



Auditor General
MANITOBA

Report to the Legislative Assembly

Efficiency of Court Services for the Provincial Court of Manitoba

Independent Audit Report

Website Version



July 2023

This page is intentionally left blank.



July 2023

Honourable Myrna Driedger
Speaker of the Legislative Assembly
Room 244, Legislative Building
450 Broadway
Winnipeg, Manitoba R3C 0V8

Dear Madam Speaker:

It is an honour to submit my report, titled *Efficiency of Court Services for the Provincial Court of Manitoba*, to be laid before Members of the Legislative Assembly in accordance with the provisions of Section 28 of *The Auditor General Act*.

Respectfully submitted,

Original Signed by:
Tyson Shtykalo

Tyson Shtykalo, CPA, CA
Auditor General

This page is intentionally left blank.

Table of contents

Auditor General's comments	1
Report highlights	3
Response from officials	5
Background	7
Audit objective, scope, and approach	11
Findings and recommendations	13
1 Administrative structure poses restrictions	13
1.1 The Department is responsible for budgeting and resourcing decisions of the Provincial Court	14
1.2 Greater autonomy of the Provincial Court should be considered	15
1.3 Roles and responsibilities related to Provincial Court scheduling are not followed	18
1.4 Some performance metrics are beyond Departmental control	19
2 Technology does not support efficient operations	20
2.1 Existing systems are paper-based and outdated	20
2.2 Pace of the Integrated Case Management project is slow	22
2.3 No information technology strategy	23
3 Resourcing does not support efficient operations	24
3.1 The Department is responsible for providing resources to support the operations of the Provincial Court	25
3.2 Departmental staffing resources are monitored, but shortages still exist and impact Provincial Court operations	26
4 Risks are amplified in Northern Provincial courts	27
4.1 Almost half of court clerk positions are vacant in Northern Manitoba	27
4.2 Lack of internet connectivity impacts access to justice in Northern Manitoba	28
4.3 Initiatives to reduce the Provincial Court backlog are underway but a plan does not exist	29
About the audit	31
Summary of recommendations	33
Appendix 1: Overview of Manitoba Courts	37

This page is intentionally left blank.

Auditor General's comments

The separation of powers between the different branches of government — the Legislative Assembly, government departments, and the Courts — ensures a balance of authority and independence in Manitoba. Collaboration between the judiciary and the executive is essential for maintaining the principles of democracy, upholding the rule of law, and ensuring effective governance. While a good working relationship is important, it needs to be sustained by strong policies, agreements, and practices.

In this audit we looked at whether Manitoba Justice (the Department) was managing the delivery of court services for the Provincial Court efficiently. There are some key areas where the supports provided by the Department could be improved and more efficient.

There is an expectation that judges have the independence to make administrative decisions on their own. We found independence exists, however roles and responsibilities related to scheduling are not followed. There is a need for the Provincial Court and the Department to review the existing administrative structure and determine where increased autonomy could be extended to the Provincial Court.

In all areas of government, it is important to have the right tools and enough staff to fulfill responsibilities effectively and efficiently. We found there were significant technology deficiencies and an overwhelming reliance on paper-based systems. There are considerable staff shortages in the departmental positions that support the Provincial Court. Both the Provincial Court and the Department have acknowledged the shortages, but there is no strategy in place to address this issue. Without the necessary tools, resources, and long-term strategies, access to justice is challenged.

The risks and impacts identified throughout the audit were more strongly felt in Northern Manitoba. Creating a plan to address position vacancies, and unreliable internet and phone service would contribute to the increased efficiency of court services in northern Provincial Courts.

This report includes 7 recommendations. I encourage the Manitoba Justice to act on these recommendations to resolve the risks identified by this audit.

I would like to thank the many Department officials, staff, and Justice stakeholders we met with during our audit for their cooperation and assistance. I would also like to thank my audit team for their efforts.

Original Signed by:
Tyson Shtykalo

Tyson Shtykalo, CPA, CA
Auditor General



This page is intentionally left blank.

Why we did this audit

- Case backlogs and lengthy delays impact access to justice in the Provincial Court of Manitoba.
- We wanted to determine whether the Department of Justice manages the delivery of court services for the Provincial Court of Manitoba efficiently.

Conclusion

The Department does not manage the delivery of court services for the Provincial Court efficiently. We found there are opportunities for improvement.

Our report includes **7 RECOMMENDATIONS**.

What we found

ADMINISTRATIVE STRUCTURE

The administrative structure between the Department and the Provincial Court poses restrictions.

- The Department is responsible for the budgeting and resourcing decisions of the Provincial Court.
- Greater autonomy of the Provincial Court should be considered.
- Roles and responsibilities related to Provincial Court scheduling are not followed.
- Some performance metrics are beyond Departmental control.

TECHNOLOGY

Technology does not support efficient operations

- Existing systems are paper-based and outdated.
- The pace of the Integrated Case Management project is slow.
- The Department does not have an information technology strategy.

STAFF RESOURCES

Resourcing does not support efficient operations

- The Department is responsible for providing resources to support the operations of the Provincial Court.
- Departmental staffing resources are monitored, but shortages still exist and impact Provincial Court operations.

RISKS IN NORTHERN MANITOBA

Risks are amplified in the Northern Courts

- Almost half of court clerk positions are vacant in Northern Manitoba.
- Lack of internet connectivity negatively impacts access to justice in Northern Manitoba.
- Initiatives to reduce the Provincial Court backlog are underway but a plan does not exist.

This page is intentionally left blank.

Response from Manitoba Justice

Manitoba Justice would like to thank the Office of the Auditor General for its review of the Efficiency of Court Services for the Provincial Court of Manitoba. The audit period was between January 1, 2016 and March 31, 2022. This period included the unprecedented global COVID-19 pandemic, which had a significant impact on the Provincial Court of Manitoba. In response to the pandemic, the Department quickly adapted by introducing a wide range of technological solutions and other initiatives to ensure that the court could continue to operate safely and mitigate backlog during this time.

I would like to acknowledge the Courts Division leadership and exceptional employees for their dedication and monumental efforts to ensure that court services throughout Manitoba have been and continue to be delivered as effectively and efficiently as possible, particularly during the exceptional circumstances of the COVID-19 pandemic.

The Department's Courts Division is unique in that it works at the crossroads of the three arms of government - Executive, Legislative and Judicial. The proper functioning of the justice system requires close collaboration with the judiciary, while respecting their independence from the Legislative and Executive arms. This relationship is governed, in part, by a Memorandum of Understanding mutually agreed between the Executive and three levels of Manitoba courts, which contemplates regular dialogue. The Department remains open to constructive engagement with the courts to continue to ensure their independence, and to improve the administration of justice.

The recommendations contained in this report align with current Departmental priorities. Through extensive collaboration with the Judiciary and stakeholders, the Department continues the work to address the timeliness of the justice system.

Several measures have been implemented to try to address these issues and the Department will continue to work with the judiciary and other justice system stakeholders to develop strategies to reduce delay and improve access to justice overall, while respecting each other's roles. The Department has prioritized technological advancements to modernize the justice system. The Justice Technology Committee has been struck to develop a strategy to support current and future information systems and technology related capital infrastructure needs. The Integrated Case Management project is underway, which will have a significant impact on the efficient operations of the courts. Additionally, the Department has a number of other technology enhancement projects proceeding to modernize courts in the areas of video conferencing, correctional centre video enhancements and northern connectivity.

The Courts Division also continues to work with the Public Service Commission on the development of a strategy to ensure resources are in place to effectively and efficiently deliver court services throughout Manitoba. Most recently, in Budget 2023/24, 29 new full-time positions were approved to support the division's responsibilities, including court operations.

Manitoba Justice serves Manitobans by helping to provide a safe, just and peaceful society. Effective programs and services make safer communities. The Department is committed to continuous improvement, ensuring resources are in place to support efficient operations and modernizing systems to enhance access to justice and improve outcomes.

Background

Lengthy trials and delays in court case processing have an impact on both accused persons and victims. Delayed criminal proceedings can cause revictimization and impact the quality and reliability of evidence, since the memories of accused persons and witnesses often become less clear over time. Lengthy delays also have the potential to diminish public confidence in the fairness of the criminal justice system, which is fundamental to its operation. Confidence and trust are needed to ensure the legitimacy of the justice system and the public's participation in the administration of justice. When backlogs and increases in the time to disposition become excessive, the consequences can be serious and considered a risk to public safety because unreasonable delays are cited to justify case dismissals.

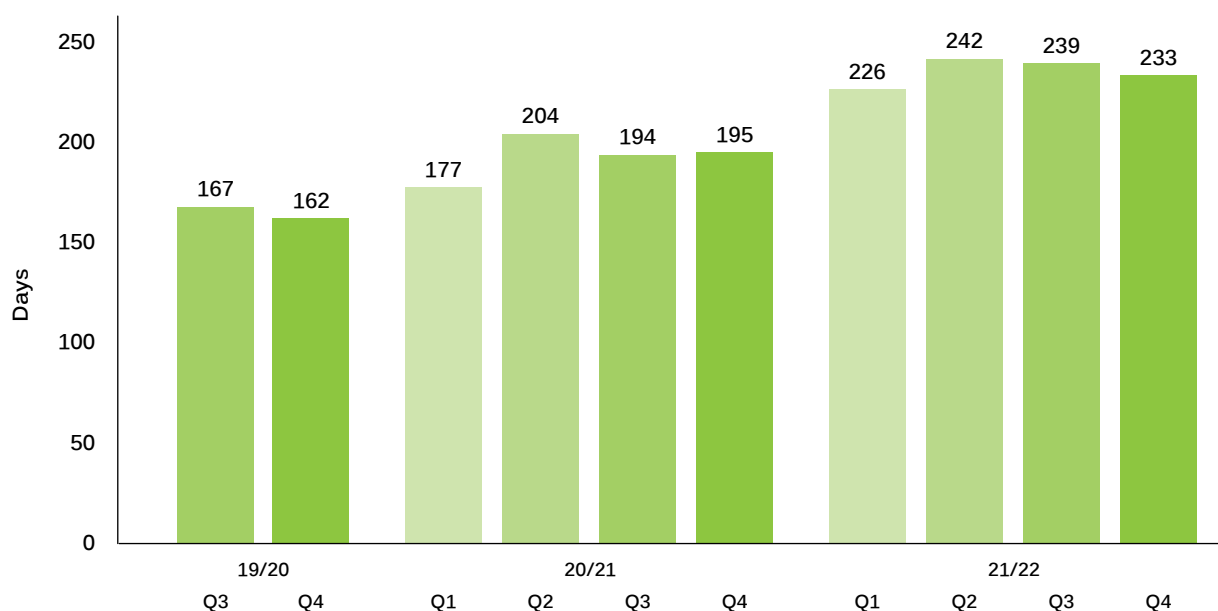
Case backlogs, lengthy delays, and the impacts these have on access to justice are not new in the Provincial Court of Manitoba. The global COVID-19 pandemic added to the existing case backlog in the Provincial Court of Manitoba. In 2018, Manitoba Justice (the Department) introduced the Criminal Justice System Modernization Strategy and established a 4-point strategy that focused on crime prevention, targeted resources for serious criminal cases, more effective use of restorative justice, and responsible reintegration of offenders. The goal of the strategy was to create safe communities and timely justice for all Manitobans. One of the key measures was to improve timely access to justice through reducing **time to disposition**.

Time to disposition (TTD) explains how quickly cases are moving through the provincial justice system. TTD is calculated by counting the number of days between the offender's first appearance for a given charge and the date the charge is disposed.

The Canadian Charter of Rights and Freedoms entitles any person charged with an offence the right to a fair trial and the right to be tried within a reasonable time. The Supreme Court of Canada's 2016 *R. v Jordan* decision established timelines that trials must be heard within:

- 18 months for cases heard in Provincial Courts.
- 30 months for cases heard in Superior Courts.

The COVID-19 pandemic required all divisions of the Department to adapt and adjust to protect participants in the justice system and maintain judicial operations. In addition, in response to the pandemic, Manitoba Provincial Court delayed, suspended, and rescheduled multiple court proceedings. In 2020, the Chief Judge of the Provincial Court estimated that it would take 18 months to clear the Provincial Court backlog post-pandemic. In 2020/21, the Department responded to pandemic-related challenges by updating and enhancing technological infrastructure in the court and correctional centres to support remote court proceedings and improve case scheduling; however, as shown in **TABLE 1**, TTD is decreasing but is still high.

Table 1: Time to disposition - Provincial Court

Source: Manitoba Justice - time to disposition

* Unaudited-data provided by Manitoba Justice

At the time of report release (Q3 2022/23) the Time to disposition – Provincial Court was reduced to 219 days.

Roles and responsibilities

MANITOBA JUSTICE

Manitoba Justice (the Department) is responsible for the administration of civil and criminal justice in Manitoba. Departmental responsibilities flow from federal legislation and provincial statutes related to criminal justice, civil law, court administration, correctional services, and other matters.

The Courts Division of Manitoba Justice manages the delivery of court services throughout the province. This includes: criminal, family, civil, small claims, and provincial offences court matters, court security, prisoner transport, civil enforcement of court orders, and operational support. The Courts Division supports the administration of the judicial process for the orderly, equitable, and timely resolution of disputes, criminal offences, and other matters requiring judicial adjudication. Services are provided in Winnipeg as well as a number of regional offices and 57 circuit court locations outside Winnipeg.

The audit focused primarily on the services provided by Manitoba Court Operations and Judicial Services. Manitoba Court Operations provides operational and administrative support for all matters in all 3 Manitoba Courts. Judicial Services provides support to the judiciary in all 3 Manitoba Courts. Branch staff facilitate the effective operation of the courts by acting as a liaison between the judicial branch of government, the executive branch of government, the public and the legal profession.

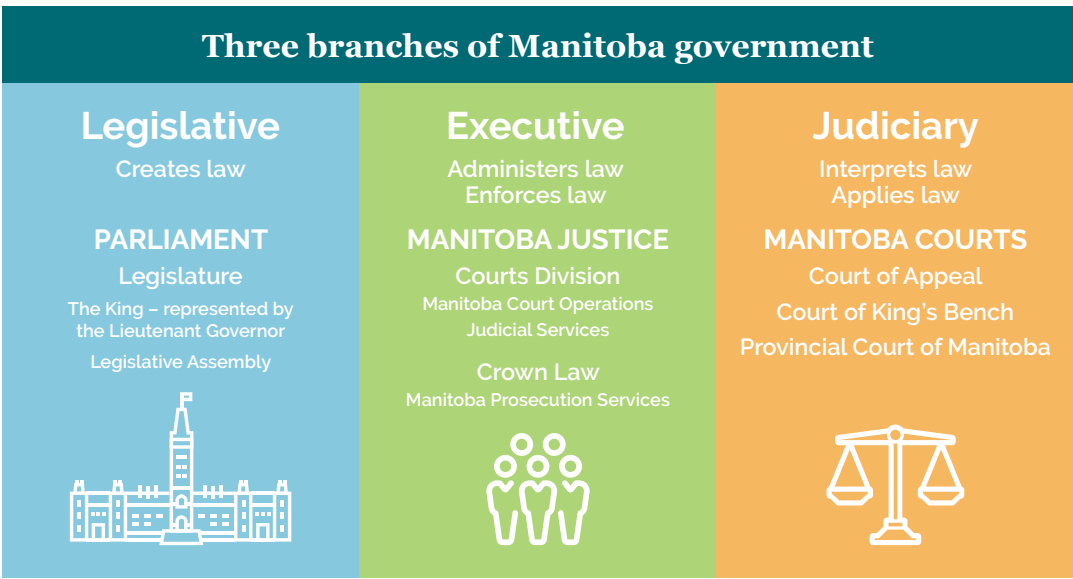
THE JUDICIARY

In Manitoba, the judiciary is comprised of 3 distinct courts: the Provincial Court of Manitoba (the Provincial Court), the Court of King's Bench and the Court of Appeal. **APPENDIX 1** provides an overview of the 3 courts.

Judicial independence

Judicial independence refers to the principle that judges must be able to make decisions free of influence and based solely on fact and law without interference from other branches of government or external forces. It is a core principle in Canadian democracy and essential for protecting individual rights, maintaining the rule of law, and preventing any abuse of power. This audit reviews the intersection between the preservation of judicial independence of the courts and how the department administers the law.

A fundamental principle of the Canadian judicial system is **judicial independence**. The Canadian Judicial Council states that, "The 'separation of powers' guarantees Canadians that the legislative, executive, and judicial powers in Canada will be autonomous and independent of each other."



To preserve judicial independence, the Canadian Constitution and the Supreme Court requires the following:

1. **Security of tenure:** Once appointed, a judge is entitled to serve on the Bench until the age of retirement, unless, for Superior Court judges, both houses of Parliament agree that the judge should be removed from office. At the provincial and territorial level, the cabinet or legislature has the similar power to remove a judge for misconduct.
2. **Financial security:** Judges must be paid sufficiently and in a manner that insulates them against pressure from other institutions or individuals.

3. **Administrative independence:** Institutionally, courts must be able to decide how to manage the litigation process and the cases judges will hear. On an individual level, each judge has the right, freedom and duty to decide the case alone, truly independent from any outside influence whatsoever. Judges must be provided with sufficient resources to carry out their constitutional responsibilities.

Source: Canadian Judicial Council – *Why is Judicial Independence Important to You?* (2016)

The Supreme Court of Canada stated the aspects of administrative independence necessary to maintain a constitutionally-sound separation between the judiciary and other branches of government include:

- The assignment of judges to hear particular cases.
- The scheduling of court sittings.
- The control of court lists for cases to be heard.
- The allocation of courtrooms.
- The direction of registry and court staff in carrying out these functions.

There are also 2 dimensions to judicial independence – **adjudicative independence** of the judges and **institutional independence** of the judiciary. See further clarification in **TABLE 2** below.

Table 2: Dimensions of judicial independence	
Adjudicative independence of individual judges	Institutional independence of the judiciary
• Impartial decision-making. • Security of tenure. • Financial security: pay benefits, and retirement plan. • Continuing education. • Ethics and conduct standards. • Accountability.	• Administration of justice by judges. • Management of court. • Assignment of judges to cases, determination of sittings, and lists of the court and related areas such as the allocation of courtrooms and management of the administrative staff. • Conduct review, removal. • Administrative and institutional relationships with the legislative, and executive government bodies.

Source: Canadian Judicial Council – *Why is Judicial Independence Important to You?* (2016)

In some provinces, the executive and judiciary have signed a memorandum of understanding to further explain or delegate authority over a specific area of court administration. In Manitoba, there is a Memorandum of Understanding on the Administrative Staffing Component of Judicial Independence (the MOU on Staffing) between the Attorney General of Manitoba and all 3 levels of Manitoba Courts.

Audit objective, scope, and approach

Audit objective

Our objective was to determine whether the Department of Justice manages the delivery of court services for the Provincial Court of Manitoba efficiently.

Scope and approach

The audit period we examined was **January 1, 2016** and **March 31, 2022**. Where relevant, we considered documentation and events after this period.

Our audit focused on whether the Department of Justice manages the delivery of court services for the Provincial Court of Manitoba. We did not consider or assess:

- The delivery of court services for the Court of King's Bench or the Court of Appeal.
- The operations of the Provincial Court.
- Any third-party support services for Manitoba Courts.

We acknowledge that in September 2022, the Court of Queen's Bench was renamed to the Court of King's Bench. Throughout the report we refer to the Court of King's Bench.

As a part of the audit work we:

- Examined and analyzed legislation, policies and practices, data, records, internal and public reports, correspondence, government web pages and news releases and other departmental documentation.
- Examined publicly available annual reports from the Provincial Court of Manitoba.
- Interviewed Department of Justice staff and key stakeholder organizations
- Interviewed the Honorable Margaret Wiebe, Chief Judge of the Provincial Court of Manitoba
- Chose a targeted sample of one Northern Court Centre, one Southern Court Centre and one circuit court in Manitoba to perform site visits.

Information in this report is based on audited and unaudited information.

Criteria

To determine whether the Department of Justice manages the delivery of court services for the Provincial Court of Manitoba efficiently, we used the following criteria:

Audit criteria	Sources
Roles, responsibilities and authorities for the delivery of court services are clearly defined.	• The MOU on the Administrative Staffing Component of Judicial Independence • OAG Ontario Audit of Court Operations (2019)
The Department of Justice's court services processes ensure court staffing is managed efficiently.	• The MOU on the Administrative Staffing Component of Judicial Independence • OAG Ontario Audit of Court Operations (2019) • Transforming the Public Service – A Strategy for Action • Action Committee on the Court Operations in Response to COVID-19 • 2020/21 Manitoba Justice annual report • 2018/19 Provincial Court annual report • Manitoba Budget – 2021 • Manitoba Budget – 2022
The Department of Justice's court services processes support efficient courtroom management.	• The MOU on the Administrative Staffing Component of Judicial Independence • OAG Ontario Audit of Court Operations (2019) • Action Committee on the Court Operations in Response to COVID Justice: Minister's Briefing 2021 – Premier Transition • 2020/21 Manitoba Justice annual report • 2022/23 Manitoba Justice Balanced Scorecard Performance Measures • Manitoba Budget – 2021 • Manitoba Budget – 2022
Technology is used to maximize the efficiency of court services.	• Manitoba's Criminal Justice Modernization Strategy • Justice: Minister's Briefing 2021 – Premier Transition • 2022/23 Manitoba Justice Balanced Scorecard Performance Measures • 2020/21 Manitoba Justice annual report • 2022/23 Manitoba Justice Supplement to the Estimates of Expenditures
Performance data is monitored and reported publicly.	• OAG Ontario Audit of Court Operations (2019) • 2020/21 Manitoba Justice annual report • Transforming the Public Service – A Strategy for Action • 2022/23 Manitoba Justice Balanced Scorecard Performance Measures • Manitoba's Criminal Justice Modernization Strategy
Reduction of the court backlog is a priority.	• Justice: Minister's Briefing 2021 – Premier Transition • Manitoba's Criminal Justice Modernization Strategy • 2020/21 Manitoba Justice annual report

Manitoba Justice does not manage the delivery of court services for the Provincial Court of Manitoba efficiently

Improving access to justice is both an objective and a key activity of Manitoba Justice (the Department). Case backlogs and lengthy delays in the Provincial Court are not new in Manitoba and were further challenged by the COVID-19 pandemic.

We visited Provincial Court centres throughout Manitoba and observed the provision of court services by the Department. We spoke with Manitoba Justice staff and key stakeholders within the Manitoba Justice system. These interviews complimented our review of the expectations for court services that were outlined in legislation, memorandums of understanding, and practices in other jurisdictions in Canada.

We noted the Department was aware of and responsive to the needs of the Provincial Court. However, we concluded that the Department does not manage the delivery of court services for the Provincial Court efficiently. We found there are opportunities for improvement. We based this conclusion on the following findings:

- Administrative structure poses restrictions (**SECTION 1**).
- Technology does not support efficient operations (**SECTION 2**).
- Resourcing does not support efficient operations (**SECTION 3**).
- Risks are amplified in Northern Provincial Courts (**SECTION 4**).

1 Administrative structure poses restrictions

There are opportunities for the Department to provide greater autonomy to the Provincial Court as the current administrative structure poses restrictions. We found that the Provincial Court is dependent on the Department for budgeting and resourcing decisions. The Department is not following the roles and responsibilities for court scheduling as defined in *The Provincial Court Act*. There are performance metrics to promote efficiency set by the Department that cannot be achieved by the Department alone. Improvements in these areas will help increase efficiency and the autonomy of the Provincial Court, as well as any perceived risks to judicial independence.

1.1 The Department is responsible for budgeting and resourcing decisions of the Provincial Court

Department – administers and enforces law

Judiciary – interprets and applies law

Source: Canadian Judicial Council – Why is Judicial Independence Important to You? (2016)

The Constitution provides that the judiciary be independent of government. The judiciary must also have the courtrooms, staff, and resources necessary to perform the tasks essential to the justice system. The Constitution also states the provincial government (the Department of Justice) is responsible for the administration of justice for the Provincial Court (as well as the Court of King's Bench and the Court of Appeal).

We looked at publicly available information from several jurisdictions across Canada to compare how budget and resourcing decisions were made for provincial courts. We found that in most cases, the provincial government retains responsibility for administrative functions, including budgeting and resourcing decisions. This governance model requires a trust and communication between the government and the Provincial Court.

Risks arise when the Department is responsible for the administrative functions of the Provincial Court, including budgets, human resources, technology and infrastructure. These risks could become challenging in situations where the government is under pressure to exercise fiscal restraint or when collaboration fails. Clear guidelines and protocols for communication and collaboration help mitigate these risks.

We were told that the relationship in Manitoba between the Department and the Provincial Court was well-established and functioning effectively, and that the Department was aware of and responsive to the needs of the Provincial Court. However, it's important to note that the leadership of both organizations is subject to change—the Chief Judge position is a term (7 years) and there are often changes in the executive positions of government.

A judge cannot be independent if the necessary support staff are unavailable, or is subject to the control and accountable to others.

Source: Canadian Judicial Council – Why is Judicial Independence Important to You? (2016)

It is important to have strong structures and processes to ensure the independence of the Provincial Court is protected. While established and well-functioning relationships can support these structures and processes, there is a risk to be solely dependent on them.

There is an opportunity to consider whether the Provincial Court can be provided with greater autonomy, input and control over areas of court administration. This might include a risk assessment of the current governance model along with a risk mitigation plan. We acknowledge any changes to the governance model would need to be carefully considered and implemented to ensure that it does not compromise the overall effectiveness of the justice system.

1.2 Greater autonomy of the Provincial Court should be considered

Given the complexity of the administrative structure between the Department and the Provincial Court, we expected to find a comprehensive document that outlined the roles, responsibilities, and authorities for the delivery of court services. We found Manitoba has a Memorandum of Understanding on the Administrative Staffing Component of Judicial Independence (the MOU on Staffing). However, this MOU is solely for the staffing component of judicial independence and was not intended to be a comprehensive document that prescribed how all administrative decisions should be made.

MEMORANDUM OF UNDERSTANDING ON THE ADMINISTRATIVE STAFFING COMPONENT OF JUDICIAL INDEPENDENCE

Staffing is the responsibility of the provincial government (**SEE TABLE 3**). This includes the recruitment, classification, compensation, training supervision and discipline of employees under *The Public Service Act* (previously *The Civil Service Act*). These staff are under the direction and control of the Provincial Court when performing functions related to judicial administration. However, the Provincial Court must be provided with sufficient resources to carry out its constitutional responsibilities.

The MOU on Staffing serves as an example where the Provincial Court and the Department (along with the Court of Kings Bench and the Court of Appeal) collaborated to provide further guidance on the roles and responsibilities of both parties. It includes a clause that recognizes that collaboration and discussion are important in making the justice system more effective, efficient, and accessible. In our interviews, both the Chief Judge of the Provincial Court and the Department highlighted the that the MOU was a successful collaboration regarding the administrative component of staffing. Highlights of the responsibilities outlined in the MOU on Staffing are listed in **TABLE 3** below:

Table 3: Summary information from the MOU on the Administrative Staffing Component of Judicial Independence	
Executive branch (Department)	Judicial branch (Courts)
Administer and enforce the law • Administration of justice. • Administrative functions including: - Budgets - Human resources - Infrastructure - Technology • Operational functions including the number of court clerks, sheriffs and support staff for judges.	Interpret and apply the law • Judicial functions of the court. • Proceedings in the courtroom. • Direction and control of judicial staff, joint judicial staff, sheriffs, and other court staff while carrying out the functions of judicial administration of the courts. • Setting the dates of the court sittings. • Scheduling of court cases and dockets. • Allocation of courtrooms. • Assignment of judges to cases. • Direction of court staff in the courtroom.

Document provided by Manitoba Justice

JURISDICTIONAL SCAN

We reviewed MOUs from other jurisdictions and noted certain sections were more descriptive than the MOU on Staffing. For example, MOUs from other jurisdictions:

- Detailed the responsibilities of both the Attorney General and the Chief Justices.
- Included a general acknowledgement for collaboration and consultation on matters of judicial and court administration.
- Acknowledged the Attorney General's responsibility to provide sufficient resources to allow the Courts to carry out their functions.
- Itemized instances where the Department would be required to consult with the courts to review resource needs.
- Acknowledged that public funds must be used efficiently and effectively to support the courts.

Our analysis also identified that some other jurisdictions provided more autonomy to courts through their MOUs. Two key differences in some of the jurisdictional MOUs we reviewed were in budgeting and information technology.

BUDGETING

In Manitoba, there is no MOU specific to budget administration. We found other jurisdictions had MOUs that provided courts with greater budgetary autonomy. Some jurisdictions had the ability to establish their own independent budget and provide direct input based on the needs of the court.

The Constitution Act, 1867 provides, under s.92(14) that the Government of Manitoba has the responsibility for making laws in relation to the administration of justice in the Province. The Constitution also provides that the judiciary (Provincial Court) is separate from, and independent of, the other 2 branches of government – the legislative and the executive.

Since the Constitution assigns the Department responsibility for the administration of justice in Manitoba, the Department has responsibility for all staffing decisions. This includes employee recruitment, classification, compensation, training, supervision, and discipline for employees under the direction of the Provincial Court when performing judicial functions.

If the Provincial Court had greater autonomy, input or budgetary independence, it could compensate staff based on the skills set required to perform the task, and what tasks are needed by the court. Currently these are the responsibility of the government and predetermined in provincial position descriptions, job postings, and the salary arrangements bound by *The Public Service Act* (previously *The Civil Service Act*) and the union agreements of the Manitoba Government.

INFORMATION TECHNOLOGY

In Manitoba, there is no MOU specific to the administration of information technology. We found other jurisdictions had MOUs that acknowledged the need to maintain judicial technology environments with comprehensive security and privacy specifications.

We also found that the Department is responsible for the provision of technology (systems and software) through Digital and Transformation Services (DTS). However, where and how technology is used in a courtroom, is the responsibility of the Provincial Court. We were told the Provincial Court does not develop its own software or IT systems based on internal security requirements, as decisions are made collectively with the Department and DTS.

We find this structure presents a restriction as it could impede technological advancement of the courtrooms. System selection and security requirements are not defined by the Provincial Court in the current structure. Greater input may allow for increased efficiency and latitude in decision making as the Provincial Court would not be dependent on the timelines, policies, and protocols of the government.

We note that the Department may wish to explore an additional MOU specifically focused on the administration of information technology. This would be particularly important with the implementation of the Integrated Case Management (ICM) project and the significant impact the project will have on the Provincial Court.

We acknowledge any changes to the governance model between the Department and the Provincial Court would need to be carefully considered to ensure it does not compromise the overall effectiveness of the justice system.



Recommendation 1

We recommend that the Department review the existing administrative structure and consider providing greater autonomy to the Provincial Court.

1.3 Roles and responsibilities related to Provincial Court scheduling are not followed

Duties of the Chief Judge

8.1(b) The Chief Judge is responsible for the judicial functions of the court, including direction over sittings of the court and the assignment of judicial duties.

Source - S8.1 of *The Provincial Court Act*

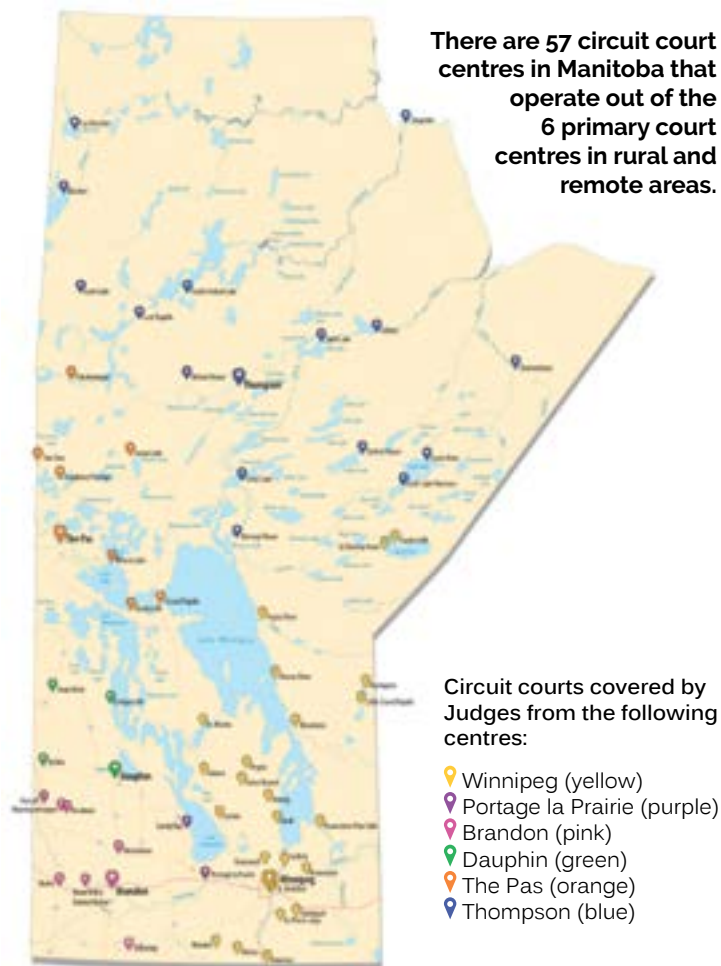
Scheduling of court sittings is a key component of judicial independence and one of the **'Duties of the Chief Judge'** pursuant to section 8.1 of *The Provincial Court Act*. Responsibilities of the Provincial Court to which the Department must not attempt to influence include:

- The assignment of judges to hear particular cases.
- The scheduling of court sittings.
- The control of court lists for cases to be heard.
- The allocation of courtrooms.
- The direction of judicial staff, joint judicial staff, sheriffs, and court staff in carrying out these functions.

However, we found the Provincial Court does not have responsibility for all courts scheduling in Manitoba. We found Manitoba Prosecution Services branch of the Department of Justice (the Crown) books matters for almost all circuit courts in Manitoba. We also noted the Provincial Court recently took over scheduling of all trials in Winnipeg, from the Crown in October 2019.

This arrangement, whereby the Crown is responsible for booking matters for almost all circuit courts in Manitoba instead of the Provincial Court, is not consistent with scheduling responsibilities pursuant to the 'Duties of the Chief Judge' listed in section 8.1 of the *Provincial Court Act* and judicial independence.

If the Provincial Court is able to fulfill its responsibility as outlined in *The Provincial Court Act*, it could lead to greater flexibility and responsiveness in scheduling. Additionally, it could help ensure that cases are scheduled fairly and equitably across different circuits within Manitoba.



Source: 2021/22 Provincial Court Annual Report

* Unaudited-data from the Provincial Court of Manitoba Annual Report



Recommendation 2

We recommend that the Department ensure the Provincial Court has sufficient resources to fulfill their scheduling responsibilities pursuant to Section 8.1 of The Provincial Court Act and judicial independence.

1.4 Some performance metrics are beyond Departmental control

The Department set a number of performance-based targets intended to promote efficiency. These are outlined in the Department's balanced scorecard measures in its annual report. The Department also committed to key measures in its Criminal Justice Modernization Strategy (CJMS). We asked the Department who is responsible for the disclosed performance metrics. We were told they require a blend of responsibility, most of which are within the purview of the Provincial Court.

Given that these measures are shared between the Department and the Provincial Court as well as multiple departmental stakeholders, we expected to find fulsome plans with timelines and targets for each performance metric or balanced scorecard measure. We found the Department was not always able to provide action plans with timelines and measurable targets for each performance metric. However, performance is monitored, and variances are investigated with the responsible stakeholders.

During our audit, we identified some Department performance metrics that were beyond the scope of its control. See **TABLE 4** for examples:

Table 4: Summary of balanced scorecard measures

Balanced scorecard measure	Challenge identified by the OAG
Increase the number of virtual dockets in the North. Remote technology reduces transportation costs of inmates (and associated security risks) and allows court participants to remain and receive support from their community.	The use of technology in the courtrooms is at the discretion of the Provincial Court. This was reinforced in the Provincial Court's November 14, 2022 directive that reinstated in-person appearances throughout the province.
Reduce the number of court appearances per case in Winnipeg court centres. Reducing the number of court appearances allows the courts system to dispose cases more efficiently and free up justice resources for more meaningful tasks.	Decisions made by parties internal to the court are a significant factor in the number of times a matter appears in court centres. The Provincial Court is responsible for courtroom management.

Source: Manitoba Justice

It is common for performance metrics to involve multiple parties and to require a collaborative effort to achieve them. However, when the performance metrics are beyond the control of the Department, they can create challenges to meet the objectives. This is because achieving these objectives relies on the performance and decisions of external parties. In such cases, it is important to identify the factors that are outside of the Department's control and work with the relevant parties to find solutions or adjust the performance metrics accordingly. It is also important that the judiciary has a meaningful role in setting the expectations by which those who run the Court can be held accountable.



Recommendation 3

We recommend that the Department develop performance metrics that are within their authority and control.

2 Technology does not support efficient operations

In the 2022 Budget, Manitoba Justice (the Department) stated it is committed to delivering outcomes for Manitobans efficiently and effectively by prioritizing initiatives that increase efficiencies. It also committed to foster and advance innovation and forward-thinking through the more effective use of resources, which included modernizing technological infrastructure.

We found that the existing Provincial Court systems remain paper-based and outdated—despite the need for modernization identified in several annual reports of the Provincial Court. The Department responded with an Integrated Case Management (ICM) project with the goal of reducing the reliance on paper and consolidating systems into a single province-wide system. However, the pace of the project is slow and may take more than 6 years to complete. We also found that the Department does not have a formal information technology strategy in place. As a result, technology does not support efficient operations.

2.1 Existing systems are paper-based and outdated

Through our site visits and interviews we found the administrative processes to support the Provincial Court relied on manual and paper-based systems. In the 2018/19 Provincial Court annual report, the Chief Judge requested an immediate investment in technology, noting the Provincial Court has not kept pace with technological advancements, and systems remained largely paper based.

We found that the administrative functions of the Department are supported by a large number of custom-built, legacy, and obsolete information technology applications. Many of these applications no longer meet the changing and dynamic needs of the Department. The IT systems lack integration,

force users to enter the same information into separate systems multiple times, and have poor reporting functionality. This makes it difficult to generate accurate and timely reports.

The 2020/21 Provincial Court annual report highlighted that the pandemic reinforced the limitations of the largely paper-based information systems, particularly when providing judicial services to remote court participants.

Outdated systems pose a risk of significant system disruptions for the administrative functions of the Department. Any disruptions to these systems could impact the delivery of justice and compromise court processes. Therefore, it is important for the Department to assess the risks associated with these legacy systems and take steps to modernize IT systems to improve efficiency and reduce the risk of disruptions. By doing so, the Department will be better equipped to support the Provincial Court.

IMPACT ON PERFORMANCE MANAGEMENT

In 2018, the Department committed to report annually on 7 items in the Criminal Justice Modernization Strategy, including time to disposition for criminal cases and the number of delay motions filed.

We found the Department has processes and policies in place to regularly monitor, investigate, and follow up on identified performance metrics. These metrics included applications for delay motions and time to disposition. We also found the Department, through Manitoba Prosecution Services (the Crown), has several internal processes and procedures that aid in regular monitoring and reporting of court timelines.

In the 2018/19 Provincial Court annual report, the Chief Judge highlighted the need for updated integrated information systems so it can collect data, measure performance, and increase efficiency.

The Chief Judge of the Provincial Court identified that with the existing systems, the Provincial Court is not able to capture reliable information on:

- The number of matters that proceed to trial or preliminary inquiry.
- How much trial time is used.
- Why matters set for trial do not proceed on the day of trial.

This is another area where we see an opportunity for the Provincial Court and the Department to consider greater administrative independence defined through a MOU that is specific to technology (case information and analytics).

We confirmed with departmental representatives that due to system limitations, the existing technology was unable to determine the number of court cancellations during the year, including the source and reason for the cancellation. For example, we found cases were marked as adjourned regardless of whether they were closed, resolved, or cancelled.

Jordan timelines for trials:

- 18 months from when the charges are laid (Provincial Court of Manitoba).
- 30 months from when the charges are laid (King's Court of Manitoba).

We also inquired about the system's capability to determine the age of a court case and how close cases were to the Jordan deadline. The Department confirmed that current technology does not have this capacity, but the Crown regularly monitors and reports on the age of cases and **Jordan timelines**. We note however, that due to system limitations this tracking is performed manually, which increases the risk of errors.

The lack of updated information systems also makes it challenging for the Department to track trends and make targeted solutions. For example, if the Department had available data, it could review information to determine the source and reason for the court cancellation or delays to better address the issue.

The Department has acknowledged it relies on multiple legacy and obsolete systems to support the justice system.

In June 2020, the Department issued a Request for Proposal (RFP) for an Integrated Case Management system (ICM) in response to a program review to upgrade technology and information systems. The ICM project is expected to upgrade technology, reduce reliance on paper, consolidate systems into a single province-wide system, minimize data-entry, modernize court processes, digitize court proceedings, and provide online services such as e-filing, access to file information and online payments. The system is expected to include modernized capabilities that will improve the overall efficiency and effectiveness of Manitoba Courts' operations.

2.2 Pace of the Integrated Case Management project is slow

Table 5: ICM project timeline



The Department announced the initial planning, analysis, and development for the Integrated Case Management system (ICM) for Manitoba Courts in its 2018/19 annual report (**TABLE 5**). It took the Department 4 years to award a contract to a successful vendor. This exceeded the anticipated timeline.

We inquired about the reason for the Department taking 4 years to award the contract to a successful vendor. In response, the Department explained that they purposely extended the deadlines for vendor demonstrations and contract negotiations to ensure precise project workflows. The Department

emphasized that the ICM project aims to replace more than 20 systems spanning the 3 Manitoba Courts and the Department.

This timeline is concerning because technological resources have been a long-standing issue. We found the need to improve technological resources was mentioned in Provincial Court annual reports dating back to 2010.

Additionally, once the contract is signed the estimated time to completion is 75 months (6+ years). Assuming that the project runs as scheduled, it would be completed in April 2029. Given that the ICM project is already behind, and scope and size of the ICM project is substantial, there is a significant risk that the project's timeline and associated costs could be underestimated.



Recommendation 4

We recommend that the Department put in place a clear project management schedule and accountability check points for the Integrated Case Management project so the project does not exceed the current time estimate and budget.

2.3 No information technology strategy

Given the existing IT environment along with the scale of the Integrated Case Management (ICM) project and impact it would have on the Department and the Provincial Court, we expected to find an IT transformation strategy. We were told the Department does not have an IT transformation strategy for Courts and there is no IT strategy outside of the ICM project.

While the Department did not have an IT strategy, we found there were a number of initiatives that the Department engaged in with the Provincial Court to modernize the justice system and improve processes and procedures. These include:

- Expansion of virtual courtrooms and video conferencing technology.
- Continued support for the Weekend Court project and Court Date Notification project.
- Commencement of the Northern Court Access project.
- Increased access to Criminal Courts. Automated Information Network - CCAIN (the platform that retains information on client charges) for Counsel.

We note the Department has indicated the ICM project has the potential to greatly improve the efficiency of court services and the administrative nature of the Provincial Court.

It is important to have a clear strategy and priority sequence when implementing any new initiative, especially those that have the potential to improve efficiency and effectiveness. Without a strategy or

priority sequence, there is a risk that resources may be allocated inefficiently or that critical aspects of the initiative may be overlooked.

A strategy that outlines the specific objectives, timelines, and resources required to achieve the desired outcomes would ensure the success of the proposed ICM project. This strategy should also include a clear priority sequence that identifies the most critical aspects of the initiative and ensures that they are addressed first. Attention should also be given to budgets, required deliverables and deadlines, and the roles and responsibilities of all parties included in the project.



Recommendation 5

We recommend that the Department develop an IT strategy that defines the strategic priorities for the justice system, including the Provincial Court's systems, along with priority projects.

3 Resourcing does not support efficient operations

Similar to a physical hospital bed needing associated medical staff to realize its service potential, the Provincial Court requires an array of personnel to operate courtrooms. In addition to the judges and judicial justices of the peace that preside over the court, additional personnel such as court clerks, sheriff's officers, judicial assistants, and trial coordinators work on the front lines and behind the scenes.

The longer a case takes to navigate through the court system, the more resources it consumes. Judges, prosecution, and defence lawyers, court clerks, security personnel, and possibly even the corrections system, if the defendant is in custody, are all affected by the extended duration of the case. This is significant as the Provincial Court has stated they are a highly active court and do not anticipate any decrease in its workload.

The combination of resourcing challenges within Manitoba Justice (the Department) and the high volume of cases in the Provincial Court increases the risk of court cancellations and delays, and may lead to an increase in the case backlog. This situation can have serious consequences and amplify the strain on the justice system.

We found there are significant staffing shortages for positions that support the Provincial Court. The Department has recognized this staffing shortage, however, there is no formal strategy to address the vacancies.

3.1 The Department is responsible for providing resources to support the operations of the Provincial Court

Judicial independence is a fundamental principle in the legal system. However, judicial independence is challenged when the necessary support staff to operate a court are unavailable.

We expected the Provincial Court to have the authority for staffing and resource decisions of the court. We found the Department is responsible for recruiting, hiring, and training employees. The Provincial Court is responsible for the overall management and direction of the court proceedings, and the supervision of court staff while they are in the courtroom. The Memorandum of Understanding on the Administrative Staffing Component of Judicial Independence (the MOU on Staffing) reinforces the need for collaboration stating it is necessary to ensure that the court has the resources to function effectively.

As an example, we expected if a resource (court clerk) was needed in the courtroom, the Provincial Court would request the Department recruit and hire additional staff, and the request would be fulfilled. However, we found when resources are needed in the courtroom, the Provincial Court communicates the resource request (new position or filling of vacant positions) with the Department. It is the Department that determines if the position will be filled.

Interviews with departmental representatives also indicated, when the Department receives a resource request, they may visit the courthouse to confirm the need in the courtroom. If the Department agrees with the request, it develops a business case and seeks approval from Treasury Board. We reviewed evidence to support that the Department collaborates with the Provincial Court when developing the business case for additional resources. However, the Department confirmed the Provincial Court does not review the business case before submission to the Treasury Board.

Given that the Department has the final approval in hiring additional resources or filling vacant positions, there is a risk that positions or vacancies may not be filled in situations where the government is under fiscal restraint, even if the positions are essential for the functioning of the court. This also seems to challenge the notion of judicial independence where the judges decide what is best for their courtrooms.

Sufficient staffing is critical because it ensures courtrooms run efficiently. When there are limited resources it impacts the ability of the Provincial Court to provide access to justice, particularly in the North. The 2019/20 Provincial Court annual report highlighted that the court allocates scarce resources across the court system and until there are sufficient resources to fully address the systemic issues, the Provincial Court will continue to face challenges.

3.2 Departmental staffing resources are monitored, but shortages still exist and impact Provincial Court operations

Staff resource monitoring is typically performed with a view to ensure that only the necessary levels are used to achieve an organization's business objectives. However, when courts experience problems with recruiting and retaining staff, it can jeopardize the efficiency of the justice system and limit access to justice.

We found that the annual reports of the Provincial Court and the Department identified staff shortages. We examined the vacancy rates of court clerk positions for Winnipeg and Northern Manitoba. Notably, Northern court offices had the highest rates. The Pas court office had a 41% vacancy rate and the Thompson court office had a 28% vacancy rate for the same period (**SEE TABLE 6**).

Given the staffing resource challenges and the high workload volume of the Provincial Court, we expected the Department to have a strategy to address staffing shortages or vacancies. We found that departmental officials were aware of staff recruitment and retention difficulties, and regularly monitored staff levels. However, a strategy to address staffing shortages and high vacancy rates did not exist.

Although there is no strategy in place, we found evidence that the Department is working with the Provincial Court on staffing shortages and has taken steps to increase staff resources, and improve staff retention and recruiting. The Department has taken the following steps:

- Ongoing recruitment efforts for court clerks and the establishing of a pool of qualified candidates.
- Addition of 2 judges and supporting staff in the Thompson court centre.
- Establishment of "casual" positions in Northern court centres.
- Reclassification of some positions to a higher position to better reflect job responsibilities.

Despite these efforts, resource shortages persist across the province and impact the delivery of Provincial Court services.

**Table 6 – Monthly vacancy rates
Manitoba Court offices – 2021/22**

Area	Vacancy rate
Thompson Court office	28%
The Pas Court office	41%
Dauphin Court office	8%
Brandon Court office	12%
Minnedosa Court office	8%
Portage La Prairie Court office	14%
Selkirk Court office	18%
Winnipeg Court offices	25%

** Unaudited-data provided by Manitoba Justice*



Recommendation 6

We recommend that the Department work with the Provincial Court and Public Service Commission to develop a strategy to address staff resource shortages including positions that support the Provincial Court.

4 Risks are amplified in Northern Provincial courts

A consistent finding throughout our audit was that the resource and technology challenges identified in Winnipeg were more strongly felt in the North. We found that numerous support positions were vacant and a lack of internet connectivity impacted access to justice for individuals in the North. Due to the response to the COVID-19 pandemic, Provincial Court operations were reduced, which contributed to a backlog in the Provincial Court. While steps have been taken to reduce the backlog, we did not find a plan or strategy to reduce the post-pandemic Provincial Court backlog.

4.1 Almost half of court clerk positions are vacant in Northern Manitoba

The issue of inadequate staffing resources in Northern Manitoba, specifically in the Thompson court office, is a longstanding concern. It has been identified in Provincial Court annual reports dating back to 2006.

In **SECTION 3.2** we noted the high vacancy rates in court offices for **court clerk** positions in Northern Manitoba. We also found the Thompson court office is responsible for running circuit court sessions in 15 of the Northern communities. Despite its lack of resources and noted high case volumes, Thompson is responsible for 10-15% of all cases in Manitoba.

In the 2020/21 Provincial Court annual report, the Chief Judge reported that Thompson had a longer time to disposition for the most severe charges (390 days) when compared to both Winnipeg (342 days) and the global average (337 days). These numbers slightly decreased in 2021/22 to 384 days in Thompson, 329 days in Winnipeg, and 326 days globally. The Chief Judge also highlighted in the 2021/22 annual report that over 3,000 cases in Manitoba took more than 18 months. We cannot confirm there is a direct link between time to disposition and staff vacancies, and acknowledge that this may be due to several factors. However, high vacancies levels in many areas, such as judges, Crown attorneys, Legal Aid Manitoba, and court clerks pose a significant obstacle to the timely resolution of cases.

Court clerks perform administrative, security, and other support functions for courts including:

- Scheduling trials.
- Processing service fees.
- Calling court to order.
- Preparing court dockets.
- Maintaining exhibits.
- Recording trial proceedings.
- Maintaining court records
- Travelling to circuit courts.

As noted in **SECTION 3.2**, we were told Manitoba Justice (the Department) is aware that significant vacancies exist and they are working on staff recruitment and retention difficulties.

The lack of resources and support can have a significant impact on access to justice for individuals living in Northern Manitoba, particularly those who may already face systemic barriers to accessing the justice system. It is important for governments and relevant stakeholders to address this issue by providing the necessary resources and support to ensure that individuals in Northern Manitoba have access to the justice system.

4.2 Lack of internet connectivity impacts access to justice in Northern Manitoba

The unequal distribution of technological resources, such as access to reliable internet, cellular, and phone services, can intensify the unequal access to justice, including court services, hearings, and opportunities to communicate with counsel. This was especially evident during the COVID-19 pandemic, as there was an increased reliance on technological alternatives to in-person proceedings.

"Any Canadian left behind in terms of broadband access is profoundly disadvantaged."

- Canadian Radio-Television and Telecommunications Commission (2016)

Only 1.8% of First Nation communities in Manitoba have access to high-speed internet.

- Canadian Radio-Television and Telecommunications Commission (2019)

We noted Manitoba Justice (the Department) committed to foster and advance innovation and forward-thinking through the more effective use of resources, which includes modernizing technological infrastructure.

However, the Chief Judge of the Provincial Court recently reported in the 2020/21 Provincial Court annual report that it was not prepared and not equipped to appropriately conduct hearings remotely due to limited technology. The Chief Judge stated that solutions must be found to promote timely, efficient access to justice, particularly for remote communities as inadequate bandwidth creates an undeniable barrier in access to justice. The Chief Judge also stated the human and financial costs associated with prisoner transport, as a result of limited technology, are significant.

In June 2022, the Supreme Court of Canada's Chief Justice publicly stated the importance of modernizing and innovating the legal system, cautioning against a return to pre-pandemic ways of conducting business. The Chief Justice stated that access to justice is not only a fundamental right or service, but also a basic human need and an essential element of democracy.

We acknowledge that on November 30, 2021, the Department of Consumer Protection and Government Services (previously Central Services) signed a contribution agreement with Xplornet Communications Inc. to provide broadband services to nearly 30 First Nations and approximately 350 unserved or underserved rural and Northern communities.

We also note that, despite the absence of an IT transformation strategy, the Department was aware of the barriers to access in the Northern and remote communities and worked with the Provincial Court to identify alternatives. As well, we found evidence to support frequent communication and collaboration to help ensure the courts were running.

We found the Department collaborated with the Provincial Court to implement the following initiatives:

- Implemented the IP gateway project.
- Expanded virtual courtrooms and video conferencing technology.
- Moved lawyer video interview units to a TEAMS platform.
- Added video capability to support Judicial Justice of the Peace bail triage program.
- Expanded WIFI access in courtrooms (Thompson, Brandon, and in Winnipeg).
- Added teleconferencing options for courtroom hearings.

Technology is now an integral part of daily lives and government is increasingly relying on digital platforms to provide services. Although technology can enhance access to justice and improve service delivery it can also create barriers. While the Department's projects are helping to advance technology in the Provincial Court, they cannot address the larger concern of connectivity in Northern and remote communities in Manitoba. This concern remains a significant challenge that requires attention and comprehensive solutions from parties outside of the Department.

4.3 Initiatives to reduce the Provincial Court backlog are underway but a plan does not exist

The Chief Judge of the Provincial Court reported that it significantly reduced its operations in response to the COVID-19 pandemic. The Chief Judge noted in the 2020/21 Provincial Court annual report pandemic-driven changes began with the cancellations of all circuit court and out-of-custody trials starting on March 16, 2020. It also indicated that many matters were adjourned from month to month until the Provincial Court could resume normal operations. With this understanding, it was inevitable that the Provincial Court backlog post-pandemic would be significant.

In 2020, the Chief Judge of the Provincial Court estimated that it would take 18 months to clear the Provincial Court backlog post-pandemic.

With provincial and nationwide discussions and acknowledgement of court delays and post-pandemic court backlog, we expected the Department to have a plan or strategy to reduce the court backlog in the Provincial Court.

The Department noted that the issue and resolution of the Provincial Court backlog is a shared responsibility between the Provincial Court and multiple divisions within the Department, and that reduction of the backlog engages all Justice participants.

We asked the Department if there was a plan or strategy to reduce the post-pandemic Provincial Court backlog that assessed and assigned roles and responsibilities to the multiple divisions. The Department

confirmed a plan or strategy did not exist. The Department stated the Chief Judge of the Provincial Court met with executives and key stakeholders to outline the priorities to reduce the post-pandemic Provincial Court backlog and develop a recovery plan. Departmental representatives stated the Provincial Court recovery plan addresses the needs of individual locations and includes specific actions for remote communities where the reduced court schedules have had the greatest impact.

The Department indicated it is working with the Provincial Court on the following priorities:

- Resolving of the case backlog that has accumulated because of court closures.
- Identifying courts and circuit courts at the most risk.
- Increasing video conferencing.
- Expanding of opportunities to incorporate the use of technology.
- Improving internet and telephone (including cell phone) connections in the North.
- Having adequate resources for required services, including clerks, sheriffs, support staff, data entry and data analysts, trial coordinators, Indigenous Court Workers.

However, there is no formal plan or documentation to assign tasks, roles, and responsibilities. And despite the ongoing and new initiatives by the Department, the backlog in the Provincial Court of Manitoba persists and the time to disposition in Northern Manitoba is still significant.



Recommendation 7

We recommend the Department continue to work with the Provincial Court and other justice stakeholders to develop a formal strategy to reduce the backlog and delays in the Provincial Court. This strategy should include:

- a. Roles, and responsibilities.
- b. Clear tasks.
- c. Tools to identify the source and specific reason for delays.
- d. Realistic timelines for eliminating backlogs.

About the audit

This independent assurance report was prepared by the Office of the Auditor General of Manitoba on the Efficiency of Court Services for the Provincial Court of Manitoba. Our responsibility was to provide objective information, advice and assurance to assist the Legislature in its scrutiny of the government's management of resources and programs, and to conclude on whether the Department of Justice manages the delivery of court services for the Provincial Court of Manitoba efficiently, in all significant respects with the applicable criteria.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard for Assurance Engagements (CSAE) 3001—Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook —Assurance.

The Office applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Manitoba, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

1. Confirmation of management's responsibility for the subject under audit
2. Acknowledgement of the suitability of the criteria used in the audit
3. Confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided

Period covered by the audit

The audit covered the period between January 1, 2016 and March 31, 2022. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters following the audit coverage period.

Date of the audit report

We obtained sufficient and appropriate audit evidence on which to base our conclusion on June 21, 2023, in Winnipeg, Manitoba.

This page is intentionally left blank.

Summary of recommendations

RECOMMENDATION 1

We recommend that the Department review the existing administrative structure and consider providing greater autonomy to the Provincial Court.

Manitoba Justice response:

The Department will raise the OAG's recommendation to review the existing administrative structure in the MOU for discussion at a future Manitoba Courts Executive Board meeting. The MOU was developed collaboratively between the Attorney General and the Chief Judge and Chief Justices of the three levels of court in Manitoba. Revising it or providing greater autonomy would need to be considered and agreed to by all parties to the agreement. We will continue to collaborate with the Provincial Court to address any concerns related to the MOU.

RECOMMENDATION 2

We recommend that the Department ensure the Provincial Court has sufficient resources to fulfill their scheduling responsibilities pursuant to Section 8.1 of *The Provincial Court Act* and judicial independence.

Manitoba Justice response:

The Department agrees with the recommendation. The Provincial Court should have the necessary resources to fulfil their scheduling responsibilities. We will continue to collaborate with the Provincial Court to address any concerns related to court scheduling.

RECOMMENDATION 3

We recommend that the Department develop performance metrics that are within their authority and control.

Manitoba Justice response:

The Department agrees with the recommendation. It continues to refine Balanced Score Card performance metrics to provide the best information to public on Justice systems and processes, including the removal of the metric that is referenced in the report.

These performance metrics continue to provide invaluable information to the Department, which assists with identifying opportunities that are within the authority and control of the Department to make changes to improve access to justice. The Department acknowledges the need to continue collaborating with external justice stakeholders, including the judiciary, to improve the functioning of the justice system. The department is continuing to look at opportunities to expand metrics to provide greater transparency.

RECOMMENDATION 4

We recommend that the Department put in place a clear project management schedule and accountability check points for the Integrated Case Management project so the project does not exceed the current time estimate and budget.

Manitoba Justice response:

The Department agrees with this recommendation. A detailed project management schedule has been developed for the Integrated Case Management (ICM) system, which is overseen by a dedicated ICM Project Lead and Project Manager. The project management schedule includes timelines, deliverables and accountability checkpoints to ensure time estimates and budgets remain on target.

RECOMMENDATION 5

We recommend that the Department develop an IT strategy that defines the strategic priorities for the justice system, including the Provincial Court's systems, along with priority projects.

Manitoba Justice response:

The Department agrees with this recommendation. We have prioritized the development of an IT strategy and recently struck the Justice Technology Committee to facilitate the development of a technology strategy to support current and future information systems and technology related capital infrastructure needs for the Department. The specific goals are to:

- Review current technology projects and initiatives.
- Develop a technology roadmap for divisions and the department.
- Develop a framework for divisions to prioritize technology initiatives.
- Enhance interdivisional communication and awareness of technology initiatives.
- Identify intra-divisional and interdivisional innovation, collaboration, and support opportunities.
- Discuss existing challenges and emerging issues.

RECOMMENDATION 6

We recommend that the Department work with the Provincial Court and the Public Service Commission to develop a strategy to address staff resource shortages including positions that support the Provincial Court.

Manitoba Justice response:

The Department agrees with this recommendation. We are working with the Public Service Commission to develop a strategy to address staff resource shortages. In developing this strategy to address staff resource shortages, the Department will continue to consult the Provincial Court to ascertain its needs and fill necessary positions to support the Court. Significant efforts continue to be made to recruit, hire and train employees. Recruitment strategies currently include ongoing competitions, participation in job fairs, recruitment information sessions at educational centres and community outreach in difficult to recruit locations.

RECOMMENDATION 7

We recommend the Department continue to work with the Provincial Court and other Justice stakeholders to develop a formal strategy to reduce the backlog and delays. This strategy should include:

- a. Roles, and responsibilities.
- b. Clear tasks.
- c. Tools to identify the source and specific reason for delays.
- d. Realistic timelines for eliminating backlogs.

Manitoba Justice response:

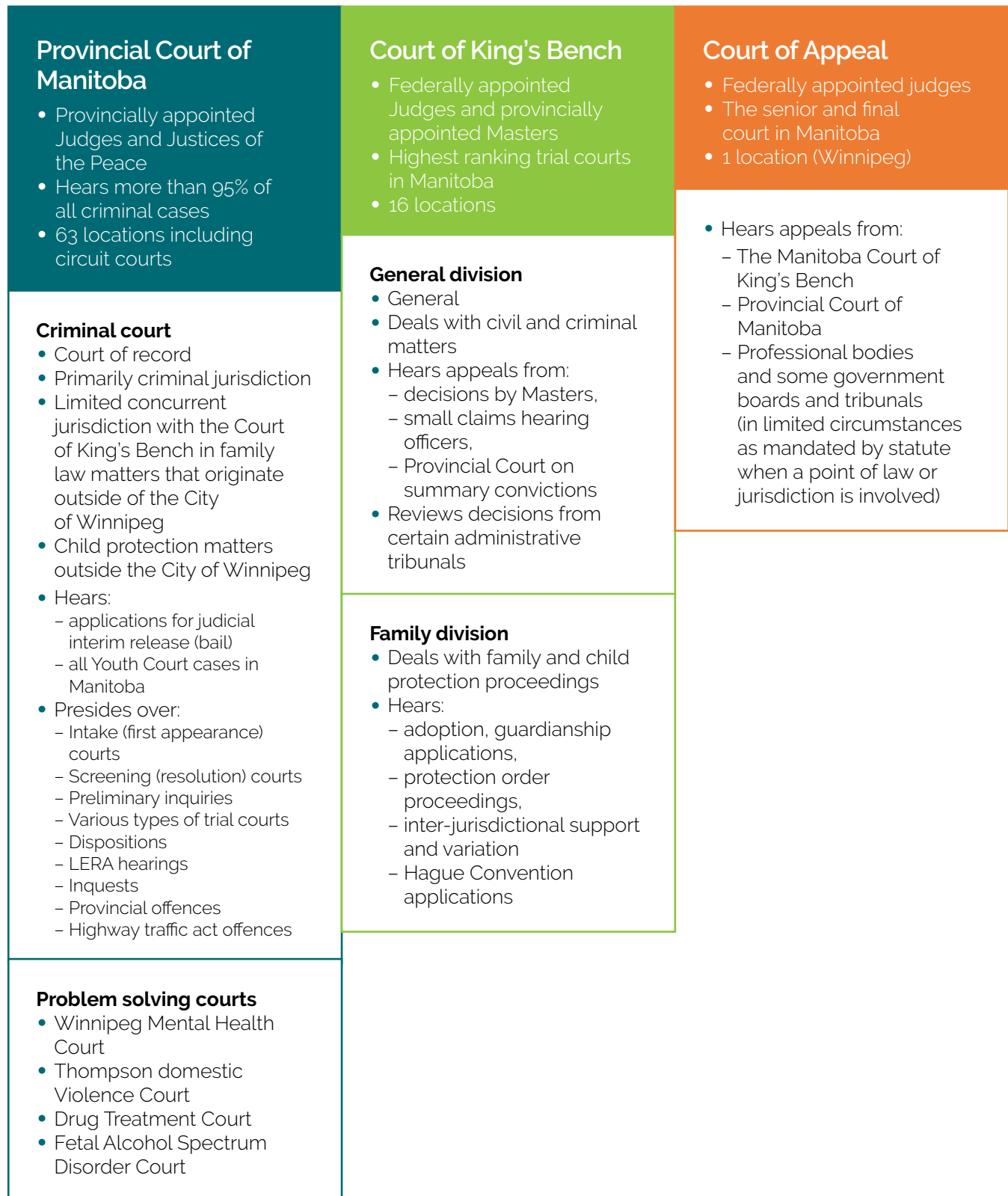
The Department agrees with this recommendation. The work to address backlogs and delays is underway and is ongoing. The decision to develop a formal strategy lies with multiple justice stakeholders, who have taken part in a number of discussions to develop an informal strategy. These discussions have acknowledged the different roles and responsibilities of various actors in the justice system and the need to assign different tasks to each responsible party. The Department also acknowledges the importance of having tools to identify the source and specific reasons for delays and the need to set realistic timelines for eliminating backlogs. The Department has strategies in place to address these issues and improve and increase access to justice overall:

- Supporting the judiciary in improving the scheduling of cases and the timely rendering of decisions in criminal cases to address any potential for Charter breaches due to case delay. (Resolving of the case backlog that has accumulated because of court closures)

- Circuit Court Review (identifying courts and circuits at most risk)
- Video Conferencing Project / Correctional Centre Video Enhancements (increasing video conferencing)
- Justice Technology Committee (expanding opportunities to incorporate the use technology)
- Northern Connectivity and Access to Justice Pilot (improve access to technology for justice stakeholders in remote and northern communities across the province. (Improving internet and telephone in the north)

The Department works closely with the Public Service Commission to address staffing challenges. Significant efforts continue to be made to recruit, hire and train employees. Recruitment strategies currently include ongoing competitions, participation in job fairs, recruitment information sessions at educational centres and community outreach in difficult to recruit locations. (Having adequate resources for required services).

Appendix 1: Overview of Manitoba Courts



This page is intentionally left blank.

» Vision

Government accountability and public administration excellence for Manitobans.

» Mission

To provide independent information, advice and assurance on government operations and the management of public funds.

» Values

Independence – We are independent from government and our work is objective and unbiased.

Integrity – We act with honesty and uphold high ethical standards.

Innovation – We promote innovation and creativity in what we do and how we do it.

Teamwork – We work as a team by sharing each other's knowledge and skills to reach our goals.

Auditor General

Tyson Shtykalo

Assistant Auditor General - Performance Audit

Stacey Wowchuk

Audit Principal

Marcia Vogt

Audit Manager

Graham Hickman

Communications Manager

Frank Landry

Admin Support

Jomay Amora-Dueck

Tara MacKay

Graphic Design

Waterloo Design House



Auditor General
MANITOBA

For more information, please contact our office at:

Office of the Auditor General
500-330 Portage Avenue
Winnipeg, Manitoba R3C 0C4

Phone: 204-945-3790
contact@oag.mb.ca | www.oag.mb.ca

-  [Facebook.com/AuditorGenMB](https://www.facebook.com/AuditorGenMB)
-  [Twitter.com/AuditorGenMB](https://twitter.com/AuditorGenMB)
-  [Linkedin.com/company/manitoba-auditor-general](https://www.linkedin.com/company/manitoba-auditor-general)
-  [Youtube.com/@auditorgenmb](https://www.youtube.com/@auditorgenmb)