

# PROVINCIAL COURT OF ALBERTA

## SURVEY TO THE PROFESSION - RECURRING THEMES

### OVERVIEW

- The Provincial Court of Alberta distributed the survey to the profession to all Alberta lawyers, Native Counselling and Family Court Counsellors on January 13, 2021, with a deadline of February 1, 2021.
- 688 participants responded to the survey.
- Demographic information:
  - Length of practice:
    - 54% 10 years or more
    - 21% 5-10 years
    - 25% less than 5 years
  - Type of practice (more than one selection accepted):
    - 247 civil area
    - 222 family area
    - 155 criminal prosecutors
    - 142 defence lawyers
    - 21 youth criminal prosecutors
    - 56 youth criminal defence
    - 47 counsel for the director in child protection matters
    - 79 other parties in child protection matters
  - Location (more than one selection accepted):
    - 254 Calgary urban
    - 252 Edmonton urban
    - 198 regions other than Calgary or Edmonton
    - 168 Edmonton region
    - 105 Calgary region

### RECURRING THEMES

- Technology improvements are a recurring theme in the responses to the survey. Participants encouraged the Court to bring video-conferencing technology to all courtrooms in the province and to ensure that bandwidth, sound, and cameras function properly. With proper technology, many participants feel comfortable participating remotely in proceedings, especially pre-trial and consent proceedings; indeed, many prefer it.
- On the whole, telephone proceedings are less accepted than video proceedings. Many participants would prefer to have all parties appear by Webex, although there is a recognition that some parties may not have access to the technology. The Court is encouraged to offer alternative access to technology for those who may not have the option at home.
- Webex addresses for the different courtrooms should be made available. Scheduling needs to be consistent and reliable across all locations.
- In order for virtual appearances to be efficient, there needs to be a system to share documents electronically before and during the proceedings as well as a system to grant orders virtually.

- There should not be a requirement to make applications or require approval from the judge for virtual appearances.
- Many participants request clear instructions on procedures as well as resources posted on the webpage, in particular for unrepresented parties (SLRs).
- Participants often refer to the need for more resources, specifically more legal aid and Family Court Counsellors (FCC) resources.

## REPEATED COMMENTS ABOUT THE SPECIFIC SECTIONS

- Most respondents approved of virtual dockets, but many would like to have specific order of appearance, preferably communicated in advance, consistent throughout the province. Also, they request that the judges make sure everyone has had time to speak before moving to the next matter. There should be better communication from Court Management Offices (CMO) when moving matters to the courtroom.
- Virtual pre-trials are widely accepted. Participants suggest better system of scheduling that allows for more preparation time. They would also like to use the breakout rooms during the pre-trial so that they can discuss privately with their clients.
- On the whole, virtual Judicial Dispute Resolutions (JDR) receive very positive feedback. They were described as providing better access to justice; being highly effective; reducing cross talk; and encouraging parties to be more relaxed.
- In regards to virtual applications, many of the comments relate to the need for a simpler system to apply and to submit documents and exhibits, before and during the session. Many asked for better instructions on filing and signature requirements.
- A majority of participants find that virtual guilty pleas have been successful. There are concerns about verifying the identity of an accused as well as tendering documents, especially criminal records and victim impact statements. A better system to sign orders would be appreciated.
- 68% of participants are in favour of expanded virtual testimony. 32% are not. Virtual testimony is widely recommended for police officers, expert witnesses, victims of domestic violence, children and people who live far away. Where credibility or identity is a key issue, virtual testimony is less effective.
- Participants are overwhelmingly in favour of moving to electronic filing, however, the system needs to be efficient and effective.

## FEEDBACK TO AND FROM THE COURT

- Feedback has been given primarily through stakeholder meetings and associations. On the whole, lawyers are very appreciative of the way the Assistant Chief Judges have communicated and listened to their input. When feedback has come through other means (associations or other) satisfaction was not as high.
- Participants encounter considerable challenges finding the information they need on the court website. Users find it difficult to navigate, confusing and inconsistent.

## GREATEST CHALLENGES FACING THE COURT

Ranking of responses:

- Caseload – 62%
- Self-represented persons – 50%
- Technology - 49%
- Lead times – 47%

- Legal Aid Support – 31%
- Communication – 21%
- Security – 8%

## RECOMMENDED CHANGES TO PROVINCIAL COURT PRACTICES

The main recommendations in this area had to do with the recurring themes: technology, digitization, better information for users, consistency of practice and more resources.

- For criminal and youth criminal practice, specific recommendations include better scheduling, text reminders and easier booking of dates. Suggestions also include fewer adjournments and easier ways to adjourn by consent as well as better case management.
- For family practice, participants request more JDRs and early help and information from counsellors and psychologists. Many respondents asked to increase or at least maintain the availability of Family Court Counsellors with mandatory intake and caseload management through these individuals. Participants would like to see streamlined forms and orders that are easy to understand for SRLs. They also suggest expertise in the area for counsel and judges.
- In child protection practice, there are concerns about lead time. Several solutions are presented, like triaging, using more JDRs, one judge one file or more accountability to counsel to be prepared on time.
- In civil practice, respondents call for continued use of technology to assist in streamlining court processes and practices. Their suggestions included e-mail filing, online docketing, and more use of virtual courtrooms. To help SRLs, participants suggest better pre-trial resources, duty counsel and more public information.

## FINAL COMMENTS

The vast majority of final comments are positive, with respondents expressing gratitude for the opportunity to provide feedback to the court. Numerous respondents expressed a desire to see more engagement like this.

Particular praise was directed at:

- Provincial court clerks and their work to continue providing services through the challenges of the pandemic.
- Sheriffs who have tried to maintain a safe workspace.
- Judges who have had to conduct some in-person appearances.
- The implementation of new technology.

The challenges identified in this section focused primarily on three issues:

- Stability of technological platforms and the need for investment in infrastructure.
- Delays to cases and lack of staffing resources.
- Confusion about in-person appearances versus remote appearances and getting correct information as protocols were changed rapidly during the pandemic.