided trends in populations (including remanded versus sentenced individuals) since the beginning of the pandemic. It showed the total number of individuals on remand in the province decreased at the onset of the pandemic in spring 2020 and was back to near previous levels by October 2020.

- The Research and Implementation Branch prepares biannual reports for senior management about the status of the remand initiative. During the 12-month period ending September 2020 (our audit period), the Branch prepared one report—in the fall 2019 and distributed it to senior management.

Our review of the fall 2019 report found the report included available information about the remand initiative to date (e.g., overall remand growth rate, case counts for the Early Resolution and Rapid Response strategies, client intakes for the Community Alternatives program, successes and barriers to implementation of the remand strategies). However, information reported does not indicate whether the strategies help reduce short-term remand—see **Recommendation 5** about routinely analyzing data for key measures.

The Branch indicated it only prepared one report due to other priorities (e.g., COVID-19 response).

- Discussions between senior management of the Ministries and external partner agencies (e.g., police, Legal Aid Saskatchewan) at Provincial Steering Committee meetings between October 2019 and September 2020. During this period, the Committee met four times.

We found the Ministries used these Committee meetings to identify risks to the remand strategies. Our review of the Committee minutes found examples of external partners highlighting challenges they encountered with implementation of the remand strategies—most of the challenges were in relation to staffing issues associated with the strategies.

During our audit period, we found the Ministries made one ad hoc adjustment to the remand strategies in response to a risk identified at Committee meetings. In spring 2020, a Saskatoon CBO involved in the Community Alternatives program communicated challenges it was having with staffing its psychiatric nursing position. In response to this identified risk, we found the Research and Implementation Branch took steps to amend the Ministries' contract with the CBO in an attempt to address the risk of turnover issues (i.e., amended the contract to replace the nursing position with a half-time addictions counselor position).

We also found the Research and Implementation Branch periodically presented the Committee with statistics about the remand strategies (e.g., average number of cases processed through the Early Resolution and Rapid Resolution strategies, utilization of the Community Alternatives program).

- Consideration of possible risks to the remand strategies presented by the COVID-19 pandemic, including staff resource constraints and physical distancing challenges.

In response to the pandemic, the Ministries suspended the Saskatoon Early Resolution and Rapid Response strategies in March 2020 and adapted their practices to enable a greater use of technology (e.g., use of telephone, video, electronic file transfers between police services and prosecutors) to continue the administration of justice. The Ministries resumed the Saskatoon Early Resolution and Rapid Response strategies in November 2020 and September 2020, respectively.

The Ministries provided a COVID-19 Impact Report to senior management in July 2020 to communicate the above changes and adaptations the Ministries made in response to the pandemic between March and May 2020. Management explained that they plan to prepare additional reports analyzing significant actions taken by the Ministries during the pandemic, with a final report planned for summer 2021.

The Ministries reviewed daily statistics about custody populations in response to COVID-19 to help inform coordination across the justice system—such as discussions between staff responsible for corrections and prosecutions regarding the capacity of correctional facilities.

- Informal discussions between ministry staff. For example, we observed evidence of the Assistant Deputy Attorney General and the Saskatoon Regional Crown Prosecutor discussing issues surrounding the Early Response and Rapid Response strategies in Saskatoon (e.g., resumption of strategies following their suspension during the COVID-19 pandemic).

Regular monitoring of the remand strategies helps the Ministries identify areas where they may need to take action and address operational issues. If the Ministries do not take action to mitigate identified key risks associated with the remand strategies, there is increased risk of the strategies not being successful in reducing short-term remand.



4.7 Ministries Need to Establish Information Requirements For Remand Committees

The Ministry of Justice and Attorney General and Ministry of Corrections, Policing and Public Safety communicated with senior management and the Provincial Steering Committee about the evaluation of remand strategies completed to date, but need to determine the information needs of the remand committees that support the remand initiative.

We found the Ministries appropriately assigned responsibility for communicating the progress of the remand strategies based on the roles of the parties involved. The Research and Implementation Branch and Public Prosecutions share responsibility for communicating progress associated with the Early Resolution and Rapid Response strategies, with the Research and Implementation Branch being solely responsible communicating progress associated with the Community Alternatives program.

As previously described in **Section 4.6**, these branches used various methods to communicate with senior management about the remand strategies—including results of periodic program evaluations, quarterly strategic update meetings, and biannual reports for senior management.

In our review of the Provincial Steering Committee minutes during the audit period, we found the Ministries provided the Committee with the results of the Community Alternatives evaluation and periodic statistics about the remand strategies but did not formally report to the Committee on its only target related to remand—to maintain a zero growth rate in remand.

Not regularly providing committee participants with key information about how well the remand strategies are progressing increases the risk of not engaging committee participants and not keeping them sufficiently informed. Not setting out expectations for information-sharing, including frequency, increases the risk that this will not occur.

- 6. We recommend the Ministry of Justice and Attorney General and the Ministry of Corrections, Policing and Public Safety determine the information needs of the remand committees used to support the remand initiative.**

We also found the Ministries published broad information about remand strategies (e.g., existence of the Provincial Steering Committee and its purpose, intention to develop improved outcome measures for remand) in their annual plans and annual reports. We found the content of these communications was appropriate given the Ministries' broad breadth of activities and the current state of the remand initiative.

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