

CBA REPORT FOR JUNE 11, 2020
JAMES A. PLEMEL
CHIEF JUDGE OF THE PROVINCIAL COURT OF SASKATCHEWAN

Thank you for your invitation to attend your virtual meeting on June 11, 2020 and for this opportunity to provide a written report.

Once again, I want to begin by thanking the CBA for the public service you provide year-round. It is crucial that the public be informed about the work of the Courts and the importance of judicial independence.

Recently the COVID-19 crisis has caused us to make changes in the way we hold Court. Therefore, I will divide this report into 3 sections, namely: 1) Court before COVID-19; 2) Court during COVID-19; 3) Court after COVID-19.

COURT BEFORE COVID-19

Judges appointed since May 31, 2019 are: Judge Noah Evanchuk (June 24, 2019 – Regina); Judge Murray Pelletier (June 24, 2019, North Battleford); Judge Thomas Healey (August 1, 2019, Prince Albert); Judge Michael Segu (November 27, 2019, Meadow Lake); Judge Lua Gibb (January 30, 2020, Saskatoon); Judge Kevin Hill (January 30, 2020, North Battleford)

On June 21, 2019 the *Act to Amend the Criminal Code*, the *Youth Criminal Justice Act* and other *Acts* (former Bill C-75) received Royal Assent with the amendments coming into force on four separate dates namely, June 21, July 21, September 19 and December 18, 2019. Amendments included changes to interim release provisions, restrictions of preliminary hearings and the re-introduction of a somewhat changed Victim Surcharge regime.

Our time to trial was generally under control. We pay special attention to any cases where the delay from the time of entering a not guilty plea or election to the date of trial or preliminary hearing exceeds seven months. Prior to March 31, 2020 there were only two locations in that category. One was Kindersley at 251 days and the other was Traffic Safety Court in Saskatoon at 251 days. In order to deal with the latter, the Crown had hired an extra prosecutor for the summer of 2020 to handle the backlog and the Court had Justices of the Peace available for that purpose as well. Also, with respect to Kindersley we were prepared to set special sittings if the delay there continued. Those plans for Traffic Safety Court and Kindersley have been put on hold as a result of COVID-19.

We have 61 circuit points to which we fly or drive. When there, we hold Court in multi-purpose facilities. This allows people to attend Court in the community without having to travel elsewhere at great inconvenience and, most of the time, things go as planned. However, though these facilities are reserved for Court, occasionally we encounter problems with availability or readiness when we arrive. The Saskatchewan Ministry of Justice works with the communities to minimize the number of times this occurs.

On the civil side, Justices of the Peace, rather than Provincial Court Judges, began handling Civil Case Management Conferences in Saskatoon on November 14, 2018 and this has continued. This also continues to be the case in Regina, Prince Albert and Estevan.

COURT DURING COVID-19

All 61 of our circuit court locations were closed as a result of the coronavirus. Beginning the week of March 16, 2020, all 15 northern fly-in circuit locations were closed, and the remaining circuit courts were closed March 23, 2020. This is resulting in delays in most of those court points.

On March 22 we announced that our 13 permanent court houses would stay open with reduced numbers of staff and judges and with restricted public access. We remained open to hear trials and preliminary hearings for in-custody accused who were transported to Court, as well as non-custodial matters where those could be conducted by audio or video without the physical presence of the accused. If counsel or unrepresented accused on non-custodial trials and preliminary hearings felt their cases should also be heard, they could bring an application to the Court and those would be considered on a case by case basis. Applications with respect to urgent Child Protection matters could also be heard in our permanent court houses with judges determining whether and how hearings would occur.

On May 22 we announced a cautious lifting of restrictions in our 13 permanent court houses for trials and preliminary hearings for persons who were not in custody. This was effective as of June 1. On May 29 we announced the additional re-opening of nine circuit points beginning in June. In both instances there is enhanced facility cleaning and screening of entrants, to guard against the spread of COVID. Opening of additional circuit points will be considered when enhanced cleaning and screening can be ensured.

Access to Provincial Court facilities in Saskatchewan continues to be restricted to only those persons necessary to the proceedings before the Court and members of the media. However, depending on the number of people wanting to access a court facility, entry may be restricted or delayed, to ensure Public Health guidelines can be met. Everyone will be screened before entering a court house.

As a result of the closures and restrictions, our Court will have to contend with a significant backlog when COVID-19 concerns have passed. We have been in touch with the Crown, Legal Aid and the Saskatoon Criminal Defence Lawyers' Association and hope to find ways to prioritize the most serious criminal matters. Our Court is mindful of the importance of an accused person's right to a trial within a reasonable time.

COURT AFTER COVID-19

Some of our Court's processes which are being implemented at this time may well continue into post-pandemic times. Any changes will have to comply with the Charter, legislation and jurisprudence which safeguard the rights of litigants. It would be premature for me to speculate on what changes will remain, but I agree with statements emanating from a national task force led by the Chief Justice of Canada, Richard Wagner, and the Federal Justice Minister, David Lametti. The task force recognizes the challenging times all Courts are going through and some positive changes that may come to our delivery of service as a result.

As Minister Lametti said in a recent interview, "While the action committee's guidance will help us navigate our new reality, my hope is that it will also serve as an opportunity to promote reform and renewal in the justice system." "We cannot simply view our response to COVID-19 as temporary measures to bridge us back to 'normal' — they must be seen as opening the door to imagining a new normal..." (*The Lawyers' Daily*, May 28, 2020)

Our Court looks forward to working with the CBA and other justice participants as we plan for the future.