

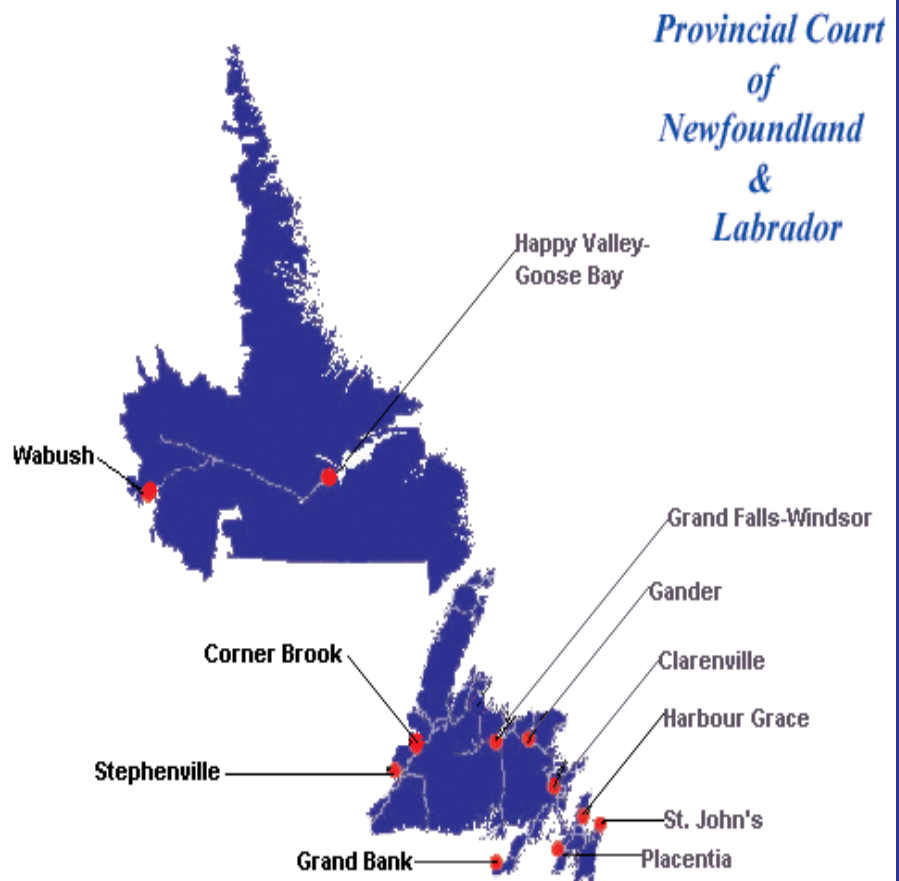
ANNUAL REPORT

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*Provincial Court
of Newfoundland
and Labrador*

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2004-2005

The Honourable M. R. Reid
Chief Judge



Box 68, Atlantic Place
215 Water Street
St. John's, NL
A1C 6C9

PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR

December 2005

The Honourable Tom Marshall, Q.C.
Minister of Justice and Attorney General
Department of Justice, 4th Floor East Block
Confederation Building
P.O. Box 8700, St. John's, NL
A1B 4J6

Dear Minister:

It is my pleasure, as Chief Judge, to present to you the 2004/2005 Annual Report of the Provincial Court of Newfoundland and Labrador. As in previous years, this report provides comprehensive coverage of the past year's activities and achievements.

I would highlight the advancement of use of technological resources, particularly electronic telecommunications technology which has enabled us to become more accessible to communities and law enforcement personnel on a 24-hour, 7 day a week basis and to extend our weekend court sittings to a province-wide service. We find this particularly useful as our workload in the criminal justice area continues to increase.

I would also like to acknowledge your own initiative in the establishment of the Court Advisory Board consisting of the Chiefs of all three courts as well as yourself and your deputies. I believe this milestone to be indicative of the desire to ensure that the courts of this province are as efficient, accessible and sensitive to the needs of the province as possible.

As we look forward to the next fiscal year, we are pleased to point out that the report reflects the high level of commitment of the judges and staff of the entire Provincial Court to providing the best possible judicial services to the citizens of Newfoundland and Labrador.

Yours sincerely,

M. R. Reid
Chief Judge

MRR/amw
Encl.

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THE PROVINCIAL COURTS OF NEWFOUNDLAND & LABRADOR



Harbour Grace



Placentia



Grand Falls-Windsor



St. John's



Corner Brook



Clarenville



H.V. Goose Bay



Grand Bank



Gander



Stephenville



Port aux Basques



Wabush

PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR

Our Governing Values

**Governed by the Constitution of Canada and the rule of law,
we are in an independent, impartial, and accessible judicial
system.**

We are committed to the provision of quality service through the effective management of available resources and the continuous professional development of the Judiciary and Court Staff.

We are committed to integrity, ethical conduct, and the timely performance of duties.

We are committed to providing all litigants with reasoned judicial decisions.

Our Mission

The Provincial Court of Newfoundland and Labrador exists to uphold and preserve the fundamental values of society by judging legal disputes, conducting inquiries, and providing quality service to the public.

Our Vision

To recognize the value of our Staff and Judiciary in achieving our mission.

To operate the Court with highly qualified personnel and judiciary.

To provide access to justice to everyone and be sensitive to social and cultural diversity.

To encourage the use of dispute resolution alternatives that respond to the changing needs of society.

To emphasize the effective use of technology and decentralized administrative decision making.

2004/05: A YEAR IN REVIEW

by: Pamela Ryder Lahey



Within the province of Newfoundland and Labrador, the Provincial Court plays a critical and unique role in the rule of law, advancing best practices in court administration, leading reform and improvement initiatives, and building public trust and confidence in the province's court system.

Staff and judges of the Provincial Court work hard to keep our organization dynamic and flexible and able to respond to challenges as they are presented. The Provincial Court of Newfoundland and Labrador would not make so many successful advances without the dedication and commitment of the staff and judiciary. To them we owe a debt of gratitude.

The development of the Integrated Provincial Court Information System (IPCIS) has concluded and testing/training were in high speed as the end of the year approached. This new system will provide better management information reports, which will significantly advance Caseflow Management in our courts. For example, the new system will give information about the case-load activity, information about the case inventory, information about case scheduling, individual case progress information, and information for evaluating existing caseflow procedures. Prior to implementation of this system, the old PCIS basically counted how many cases were filed, how many were disposed of, and how many were pending. An example of some of the data reports are aged pending inventory, average trial times in specific case types, disposition method by case type, disposition method by case age at disposition, fallout points (meaning at what stage do certain percentages of cases conclude), and number of cases pending by status. With the capability of the new system, the court will have better caseflow data, which will be a more accurate basis for planning and utilization of resources.

The Court's webpage received a new URL www.provincial.court.nl.ca which clearly distinguishes the court from the legislative and executive branches of government. Our webpage was also expanded to include the on-call rotational schedule of judges, accessible to law

enforcement and child protection agencies by password. This makes the duty judge more accessible on a 24/7 basis to law enforcement agencies within the province. Additionally, our annual report 2003/04 is on the world wide web, as is this one.

Video conferencing began in earnest on April 28, 2004, in Happy Valley-Goose Bay. By 2004/05 fiscal year end, 60 video conference hearings had concluded, which translates to approximately one every fourth working day. The majority of video conferencing hearings were between Happy Valley-Goose Bay and Nain. While significant cost savings were not realized by the Court, savings were realized by the police and crown witness account. The use of video conferencing enabled the police to bring arrested accuseds before a judge without leaving their coastal community. In addition, witnesses, such as doctors from other Canadian jurisdictions, were able to testify via video without having to travel or leave their city. Translated, this means that the expenses were incurred only for the use of video time and not for the air, overnight accommodations, meals and fees normally associated with witnesses coming to the courthouse. This alternative option for service delivery is in keeping with the court's effort to remain client-focused and maximize the use of emerging technology to better serve justice and the public.

The Provincial Court of Newfoundland and Labrador was represented on the Minister's Committee Against Violence. This committee is a collaborative partnership between government and the community with a mandate to identify and establish approaches to improve the justice response to women in situations of violence. Family Violence legislation has been drafted and will be on the House of Assembly agenda in the fall of 2005.

Weekend Court began in February 2005. With the addition of Weekend Court the Provincial Court has gone to a seven day per week operation with the provision of judicial and administrative services on weekends and holidays from 9 a.m. to 5 p.m. The intent is to ensure that arrested persons are brought before a judge within 24 hours as per the requirements of the Criminal Code.

(cont'd on page 4)

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Rules of Criminal Court came into effect on November 1, 2004. These Rules should improve the processing time of cases as the Rules set out specific guidelines for applications for postponement of court hearings. Stakeholders were provided with an overview of the Rules. Both Judges and Court Administrators were provided with training on the Interpretation of the Rules.

Significant energy was put into a proposal to government to construct three new courthouses in the province: Corner Brook, St. John's, and Stephenville. Unfortunately, on budget day it was announced that only the Corner Brook courthouse received planning money. However, the Court remains committed to pursuing development of courthouses for all three aforementioned sites.

During 04/05 the Court also saw the closure of the Springdale court centre and changes to a number of circuit points. The closures and reduction of the circuits was done only after a thorough analysis and careful consideration of the impact of these decisions. Factors that played a role in the analysis included caseload trends, population trends, distance from a court centre, and past practice of the numbers of hearings that actually took place on circuit.

Towards the end of 04/05 the Court was able to eliminate a significant liability--the amount of Time Off In Lieu owed to its employees. Treasury Board provided the Court with a one-time only fund to provision this payment. Again, the senior leadership of the Court reiterates its thanks to the loyalty and dedication of the staff and judiciary for making 04/05 a successful year for the Provincial Court of Newfoundland and Labrador.

THE SCOPE OF THE COURT'S AUTHORITY

The jurisdiction of the Provincial Court extends to criminal, civil, traffic, family, and youth matters. More specifically:

CRIMINAL: all summary convictions offences under federal and provincial statutes: indictable offences, except where excluded under the Criminal Code, e.g., murder.

YOUTH: the Court hears all criminal matters involving young offenders.

TRAFFIC: all highway traffic matters

CIVIL: all civil actions where the amount does not exceed \$5,000. The court has no jurisdiction over cases in which title to land is brought into question or malicious prosecution, false imprisonment and defamation, or against a justice or other public official for anything done while executing the duties of office.

FAMILY: outside the St. John's area, the court has jurisdiction over custody, support maintenance, child welfare, legitimacy, paternity, adoption, and inter-spousal Criminal Code offences. It does not deal with divorce or division of property under the Family Law Act.

Organizational Structure and Staffing Levels

Presently, the Provincial Court of Newfoundland and Labrador consists of 23 judges (4 female and 19 male) directed by the Chief Judge. The Chief Judge also serves as an active judge on the bench. The organizational model is as depicted in Figure 1.0.

The Provincial Court has a complement of 61 permanent and several temporary staff. In judicial matters court staff are under the direction of the judges. But in all non-judicial matters they are directed by the Director of Court Services through the two Regional Managers. Each court center, with the exception of St. John's, which has divisional court administrators, has a Court Administrator who acts as the centre's administrative head. These court administrator positions are classified as non-management positions and do not have human resource and budgetary responsibility.

In addition to overseeing the operation of the five court centres that fall within the Eastern Region, the Manager of Court Services, Eastern (a non-union position) serves as head of administration of the St. John's centre and directs the three Court Administrators who have supervisory responsibility for each division (Criminal, Small Claims/Traffic, and Courtrooms). The Manager of Court Services, Western, is responsible for the supervision of seven court centres that comprise the Western Region (including both Labrador court centres).

Staffing in the Provincial Court of Newfoundland and Labrador is predominantly filled by females, as there are only two male employees. Staff positions include Court Clerks, Court Administrator, Administrative Officer I, Policy Analyst, Departmental Program Coordinator, two Managers and a Director.



Judges



Court Administrators



Court Clerks

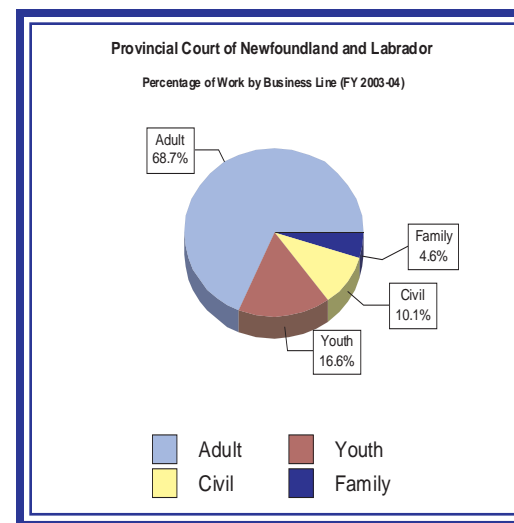
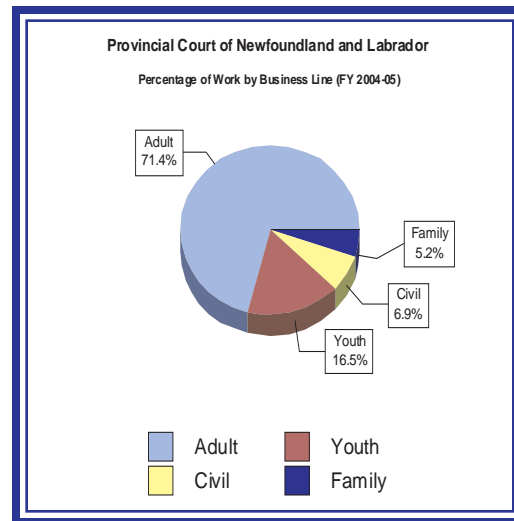
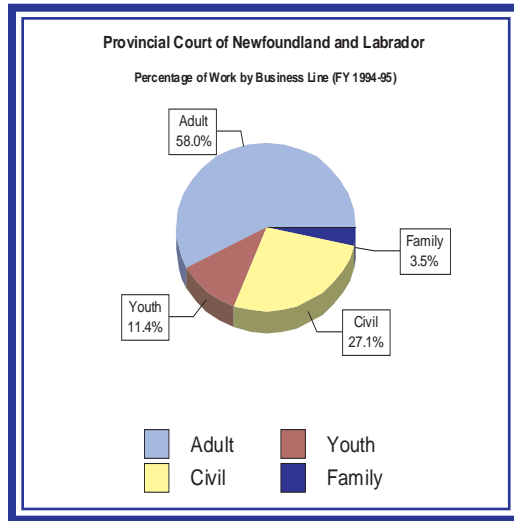
STATISTICS

Statistical data is extracted from the Provincial Court Information System, Civil Case Management System, Family Case Management System, and monthly reports submitted by the Courts to Court Services.

The graphs to the right show general trends over a ten year period for the Newfoundland and Labrador Provincial Court's business lines: adult, youth, civil, and family.

While criminal cases remain as the primary caseload for the Provincial Court some significant changes have occurred over a ten year period. For instance, in 94/95 the Criminal caseload represented 69.4% of the total caseload, in 04/05 the percentage of criminal cases has increased to 87.9% of the total. At the same time, a significant decline in the relative proportion of our civil caseload has occurred; from 27.1% in 93/94 to just 6.9% in 04/05. The relative percentage of family cases has increased slightly from 3.5% in 93/94 to 5.2% in 04/05.

Compared to the previous year 03/04, the Provincial Court experienced a slight increase in the relative proportion of criminal caseload from 85.3% to 87.9%, the relative percentage of civil cases decreased from 10.1% to 6.9%, while family cases increased slightly (0.6%).



Provincial Court of Newfoundland and Labrador COMBINED CASELOAD STATISTICS

FY 2004-05

Court Centre	Total Adult	Total Youth	New Civil	New Family	Total Cases
Clareville	954	135	187	62	1338
Corner Brook	2069	531	176	358	3134
Gander	952	215	104	202	1473
Grand Bank	849	144	45	84	1122
Grand Falls-Windsor	1099	224	147	172	1642
H. V. Goose Bay	1835	467	62	237	2601
Hr. Grace	1018	285	92	99	1494
Placentia	589	118	22	16	745
Springdale*	90	20	83	18	211
Stephenville	1232	164	73	50	1519
St. John's	8430	2135	865	0	11430
Wabush	354	74	26	118	572
OVERALL TOTAL	19471	4512	1882	1416	27281

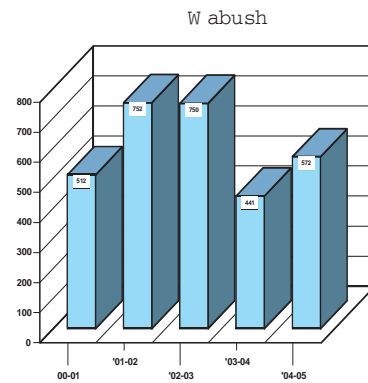
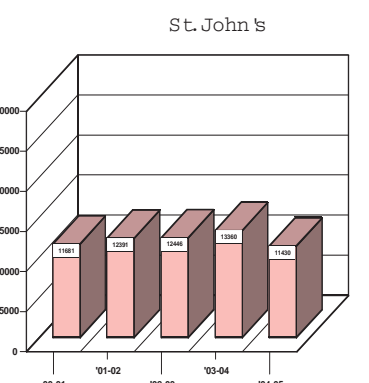
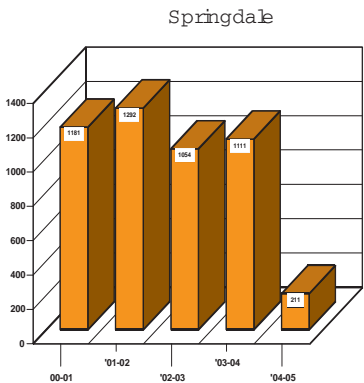
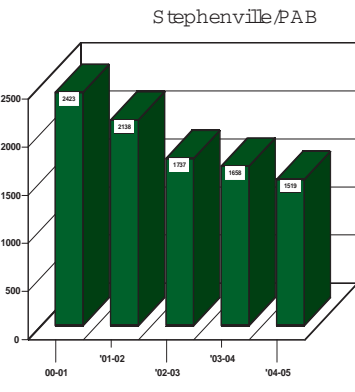
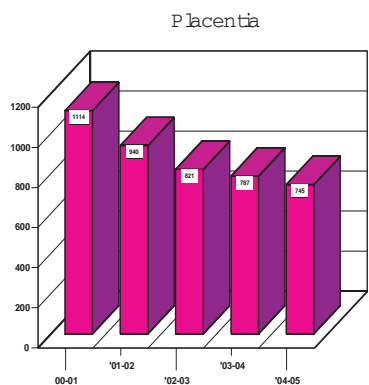
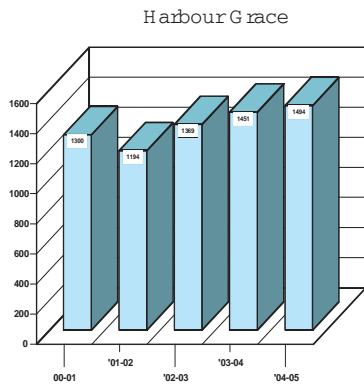
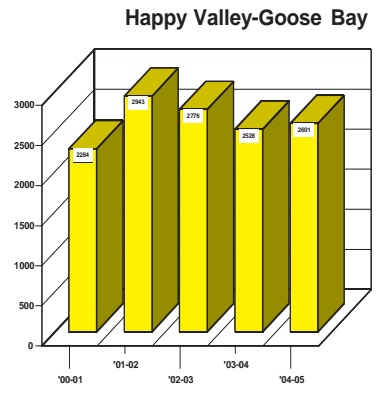
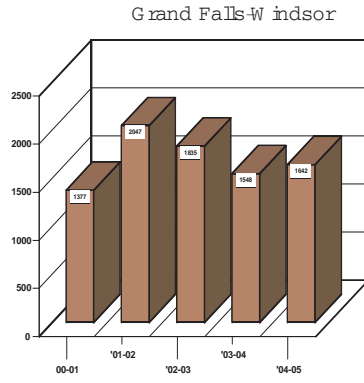
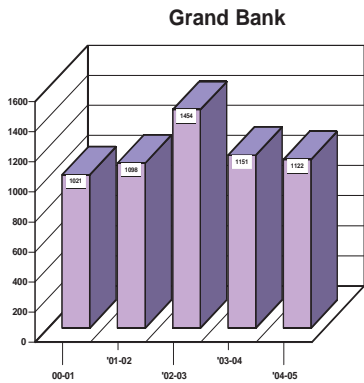
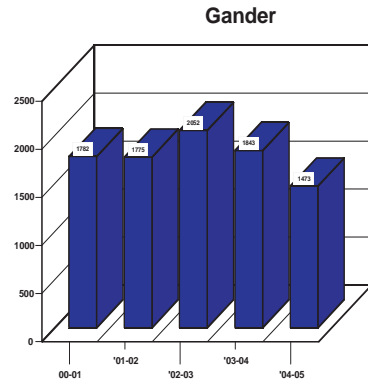
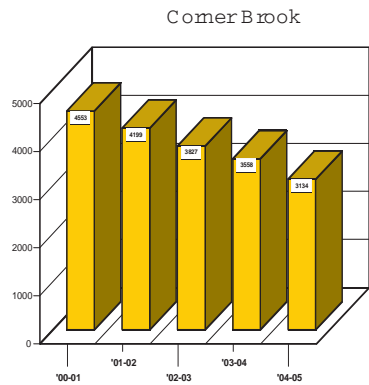
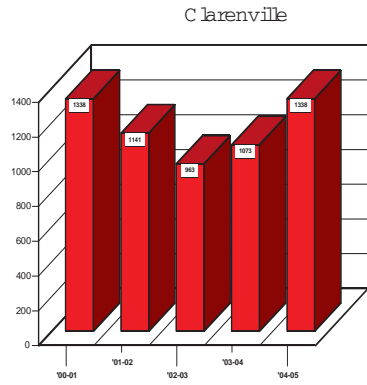
In terms of total caseload numbers there were 27,281 cases initiated in 2004/05 compared to 29,833 during the previous year. A decline of 8.5%. All case types experienced a decrease with the exception of family cases which showed a slight increase of 32 cases.

When one examines the statistics from individual court centres, the following centres experienced decreases: Corner Brook, Gander, Grand Bank, Placentia, Stephenville, Springdale¹ and St. John's. The only court centres which experienced an increase are Clareville, Grand Falls-Windsor, Happy Valley-Goose Bay, Harbour Grace, and Wabush. Springdale 04/05 statistics reflect only to August 13, 2005.

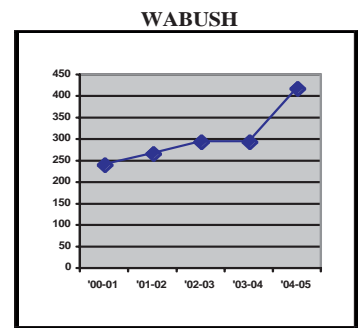
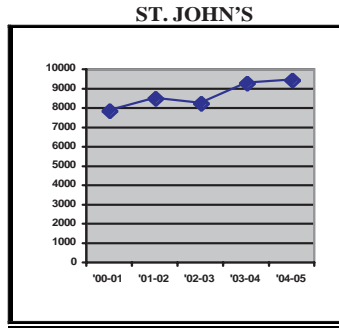
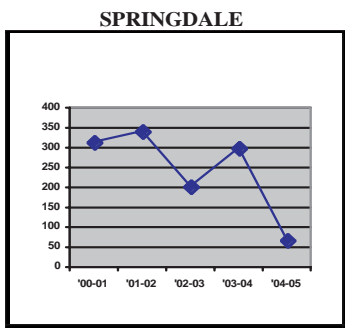
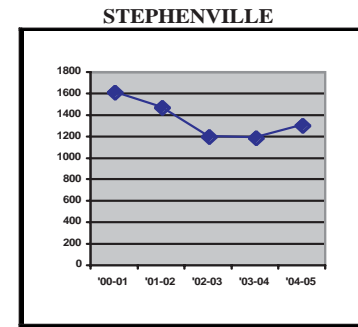
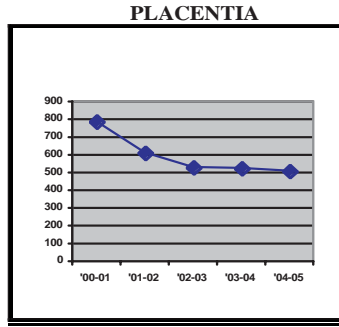
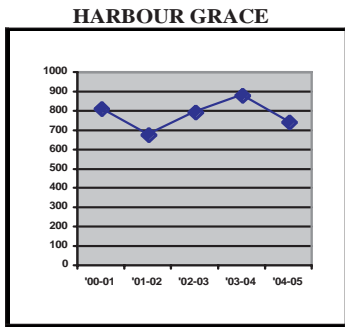
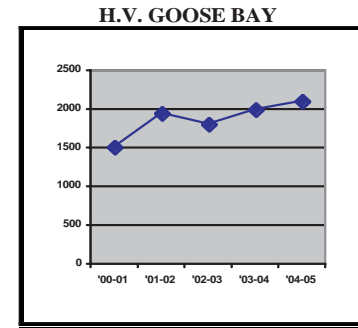
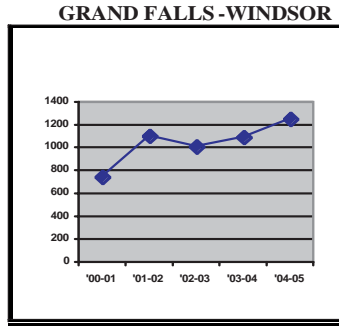
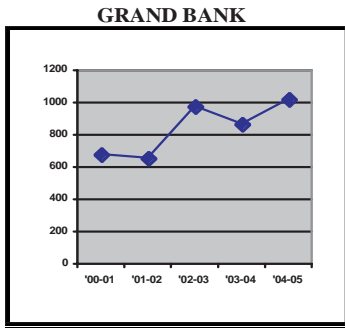
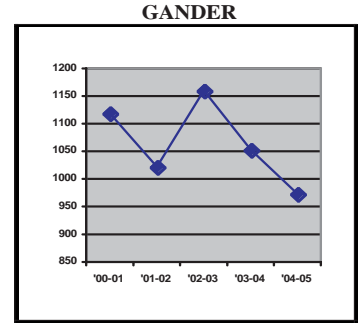
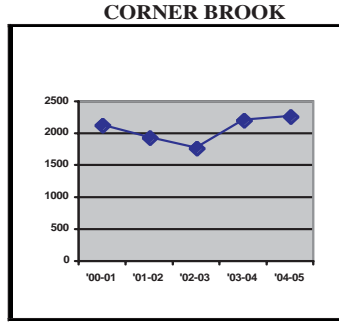
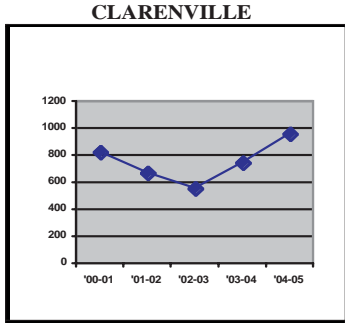
¹Springdale Court closed on August 13, 2004: district divided with caseload transferred to either Grand Falls-Windsor or Corner Brook.

**Note: Additional statistical data is found in the Appendix.*

PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR
Total (Overall) Cases for Last Five Fiscal Years

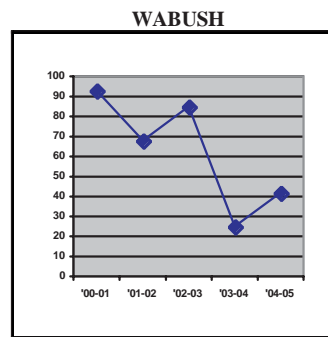
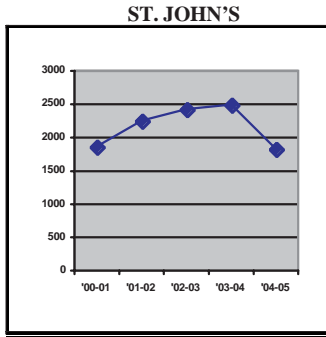
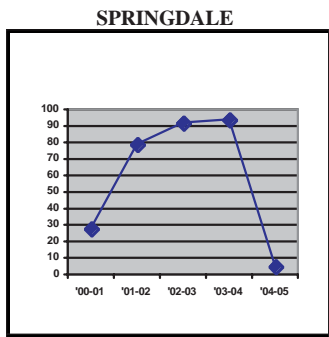
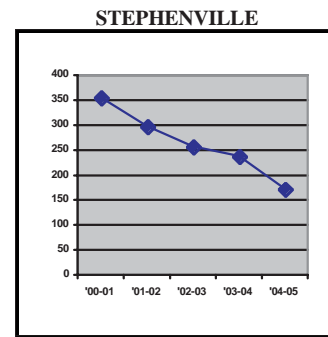
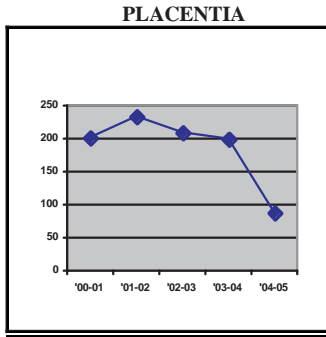
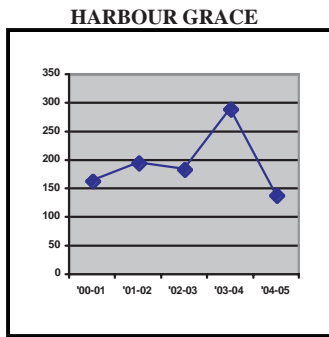
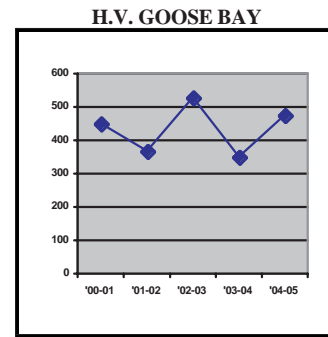
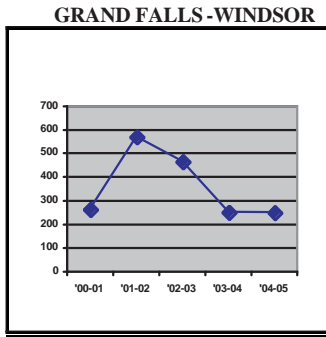
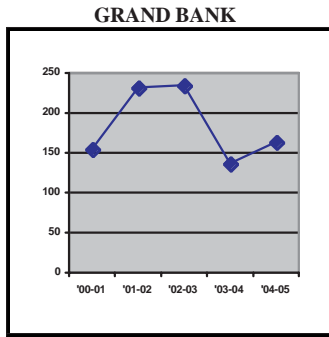
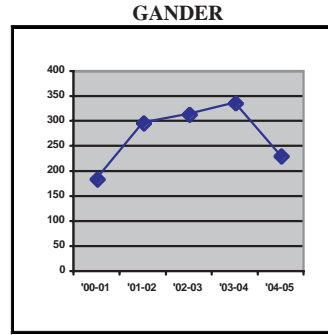
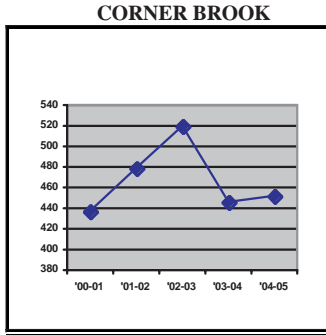
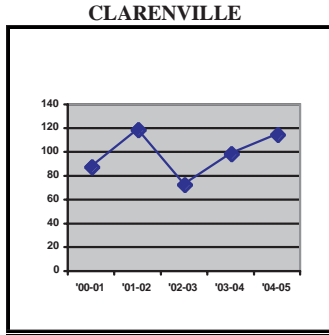


PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR
Total (Adult) Cases*
for Last Five Years (2000 -05)



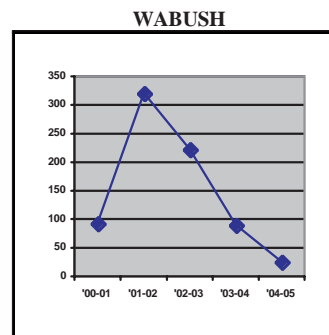
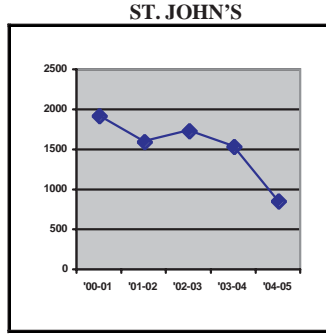
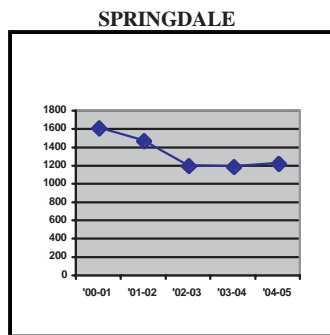
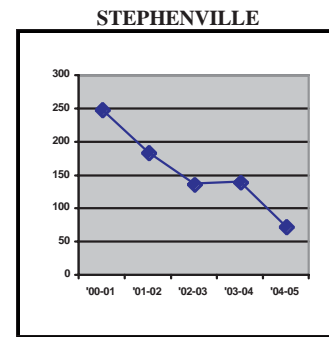
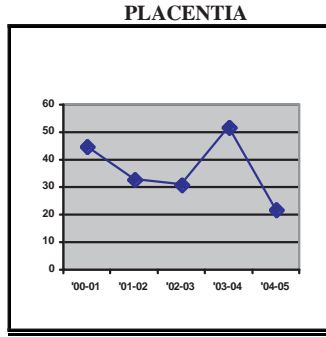
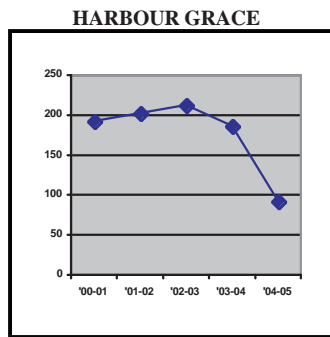
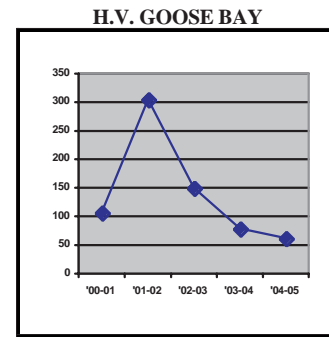
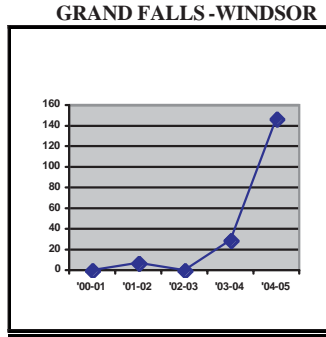
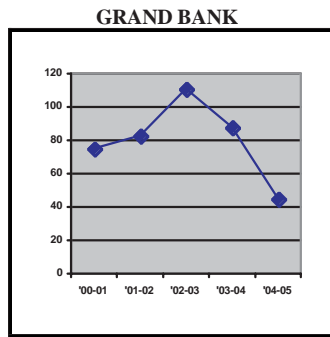
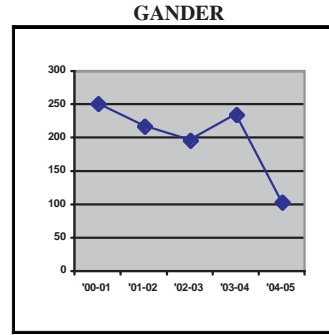
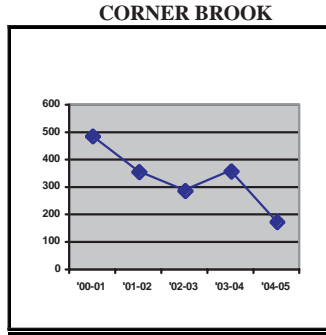
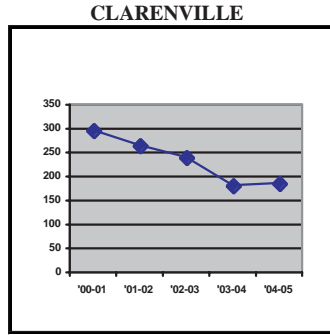
**Note: Vertical Scales vary for individual court centres*

PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR
 Total (Youth) Cases *
 for Last Five Years (2000-05)



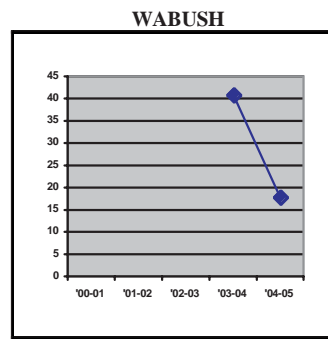
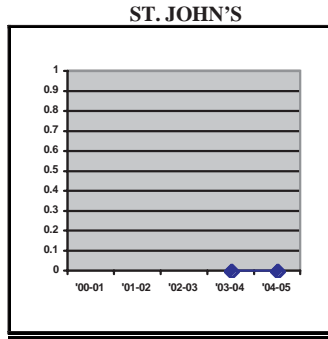
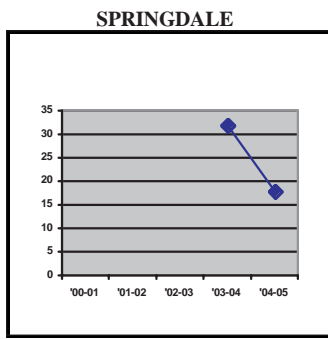
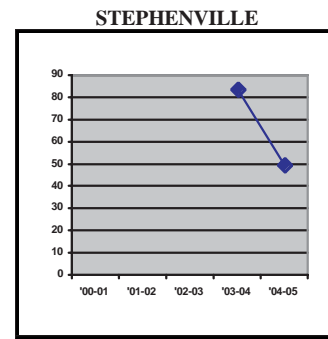
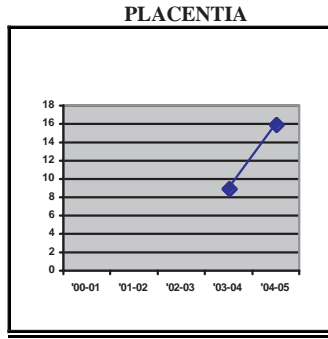
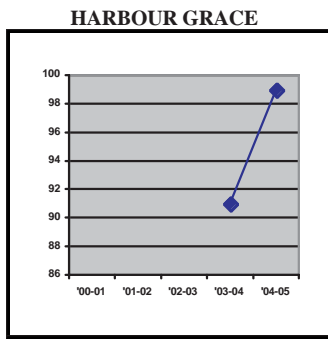
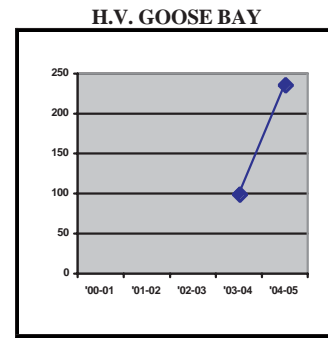
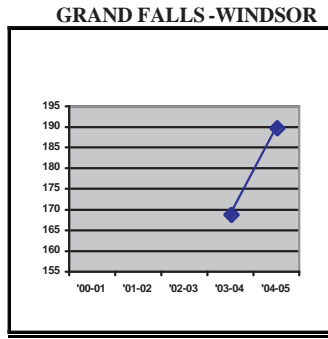
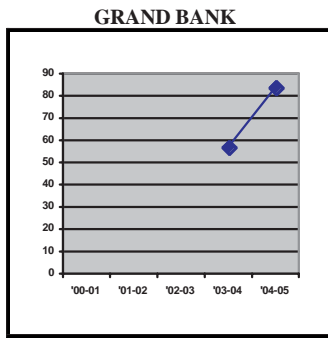
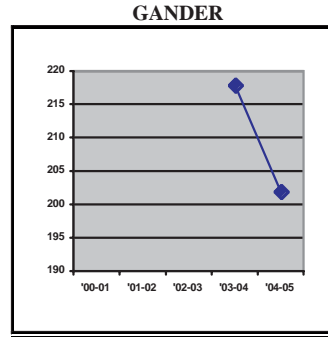
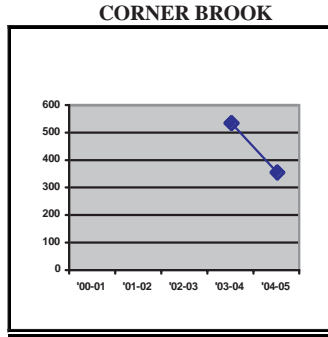
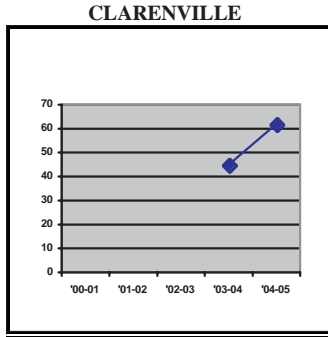
*Note: Vertical Scales vary for individual court centres.

**PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR
Total (Civil) Cases *
for Last Five Years (2000-05)**



**Note: Vertical Scales vary for individual court centres*

PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR
Total (Family) Cases * for Last Two Years (2003-05)
(Note: Family Statistics were combined prior to 2003)



**Note: Vertical Scales vary for individual court centres*

Provincial Court of Newfoundland and Labrador
PENDING, INITIATED, AND CONCLUDED CASES
ADULT COURT*
F/Y 2004-05

COURT	Pending Cases as of April. 1/04	Initiated Cases During the Year	Concluded Cases During the Year	Pending Cases March 31/05
Clarenville	648	962	1037	571
Corner Brook	1697	2271	2220	1748
Gander	843	973	1042	772
Grand Bank	285	1023	873	435
Grand Falls-Windsor	591	1256	1023	824
H. V. Goose Bay	1021	2110	2001	1129
Harbour Grace	881	746	1046	583
Placentia	398	511	611	299
Springdale	428	68	220	275
Stephenville	1162	1310	1446	1027
St. John's	6246	9467	8818	6896
Wabush	278	419	363	333
TOTAL	14,478	21,116	20,700	14,892

PENDING, INITIATED, AND CONCLUDED CASES
YOUTH COURT*
F/Y 2004-05

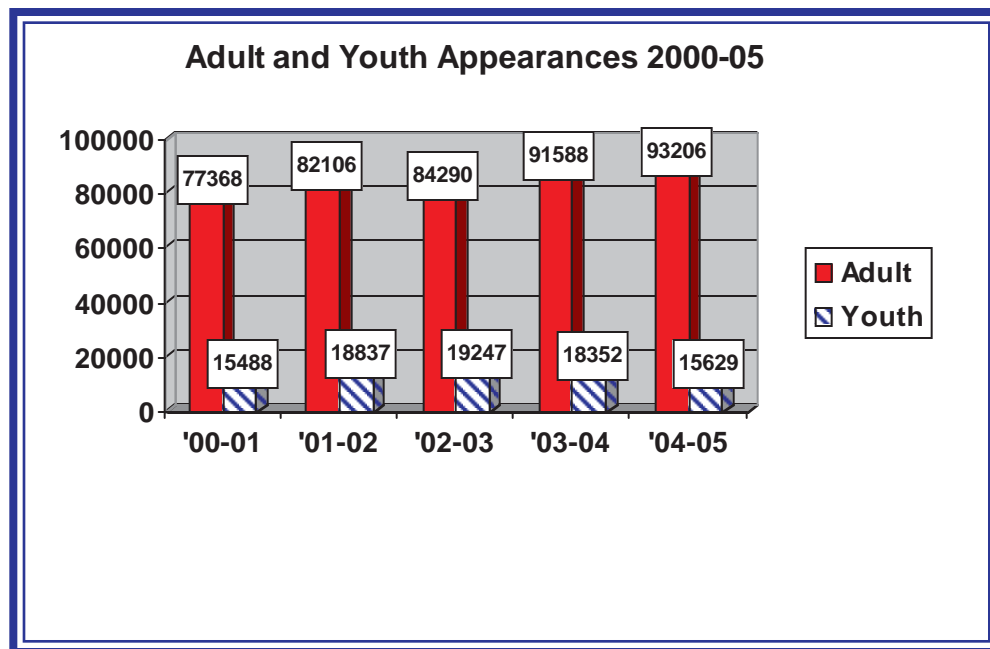
COURT	Pending Cases as of April. 1/04	Initiated Cases During the Year	Concluded Cases During the Year	Pending Cases March 31/05
Clarenville	53	115	139	29
Corner Brook	267	452	550	169
Gander	170	231	248	153
Grand Bank	53	164	144	73
Grand Falls-Windsor	127	252	249	131
H. V. Goose Bay	169	476	483	161
Harbour Grace	242	139	295	86
Placentia	38	88	120	6
Springdale	33	5	25	13
Stephenville	143	172	194	121
St. John's	785	1833	2158	460
Wabush	41	42	41	42
TOTAL	2,121	3,969	4,646	1,444

**Note: Variances in the year end pending number are from stays of proceedings and warrants.*

APPEARANCES FY 2004-05

One of the primary indicators of workload for the court is the number of appearances, as each appearance requires court resources (i.e. courtroom time, a judge and a court clerk) and it generates paper work and often requires the scheduling of future court events. In 2004/05 there was a total of 108,835 appearances for criminal matters. Additionally there were 1,827 appearances associated with civil matters and 2,777 appearances required for family matters for a total of 113,439 appearances. The number of appearances has increased significantly with respect to criminal matters

going from a total of 92,856 in 2000/01 to a total of 108,835 in 2004/05, an increase of 17% in just five years. It is the adult cases that primarily account for that increase. This is a trend that is occurring right across the country. The Canadian Centre for Justice Statistics reports that the average number of appearances per criminal case has increased from 4.1 in 1993/94 to 5.9 in 2003/04; and consequently, cases are taking much longer to process from 196 days to 220 days on average.



Provincial Court of Newfoundland and Labrador COURTROOM APPEARANCES FY 2004-05

COURT	ADULT*	YOUTH*	CIVIL	FAMILY
Clarenville	3997	427	71	132
Corner Brook	9967	1856	324	732
Gander	3838	1122	151	339
Grand Bank	2802	349	31	179
Grand Falls-Windsor	3998	738	11	541
H.V. Goose Bay	7358	1480	32	497
Harbour Grace	4338	1033	83	97
Placentia	1760	322	8	22
Springdale	583	43	100	79
St. John's	48800	7655	913	0
Stephenville	4240	486	103	10
Wabush	1525	118	0	149
TOTAL	93,206	15,629	1,827	2,777

Note: A court hearing on two charges is counted as two appearances as per the standard method of the Canadian Centre for Justice Statistics.

REQUESTS FOR CRIMINAL HISTORY RECORDS

COURT	'00-01	'01-02	'02-03	'03-04	'04-05
Clareville	823	749	915	1092	1150
Corner Brook	1849	1945	2261	2710	2969
Gander	1082	1146	1474	2081	2081
Grand Bank	688	844	989	837	1104
Grand Falls-Windsor	1425	1992	2783	2423	2300
H. V. Goose Bay	1630	1638	1724	1806	1888
Harbour Grace	876	860	906	1156	1132
Placentia	614	551	642	647	584
Springdale	327	640	662	968	253
St. John's	4274	8152*	7708	7790	7694
Stephenville	1918	1679	1945	1443	1353
Wabush	226	144	364	448	438
TOTAL	15,732	20,340	22,373	23,401	22,946

VIDEO HEARINGS

Breakdown by Type

TYPE	NAIN		HOPEDALE		WABUSH		ST. JOHN'S		OTHER	
	No.	Costs* \$	No.	Costs \$	No.	Costs \$	No.	Costs \$	No.	Costs \$
Bail Hearings	24	3,143	3	393	4	595	0	0	0	0
Sentencings	6	955	3	441	0	0	1	167	0	0
Witness Testimony	4	428	0	0	0	0	5	1,538	7	1,001
Circuit cancellation	0	0	1	245	0	0	0	0	2	406

**Note: Costs are actual video usage fees paid by police, crown, or defence.*

Summary Offence Tickets FY 2004-05

Court Centre	Tickets Processed	Tickets to Trial
Clarenville	1418	96
Corner Brook	7164	183
Gander	2513	43
Grand Bank	767	6
Grand Falls	3721	76
H.V. Goose Bay	435	5
Harbour Grace	791	33
Placentia	553	10
Springdale	285	0
Stephenville	1593	35
St. John's	120316	792
Wabush	411	10
TOTAL	139,967	1,289

Number of Transcribed Pages FY 2004-05

COURT CENTRE	# OF PAGES
Clarenville	288
Corner Brook	1,769
Gander	6,349
H.V. Goose Bay	1,404
Grand Bank	345
Grand Falls-Windsor	1,227*
Hr. Grace	520
Placentia	987
Springdale	309
Stephenville	1,782
St. John's	9,679
TOTAL	24,659

*Note: From October 2004 to September 2005 all transcripts for Grand Falls-Windsor were typed by Provincial Court in Gander.

TEN MOST COMMON OFFENCES (Charges) FY 2004-05

TYPE	ADULT
Breach of Court Orders	5790
Assault	1936
Fraud	1564
Theft	1514
Impaired Driving	1421
Mischief	746
Break and Enter	633
Drug Offences	513
Sexual Offences	354
Firearms	231

TYPE	YOUTH
Breach of Court Orders	1948
Break and Enter	510
Theft	431
Assault	313
Mischief	274
Fraud	216
Sexual Offences	87
Drug Offences	38
Impaired Driving	23
Firearms	22

Provincial Court of Newfoundland and Labrador BUDGET EXPENDITURES

Actual vs. Revised
FY 2004-05

CATEGORY	BUDGET	REVISED	VARIANCE
Salaries	6,035,000	6,218,376	-183,376
Employee Benefits	41,800	59,546	-17,746
Transportation & Communication	332,200	313,673	18,527
Supplies	54,800	38,084	16,716
Professional Services	10,000	1,728	8,272
Purchased Services	743,200	713,571	29,629
Property, Furniture & Equipment	5,200	56,216	-51,016
Grants & Subsidies	3,000	3,000	0
Information Technology	327,900	323,744	4156
TOTAL	\$7,553,100	\$7,727,938	-\$174,838

Staff Time Off In Lieu of Overtime

Carried Forward TOIL from
previous years as of March 31/04 3430 hrs.

Total Hrs. Worked 04-05 915 hrs.

Total Hrs. Taken Off 04-05 1063 hrs.

One Time Payout by Treasury Bd. 2731 hrs.

Total Hrs. Owed as of
March 31/05 551 hrs.

Costs of Judicial Exchange

FY 2004-05

\$28,059.71

Revenue Collected and Distributed FY 2004-05

Distribution	Amount	Percent
CCC & Provincial Statutes	274,932	13.0
Federal Statutes	556,750	25.0
Liquor Control Act	5,245	0.0
Municipal Acts	2,325	0.0
Highway Traffic Act	590,723	27.0
Fees and Costs	325,448	15.0
Victim Fine Surcharge	78,766	4.0
Maintenance Compensation	128,685	6.0
Civils (Third Party)	56,561	2.0
Bail/Bonds Sureties	70,713	3.0
Cross Court Payments	59,093	3.0
Bank Interest	166	0.0
HST	437	0.0
Other (Third Party)*	43,968	2.0
TOTAL	2,193,812	100.0

**Note: Includes JEA Fees \$28,900 and other amounts.*

Fines Imposed Summary FY 2004-05

Distribution	Amount	Percent
APA/LGA	0	0
CCC/PROV	288,052	14.0
FED	995,137	49.0
LCA	17,873	1.0
VFS	219,525	11.0
TMS	503,670	25.0
3RD PARTY	6,690	0.0
TOTAL	2,030,947	100.0

APA - Animal Protection Act
 LGA - Municipal Acts
 CCC - Criminal Code Canada
 PROV - Provincial Statutes
 FED - Federal Statutes
 LCA - Liquor Control Act
 VFS - Victim Fine Surcharge
 TMS - Ticket Management System



*Staff of
Fines Administration*



CIRCUIT COURTS

FY 2004-05

Court Centre	Circuit	Total
Clarenville	Bonavista	5399.71
	TOTAL CLARENVILLE	\$5,399.71
Corner Brook	Roddickton/St. Anthony	10330.52
	Port aux Choix/Plum Point	9688.34
	Woody Point/Rocky Harbour	2296.65
	TOTAL CORNER BROOK	\$22,315.51
Gander	Badger's Quay	1392.47
	Twillingate	1257.10
	Fogo	573.45
	TOTAL GANDER	\$3,223.02
Happy Valley-Goose Bay	Sheshatshiu	466.48
	Nain	17110.15
	Makkovik/Postville/Rigolet/Hopedale	6283.48
	Port Hope Simpson/Forteau	9547.31
	Cartwright/Black Tickle	3403.43
	Natuashish	9595.80
	TOTAL H.V. GOOSE BAY	\$46,406.65
Grand Falls-Windsor	Bay D'Espoir/Belleoram/Hr. Breton/Conne River	13072.79
	Botwood	2453.41
	Baie Verte	3018.43
	Buchans	387.11
	Springdale	4,018.69
	TOTAL GRAND FALLS-WINDSOR	\$22,950.43
Placentia*	Whitbourne	5269.29
	St. Mary's	1143.58
	TOTAL PLACENTIA	\$6,412.87
Stephenville	Port aux Basques	3707.31
	Burgeo	781.61
	TOTAL STEPHENVILLE	\$4,488.92
Wabush*	Wabush	12,150.01
	TOTAL WABUSH	\$12,150.01
	OVERALL TOTAL	\$123,347.12

* Note: Placentia and Wabush have no resident Judge.

As a result of the Court's ongoing review of case-loads and changing demographics, it was determined that an adjustment to circuit court services to rural areas was necessary in order to better utilize court resources. These reductions reflect declining populations and subsequently caseloads.

Pursuant to that review, Chief Judge M. R. Reid authorized the following changes during 04/05:

Effective September 2004 the Buchans circuit was discontinued (cases heard in Grand Falls-Windsor) Badger's Quay and Twillingate circuits were discontinued (cases heard in Gander).

Effective November 2004 the Botwood circuit was discontinued (cases heard in Grand Falls-Windsor). The

Belleoram circuit was amalgamated with the circuit to Harbour Breton and cases heard in Harbour Breton.

Effective January 2005 the South Coast Circuit was modified from its present frequency of 8 to 11 times per year to 5 or 6 times per year depending on actual need.

Effective January 2005 the Bonavista Circuit was adjusted to doing first appearances only at the rate of 1 day each circuit, 8 times per year.

In the past three years, the number of circuit days in Western Newfoundland has steadily declined from an average of approximately 160 days per year to approximately 110 days. Commencing in 2005, this circuit time will be further reduced by another 10 days to approximately 100 days.

Establishment of a Mental Health Court at St. John's

by: Judge David Orr



There was a need identified for help for persons suffering from a mental disorder who came into conflict with the Justice system. In response to this need, the Chief Judge, in conjunction with the Strategic Planning Committee, decided that a specialized court, in the largest court centre of St. John's, should be developed to better accommodate the needs of accused persons suffering from a mental disability. In the fall of 2004 a plan for this court was developed in conjunction with Legal Aid, the Crown Attorney's Office, Victim Services, Adult Corrections, the Health Care Corporation, and the Canadian Mental Health Association.

At the same time as the court initiative commenced, the Newfoundland and Labrador Legal Aid Commission received funding to develop and administer programs for persons with mental disabilities. As a result, Mr. Peter Ralph of the Newfoundland Legal Aid Commission was able to incorporate some of this funding toward programming aimed at using the Mental Health Court. To that end he hired a case manager and support persons through the Health Care Corporation and made them available to persons who were being dealt with by the court. Counsel for the crown, Ms. Ruth Wakeham, was assigned to act at the Mental Health Court as crown counsel and an eligibility standard was developed for persons to be admitted to the court.

Initially, the standard developed was modeled on the Mental Health Court model used in Ontario with some elements from the model currently used in New Brunswick. It was felt that while the Ontario model was better suited to the needs of people in the Province, it was not directly transferable because of the much smaller population to be serviced. It was eventually agreed that the court would sit every second Wednesday afternoon in courtroom number eight. Courtroom eight was selected as it is the Small Claims courtroom and is located in an area separate from the other criminal courts. It affords a degree of privacy (criminal proceedings are public) in the sense that it is not located in a busy area and proceedings are not as subject to interruption.

Each case brought forward to the court is evaluated by defense and crown counsel with a view to evaluating the specific needs of the offender. If it is determined that the accused does suffer from a persistent mental disability

and it is this disability that has brought him or her into conflict with the justice system, he or she may be adjudged a suitable candidate for the court. To date, persons that have been evaluated for the process have not been rejected on the basis of the offence with which they are charged. It was decided that the nature of the charge would not act as an automatic exclusion unless the offence has a mandatory minimum punishment.

The goal of the Mental Health Court is to place less emphasis on incarceration and to make greater use of community supports in order to prevent the offender from coming into further conflict with the justice system. And, in addition, to provide an opportunity for the early resolution of proceedings through extra judicial remedies such as the entering of a stay of proceedings once community supports have been put in place.

There are some practical problems that have yet to be resolved. One problem is that the small size of the population to be served creates a difficulty in that it is not practical for the Court to sit every day. As a result, it is not feasible to have staff assigned to the Mental Health Court as their only duty on a permanent basis. This results in the court being inflexible in its schedule and often unavailable to persons who might benefit from it. In addition, the Waterford Hospital located in St. John's is the site of the only forensic psychiatric facility in the Province; however, many of the patients treated or assessed there are from other areas of the province. Consequently, they must return to those areas of the province to resolve their cases; and as a result, they cannot be followed by the Mental Health Court. This limits the availability of the program to the St. John's area and its residents.

To the end of the fiscal year, the court has had eight sessions as support staff were not in place until February of 2005. A number of persons have been successfully dealt with by the court and cases have been resolved by probation orders and stays of proceedings. In recent weeks, a move has been made to broaden the court criteria and deal with a larger population base. As a result, the court has been used to deal with individuals who suffer from a mental disorder but who were not thought to be suitable candidates to be dealt with by a community-based sentence. These cases went to the court as it was felt that the individuals concerned would benefit from contacts made for them by program personnel at the court.

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The Mental Health Court will be evaluated in June 2005 to see if it does fulfill a need and is providing a useful service. At the time of the writing of this article, it is too early to provide any significant evaluation. However,

given the experience in other Provinces and the issues identified by the Judicial Inquiry into the deaths of Norman Reid and Darryl Power, it seems probable that the court will provide a long-term benefit and become a permanent part of the Provincial Court structure.

NATIONAL SEX OFFENDER REGISTRY

by: *Shelley Organ*



Bill C-16, the *Sex Offender Information Registration Act (SOIRA)*, is an Act respecting the registration of information relating to sex offenders, to amend the *Criminal Code*, and to make consequential amendments to other Acts.

The Sex Offender Information Registration Act received royal assent on April 1, 2004. Shortly thereafter, the Provincial Department of Justice formed a Provincial Working Group comprised of representatives from the RCMP, RNC, Crown Attorney's Office, Provincial and Federal Corrections, Supreme Court and Provincial Court. Implementation of the Act was scheduled for December 15, 2005. A Provincial Registration Centre was set up and registration sites were identified. In addition, an electronic National Sex Offender Information Registration Database was developed by the RCMP. This database will be maintained by staff of the Provincial Registration Centre which is located at RCMP Headquarters, St. John's. Three of the RNC and 29 RCMP Provincial detachments have been identified as registration sites. Each registration site (police detachment) is responsible for forwarding all registration information to the Provincial Centre.

The National Sex Offender Registry database will hold pertinent information about convicted sex offenders across Canada to assist police officers in the investigation of sexual offences by allowing them to quickly consult the registry, to search its contents using established criteria and to identify possible suspects.

The *Sex Offender Information Act* requires that Crown Attorneys apply to the Court for an "Order to Comply with SOIRA" for persons convicted of a designated sex offence. If the order is granted, it will be signed and served on the offender by the Court Clerk. The offender

will have to register with one of the provincial centres within 15 days of being sentenced or released from custody. Thereafter, they must report annually and/or after any change of address.

SOIRA also allows for retrospective registration of sex offenders. This means that convicted sex offenders under sentence (custody, probation and parole) at the date of proclamation may be served with a "Notice of Obligation to Comply with SOIRA" and will have to register with the National Sex Offender Registry (NSOR) one year after the day on which they were served unless they have sought and received an Exemption Order. Service of these Notices will be done by Provincial Corrections, as well as the RNC and RCMP.

In November 2004, the RCMP and Federal Department of Justice held a national training session in Cornwall, Ontario, for police corrections, prosecutors, and court personnel on their roles and expectations. The Provincial Court was represented at the training by Shelley Organ, Manager of Court Services, Eastern. Representatives from the RCMP, RNC, Supreme Court and Adult Corrections also attended.

By the proclamation date, the Provincial Court of Newfoundland and Labrador had created the various forms and orders in compliance with the Act, and placed them on the Intranet for access by all court centres. In addition, Policy and Procedures relating to the SOIRA were drafted, approved and implemented in all Provincial Court centres.

Between December 15, 2004, and March 31, 2005, the Crown had applied to the Provincial Court for 19 "Orders to Comply with the Sex Offender Information Registration Act", of which 15 were granted.

Automatic Recalculation of Child Support Orders in the Western Region

by Judge Kymil Howe



With the implementation of the *Western Child Support Service Regulations* (NLR 9/02) in the spring of 2002, the Provincial Court of Newfoundland and Labrador at Corner Brook became one of the first courts in Canada to participate in a pilot project designed to experiment with the automatic recalculation of child support orders. There are, at present, some 550 child support orders in the Western Region which are subject to recalculation. Of those, 397 are orders of the Provincial Court and the remainder are from the Supreme Court, Trial Division. During the fiscal year 2004/05, recalculation resulted in 148 new child support orders in the Provincial Court at Corner Brook. For the purpose of recalculation, the Western Region includes not only the entire West Coast of the Province but also the Northern Peninsula and the westernmost portion of White Bay.

Recalculation, as envisaged by this project, is a relatively straight forward process. The payer of child support is required to file a copy of his/her most recent income tax return and notice of assessment with the recalculation clerk, an employee of Family Justice Services Western, prior to the anniversary date of the child support order. The payor's total income from line 150 of his/her income tax return is then applied to the child support tables set out in the *Child Support Guidelines Regulations* (NLR 40/98) to ascertain if the new income figure will result in a change in the amount of child support payable. If a payer does not provide income tax information, his/her income will be automatically increased by the annual increase in the cost of living for the Province of Newfoundland and Labrador as determined by Statistics Canada. It is only if the recalculation will result in a change of \$5.00 or more, that a notice of recalculation will be sent out. The Parties then have 30 days in which to file a Notice of Objection to Recalculation and if no objections are filed, the recalculated amount is effective 31 days after the last of the Parties received his/her notice from the recalculation clerk. In the Provincial Court, the court staff will then prepare the new child support order for signing by a Judge.

It is important to note that recalculation is not intended to replace judicial decision making and is, therefore, not appropriate for all child support orders. For example, recalculation does not apply to special or extraordinary expenses. As well, the recalculation clerk does not have any authority to make determinations as to undue hardship and cannot determine support payable in cases of shared or split custody. Lastly, it should be noted that the recalculation process does not deprive an individual of the right to apply to the Court for a variation of child support in instances where there has been a material change in circumstances. This is particularly important in those cases where a payer does not file a copy of his/her income tax return and the recipient is aware that there has been an increase in income exceeding the increase in the cost of living as determined by Statistics Canada.

For the most part, feedback to the recalculation project has been positive. Participants appear to be pleased with the fact that a child support order can be updated without the necessity of an application and an appearance in Court. It is anticipated that a mechanism whereby a copy of the income tax return and notice of assessment could be forwarded directly from the federal government to the recalculation clerk (so that the process would not be dependent upon the payer actually sending in his/her documents) would further enhance the process. That objective has not yet been achieved.

The staff and judiciary of the Provincial Court worked alongside their counterparts in the Trial Division and in conjunction with the staff of Family Justice Services Western in soliciting input from the local bar as to the content of the recalculation regulations and the format of recalculated orders. By all accounts, it was a worthwhile venture and one which enhances the service provided by the Provincial Court of Newfoundland and Labrador in this region.

CASEFLOW MANAGEMENT

by: Judge Harold Porter



Introduction

Gladstone is supposed to have been the first to observe that “Justice delayed is Justice denied”. More recently, the Supreme Court of Canada, in the Askov and Morin cases in particular, held that a failure to bring matters to completion in the Courts can amount to a violation of the Charter right to speedy justice. When there are institutional bottlenecks in the even flow of matters through the court system, all stakeholders in the process suffer. This requires the court to demonstrate leadership in encouraging all parties to the process, at all stages in the process, to expedite the orderly flow of matters through the justice system. As will be seen, caseflow management can, with the cooperation of all stakeholders, ensure that matters are dealt with in a timely and fair manner for all concerned.

Leadership

When the court does not exercise control over its docket, there is a risk that the participants in the system and the general public might perceive the court as apathetic to ensuring a timely and efficient delivery of service. This belies the fact that the courts are designed for the fair and impartial delivery of an essential service to the public. Studies done in this country and in the United States of America have consistently found that, if the court is proactive in managing its docket, then the other participants will follow suit. It is, therefore, imperative for the courts to actively become involved in their dockets and scheduling of matters.

Stakeholders

The bulk of matters before the Provincial Court are criminal or quasi-criminal in nature. These matters typically involve the following participants:

1. Investigating agencies (i.e. RCMP, RNC, DFO, Wildlife, Environmental Protection, and Workplace Health and Safety).
2. Crown Counsel (Federal and/or Provincial, depending on the nature of the matter).
3. The Defendant (usually a natural person, but sometimes a body corporate)
4. Defence Counsel (Legal Aid and Private Practice Lawyers)
5. The Complainant(s)
6. Witnesses
7. Adult Probation
8. Victim Services

Pre-trial Bottlenecks

Since approximately 80 percent of our criminal and quasi-criminal matters are resolved without the necessity of a full trial, full disclosure of the investigation to the Crown and, through it, to the Defendant, must be completed as soon as possible after the charge has been laid. In the Stinchcombe decision, the Supreme Court of Canada opined that there should be full disclosure of the Crown case before the Accused is required to plead to the charge. Failure by the police or other investigating agency to fully disclose the fruits of the investigation will, predictably, result in a request by the Defendant for a postponement of plea pending full disclosure. This is an unnecessary and, therefore, avoidable step in the process.

Once disclosure has been sent from the police to the Crown, the recipient has a duty to vet the material prior to disclosing any privileged information to the Defendant. If the Crown offices are understaffed or otherwise unable to provide timely disclosure, this too can result in another request for postponement and another unnecessary delay.

Presumably, once both litigants are fully briefed on the investigation, they will be in a position to discuss the matter in terms of plea, any agreed statements of fact, necessary witnesses, and, therefore, required time on the docket. Then the Court will be able to set the matter down for a hearing.

Bifurcation

At this stage of the proceedings in the criminal context, most matters should be ready for a plea. Here cases fall into two classes, and different considerations apply to each.

When the not guilty pleas are received, the Court inquires from counsel what amount of time might reasonably be required for the trial of the matter. Depending on the experience of counsel, some estimates of time might not

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be realistic. However, absent peculiar circumstances, the Court is usually able to gauge a realistic timeframe to hear most matters. The matter should then be set down for a mutually convenient trial date within the parameters set by the Supreme Court of Canada, i.e., four to six months to the end of the matter.

On November 1, 2004, the Provincial Court Criminal Rules came into force. These provide the pre-trial applications with strict time frames for notice to the litigants and to the Court. Failure to follow these will, predictably, adversely affect the orderly flow of the matter, and, therefore, must be avoided. This includes requests for postponement of the trial. If made in sufficient time, the time which had been set for the trial may be used for other matters. If, however, the request for another postponement is made late in the schedule, then the Court and the other participants are faced with the loss of courtroom time--a waste of a scarce resource. Before the trial date, subpoenas should be issued in sufficient time to ensure attendance at Court of all witnesses. When the trial date arrives, the court expects that all parties will be prepared to proceed to trial. As part of the caseload management process, the Court must insist that parties are ready to proceed as scheduled.

If there is an acquittal, then that terminates the matter. If there is a finding of guilt, then there may be a requirement for either or both a pre-sentence report and a victim impact statement. The former are completed by the probation authorities while the latter are done by regional Victim Services Offices. Again, there should be sufficient resources so that these requests for information will not take an undue amount of time before the next appearance in court.

From the foregoing there should typically be no more than four appearances in matters requiring trial: first appearance, plea, trial, and sentencing. However, delays are often experienced by unavailability of counsel, late disclosure, unavailability of witnesses, or delays in preparing the reports required for sentencing. These delays are avoidable in most instances and should be avoided.

Guilty pleas require less time on the court docket. Many people will plead guilty at first appearances; and if there is no need for either a pre-sentence report or a victim impact statement, the matter may be resolved on the same day. However, this presumes the presence of duty counsel and immediate disclosure of the file(s) by the Crown, who, of necessity, will have vetted the file prior

to the first appearance. Sometimes there are differences of fact following a guilty plea, which might require another hearing; and of course, the victim of a crime has a right to participate in the process prior to adjudication of the sentence.

A concrete example: When a court travels on a monthly circuit, then the orderly flow of the docket has some particular challenges. In isolated places, many persons will not have ready access to counsel. By definition, every postponement will add a month or more delay to the process--these matters will take the full extreme of the guidelines set by the Supreme Court of Canada to complete.

In judicial centers where the Court sits continuously, however, there should be no reason why all matters cannot be resolved within the time frame set by the Supreme Court of Canada. Regrettably, however, this has not been a constant experience for the Provincial Court across the province of Newfoundland and Labrador.

In 2002 the practice of the Court in one judicial center was to hold monthly first appearance days. This meant that on one day every person charged with an offence in that judicial district appeared in Court. The local legal aid lawyer met many of his future clients at the court for the first time. With charges laid only days before the first appearance date, crown counsel had not had an opportunity to review or vet the brief on the individual files with a view to full disclosure of same.

As a result, while many people did plead guilty without the assistance of counsel, and without having had any disclosure of the police file about the matter (as is their right), many matters had to be postponed pending disclosure and obtaining instructions prior to plea. Given the schedule then in place, this meant that the matters were then put over to another month. For those requiring time to get legal advice, many returned on the second appearance only to request another delay because they had not retained counsel; or if they had, the second appearance date was inconvenient to the busy lawyer. This resulted in yet another postponement so that in many cases more than three months had elapsed from the time that the charge had been laid to the entry of the plea. In the case of a guilty plea, pre-sentence report and victim impact statement requests typically added another month or two to the process, which meant five or six months had elapsed before the matter was resolved, without the necessity of a trial.

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As an experiment, the Court changed its schedule, and started having arraignments every week on Wednesdays. This certainty meant that a person charged with an offence would appear in Court no less than one week after being charged. That, in turn, put the defendant on notice to make retaining counsel a priority. As soon as counsel had been retained, a request for disclosure was made; and typically, this was achieved within the week set by the Court. Thus, within a week of appearing in Court for the first time, many persons were able to retain counsel and request disclosure in time to make a careful evaluation of the police file and, therefore, enter the appropriate plea by the second appearance. In many cases that second appearance, made within two weeks of the charge being laid, concluded the matter.

This improvement in caseflow is not something that the Court can do unilaterally, of course. The system will only work efficiently if all participants are encouraged to work better, are motivated to improve the flow of cases through the process, and have the required resources to make the improvements.

Conclusion

Whenever caseflow management is brought up among senior lawyers and judges, there will always be a series of anecdotes about how what should have taken a short period of time on the docket ended up going on forever. And certainly there will occasionally be cases which demand more time than others to resolve. However, if all participants work together to develop and consciously apply caseflow management standards for the majority of typical cases, then it will be easier to find the time for those rare atypical cases to be heard.



Courts' Advisory Board

The Minister of Justice announced the establishment of a Courts' Advisory Board on September 14, 2004. Members of the Advisory Board include the Minister of Justice and Attorney General, Tom Marshall; Chief Justice Clyde Wells; Chief Justice Derek Green; Chief Judge M. R. Reid; Deputy Minister John Cummings and Assistant Deputy Minister Chris Curran of the Department of Justice. The Board is tasked with engaging in a cooperative review of the province's court system with a view to providing enhanced opportunities to find new and innovative ways to utilize resources and improve efficiencies. The Advisory Board is not a decision-making body, but will provide a forum for discussion, exchange of information, and planning.

Rules of the Provincial Court of NL in Criminal Proceedings

On October 1, 2004, the Provincial Court of Newfoundland and Labrador with the concurrence of the judges of that Court and pursuant to subsections 482(2) and (3) of the Criminal Code, announced implementation of Rules of the Provincial Court of Newfoundland and Labrador in criminal proceedings, effective November 1, 2004. These rules will assist the Court in more actively pursuing caseflow management objectives.

Independent Website Address

As a reflection of the Provincial Court's independence from the executive and legislative branches of government, the Court has established a website address that is clearly distinct from that of government. For anyone who wishes to view our new website, the address is www.provincial.court.nl.ca

STRATEGIC PLAN

by: Louise Daley



The Strategic Management Steering Committee is about to begin its consultation with staff and the judiciary as the first phase in the development of its next Strategic Plan. This follows closely on the success of the Courts current strategic plan “*Better Serving Justice and the Public: 2002-2005*”. Some of the directions that will be the focus of the next three-year strategic plan include records management strategy for the Provincial Court, continued adoption of emerging technology, improving convenience of use for the public, and implementation of caseload management benchmarks.

The Provincial Court's second Strategic Plan, *Better Serving Justice and the Public, 2002-2005*, is drawing to a close. Now is the appropriate time to look back and reflect upon what has been achieved over the life of the plan and where the Provincial Court is headed in the near future.

There were five major strategic directions identified in the past plan, namely: human resource development, technology/facilities requirements, administrative improvements, strengthened internal/external communication and court performance standards. Under these five themes a total of fifty-one strategic objectives were identified. While time and space does not allow for the review of the progress of each individual objective, one can say that from a quantitative perspective, forty-one of the fifty-one objectives were achieved. Further, an additional five objectives have partially been completed and will likely be accomplished before the end of the next fiscal year. That is a 90 percent success rate. A record that the Provincial Court can be very proud of.

Perhaps the area where the court has made the greatest strides in just three years is with respect to technology/facilities requirements. Digital recording equipment has been implemented, videoconferencing has been successfully piloted and is about to be expanded. Polycoms phones and faxes have allowed the court to extend its operation from a five-to-a-seven day operation province-wide. We have revamped our electronic case tracking system and we are nearing completion of an electronic province-wide criminal history repository that extends back to 1980. The Happy Valley-Goose Bay Provincial Court has undergone significant renovations as has the Clarenville Court Centre. Plans are underway

for new facilities in both the Corner Brook and Stephenville Provincial Court Centres and St. John's remains high on the list of new facilities being sought.

On the human resource development front, we have begun to track our annual training effort both in terms of number of days, by employee, court centre, and area of training. For example, in 2004/2005 we collectively logged 296 days of training. That is a substantial commitment on the part of staff and management. Also, we are just about to embark upon a performance coaching program initiated under the Strategic Plan.

In terms of administrative improvements we have added two regional manager positions to our organizational structure. The strategic plan has allowed the Court to more closely monitor our workloads and identify and focus more clearly on where our priorities are.

From an internal communications perspective we have made significant gains: teleconferences among court administrators and the Director, regular staff meetings (with minutes) at each court centre, semiannual presentations to the Minister of Justice, a quarterly newsletter, and an annual report. With respect to external communication we have improved and expanded the Provincial Court website and have implemented and expanded our Taking the Courthouse to the Schoolroom Program.

With respect to court performance standards we have revamped the automated case tracking system, formerly known as PCIS, into a format that will capture the information needed to develop and monitor court performance standards. We have established an internal Caseload Management Committee chaired by Judge J. Woodrow and Pamela Ryder-Lahey, Director of Court Services. We have also established monthly management reports format for the Chief Judge to monitor case flow management and workload trends. We have also established a transcript management policy and tracking system.

What remains to be completed from the current plan to complete and will be carried over to the next plan includes: developing universal standards for court security, development of a policy paper on professional development of the judiciary, achieving more autonomy

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my over the court's budget, establishing court performance benchmarks, and gauging external stakeholder opinions.

In conclusion, to quote the words of Vince Lombardi: "The success of any organization depends upon the combined efforts of all its individuals." This is certainly true

of the Provincial Court's judges and staff regarding progress on its strategic plan. The Provincial Court also recognizes and would like to acknowledge the support of the Minister and Executive of the Department of Justice in achieving our strategic objectives. We hope that our past success will continue to inspire us as we develop our next strategic plan.

CANADA-RUSSIA JUDICIAL PARTNERSHIP PROGRAM

Canada-Russia Judicial Partnership Program comes to a Successful Conclusion

In May 2000 the Director of Court Services was asked by the Commissioner for Federal Judicial Affairs to participate in a Canadian International Development Agency (CIDA) sponsored court reform project in Russia. Working with Provincial Court judges from Calgary, Ottawa, Hull and Quebec City, Pamela Ryder-Lahey travelled to Russia over a five-year period to develop model courts in Kursk, Kaluga, and Voronezh. These model courts included administrative improvements, devolution of non-judicial functions from judges to court staff, development of court administrator positions, caseload management, and business process reengineering of court processes.

Over the five years of the project Pamela Ryder-Lahey developed and taught a sixty-hour court administration training program, which was delivered to Chief Judges, court administrators, heads of registries and deputy heads of the regional Judicial Departments in 2002, 2003 and 2004. Additionally, she co-authored, with Dr. Peter Solomon of the University of Toronto, two publications. The first published in both English and Russian, in March 2004, outlines the progress, achievements, and lessons learned from the project. The second, published only in Russian, is a manual for court administrators and chairs of Russian courts, covering many of the topics included in the court administration training program.

At a concluding conference, attended by the various donor countries providing assistance with legal and court

reform in Russia, the Director of Court Services was presented with an Honorary Diploma recognizing her contribution to the improvement of the Russian justice system. This diploma was presented by A. Gusev, Director General of the Federal Judicial Department of the Russian Federation.

Phase II of the project has been approved for a further three years.



Mediation Continues in Small Claims Court

by: Judge David Orr

In May of 1999 a “pilot” project was started in the Small Claims Court to incorporate interest-based mediation into the small claims process. The hope was that by using mediation fewer cases would go to trial and issues could be resolved at the settlement conference stage. Prior to introducing mediation the procedure was to hold a settlement conference pursuant to Section 10 of the *Small Claims Act S.N.L.* 1990. The settlement conference was chaired by the Judge and was essentially a first appearance to ensure that the parties were ready for trial. At the settlement conference the Judge would explore the possibility of settlement with the litigants or make other orders such as default judgments in the event of a non-appearance but there was little opportunity for mediation.

After some deliberation, the Small Claims Rules Committee decided to use third-year law students who were completing their articling as the mediators in the proposed mediation process. This would obviate the need for any financing for the project as the mediation could be done on a volunteer basis; and as the law clerks were all members of the Law Society, there was already a regulatory body in place to maintain professional standards. At the time it was hoped that the law students would welcome a chance to be directly involved in the litigation process and that obtaining volunteers would not be a problem. This hope has come to fruition and the number of volunteers has on some occasions outstripped the number of cases to mediate. To date all of the law clerks in the bar admission course from 1999 to 2004 have participated in the process and all of them have reported they found the experience to be very useful. We anticipate the same response from the 2005 class.

On the litigation itself the success rate in terms of settling cases via mediation has not been high but it has been significant. On average over the years mediators have settled between 30 and 40 percent of the cases. Despite this, however, the majority of litigants have been positive about the process finding that even if a full settlement of their case was not achieved, at least some of the issues were resolved and they were more prepared for trial. We had initially referred all cases to the medication process. Experience over the past six years has shown us that some cases are not amenable to mediation and will not settle. This has proved to be the case in motor vehicle accident cases. Generally speaking before starting the court process these cases have already been through a form of mediation in that insurance adjusters have nego-

tiated with the parties and further mediation or discussion between them at court is pointless. Most vehicle accident cases involve a determination of fault and turn on the findings of fact and parties are interested in having a trial and a determination being made by a Judge. As a result, the Small Claims Rules Committee has decided that this year, motor vehicle accident cases will no longer be mediated and instead will proceed directly to trial. All the remainder of the cases will still go through the mediation process.

In July 2004, the monetary limit in Small Claims Court was increased from \$3,000 to \$5,000. At the same time the cost to issue a statement of claim increased. There has been no increase in number of cases filed; this may be due to the increased fee. The increase in the limit has meant that there are a greater number of complex matters before the court. Thus, the availability of mediation has become more important.

Overall the mediation project has been very successful for the Court. It has provided an opportunity for education for new lawyers allowing actual court experience at a very early time in their careers. In addition, a considerable number of cases have been resolved without the necessity of a trial, and litigants have been provided with support and education in the process. Finally, the mediation project has also helped to foster the growth of alternative dispute resolution in the province by providing a forum where it can take place on a regular basis.



**Courtroom No. 8
St. John's**

Province-Wide Criminal History Repository

The province-wide Criminal History Repository had been scheduled to be completed by April 2004. Seven courts: Happy Valley-Goose Bay, Wabush, Clarenville, Placentia, Gander, and Grand Falls-Windsor and Stephenville are finished, with all criminal history records entered into the database.

When the project began in 1997, there were approximately 378,000 McBee cards which had to be examined to determine what cards would be entered to produce computerized records. Staff have been working diligently on this project for the past number of years. At the beginning of 2004/05 there were approximately 21,625 cards left to be entered. As of March 31, 2005, there are approximately 11,000 cards remaining to be entered.

Currently, records are produced from each stand-alone court system. In order to get a full picture, each court must be requested to do a record check. When this project is completed, a province-wide record will be available on individual accused. During 2004/05 there were 22,946 requests for Criminal History records. Requests have increased dramatically over a five year period from 15,732 in 2000/01 to 22,946 in 2004/05.



Elaine Mayo and Dolores Hutton

Integrated Provincial Court Information System (IPCIS)

During 2004/05 planning and development continued on IPCIS. Testing which had begun in January 2004 for a three-month period recommenced in January 2005. Two staff have been assigned full time to testing all aspects of the system. The Case Management side has been completed and fully tested with positive results. A step-by-step user manual has also been prepared. The Fines Management side has been completed and is ready for testing. All St. John's staff have been trained and the overall evaluation is very good. Training has also been provided to the RNC Police Liaison Office, St. John's. IPCIS is accessible to Criminal Justice partners on a permission basis, as granted by the Court.

A conversion sub-committee was formed and met monthly and more frequently, where necessary. Members included the Director of Court Services, Manager of Information Technology, Manager of Criminal History, and the IPCIS developer. This committee was able to make decisions on development and business practice without bringing the full Steering Committee together and kept the momentum flowing. Significant issues were brought to the IPCIS Steering Committee, which consisted of the above noted people, as well as Chief Judge Reid, Judge G. Brown, Director of Library Services, the Manager of Strategic Planning, and the Director of IT for the Department of Justice.



Dolores Hutton
IPCIS Trainer

STRATEGIC MANAGEMENT STEERING COMMITTEE

The Strategic Management Steering Committee (SMSC) is comprised of Chief Judge M. R. Reid, Judge C. Flynn, Judge H. Porter, Pamela Ryder Lahey, Shelley Organ, Bob Mavin, Louise Daley, and Vince Withers. Mr. Withers is a volunteer representative of the public and has sat on this committee for the last four years. The SMSC meets quarterly to discuss the implementation of the strategic plan, which may require corrective action from time to time. In addition, the SMSC discusses matters of court policy, budget, case-flow management, training and development of both judiciary and staff, future direction, and administrative improvements. Significant policy issues are approved by the SMSC.

The mandate of the committee is to ensure that the court's future is strategically aligned with environmental,

technological, demographic, justice and societal trends in accordance with our Governing Values and Mission Statement. The Provincial Court has successfully implemented its second Strategic Plan 2002-2005, following implementation of its first Strategic Plan 1997-2002. Planning for the third strategic plan, 2006-2009 is currently underway.

The successive strategic plans of the Court have been developed with input from both internal and external stakeholders, following province-wide consultations. The value of the plan has been proven time and again as it has been used to demonstrate to the Court's funding agency a vision for the court, as well as accountability for the expenditure of public resources.



OCCUPATIONAL HEALTH AND SAFETY COMMITTEE

Occupational Health and Safety Committee has the primary objective of protecting employees from workplace injury and illness. While the Department of Justice is responsible for ensuring compliance with the provisions of Occupational Health and Safety Legislation, it is incumbent upon local managers and supervisory staff to accept responsibility to ensure that workers are not placed at risk of injury or illness due to workplace requirements or conditions. Every employee is required to protect his/her own health and safety and to respect other worker's rights to enjoy a safe and healthful workplace. The Provincial Court participates on these committees though individual staff members who are trained to recognize the risks that exist in our everyday working environments.

The Occupational Health and Safety Committee representing Government employees occupying offices at Atlantic Place, St. John's, is made up of management and employee representatives as well as a representative from Martek Morgan Finch, the company that manages Atlantic Place. Provincial Court representatives are Joanne Spurrell, Court Clerk I and Shelley Organ, Manager of Court Services, Eastern.

Court Clerks, Kathy Oake of Grand Falls-Windsor, Carolyn Hobbs of Corner Brook, Jennifer Dawson Hobbs of Stephenville, Marilyn McGrath of Harbour Grace, and Court Administrators, Rita Pritchett of Gander and Corrine Avery of Clarenville each represent their court centres on Area or Building Occupational Health and Safety Committees.

WORKPLACE IMPROVMENT COMMITTEE

The St. John's Provincial Court has an active Workplace Improvement Committee, which is made up of employer and employee representatives. The employer and union recognize the value of open and effective communications in maintaining a constructive labour/management relationship. To this end, this Committee provides a regular opportunity to discuss ongoing issues and problems and a chance to resolve these problems to the benefit of both parties. The employer and the union hope that their effort in this initiative will help to build trust between them and create a more harmonious workplace for everyone. The Committee also organizes staff socials. The members are Court Clerks Joanne Spurrell, Elaine Mayo, Cynthia Thorne, and Anne Donnelly, Manager of Fines Administration and Shelley Organ, Manager of Court Services, Eastern.

Some activities throughout the year were:

Pizza Lunch with Guest Speaker Geoff Chalk from the Canadian Mental Health Association.

Hotdog Lunch (to raise money for kitchen supplies)

Thanksgiving Luncheon (Potluck)

Lunch presentation by Kelly Pond, Massage Therapist (which resulted in him coming to the court every third

Tuesday for workplace massages which occur on the employees' staggered breaks).

Sunday Christmas Brunch at the Fairmont Hotel attended by staff.

Kid's Christmas Party (Movie and treats at Studio 12, Santa, presents, and loot bags).

Public Service Week

Judges and staff of the Provincial Court celebrated Public Service Week throughout the province in many different ways. In St. John's, it was celebrated with a week-long list of activities which included a scavenger hunt, coffee breaks, and a softball game topped off with a BBQ.

In Placentia, Judge Barnable and his staff went out for lunch and spent an afternoon visiting the historic sites of the town. The staff in Harbour Grace went out to dinner and Grand Bank staff and Judge held a BBQ. Clarenville staff had a luncheon, and the Judge and staff in Stephenville did a number of things, including going out to lunch, having breakfast in, coffee break gatherings with treats, and a staff BBQ. Corner Brook staff had an afternoon BBQ, while Grand Falls staff visited the Salmonid Interpretation Centre for a hike, as well as lunch at the Centre's restaurant. Judge Harding and the staff in Gander went out to lunch and took a walk around Cobb's Pond.

STUDENTS

The Provincial Court welcomes the opportunity to host students from colleges and high school cooperative programs for work-term or job shadowing. These students get equal exposure to both registries and the courtroom, and are exposed to basic office procedures relating to the day-to-day running of the Courts. Staff of the Court realize that the students are not the only ones that learn from this experience. Court staff, in turn, are exposed to the latest procedures being taught at the colleges; and it becomes an opportunity to receive feedback on our day-to-day procedures. During 04/05 three court centres worked with students.

Katie Kirkland, a Level III student of Gonzaga High School began her twelve-week (four afternoons per week) co-operative work placement in February in St. John's. Katie has shown an interest in Criminal Law and Corrections and was placed in the Provincial Court for overall exposure to the Justice System. Christine Care, Court Administrator, coordinated Katie's term, ensuring that she had experienced all aspects of the court.

Student Julia Byrne spent a day with her grandmother, Anastasia Dunn, in Traffic Division, St. John's for "Bring Your Child to Work Day". Julia is a Grade 9 student at Mount Pearl Intermediate. She spent some time observing a trial in Youth Court and assisted with the filing of tickets. Julia was presented with a Certificate of

Achievement for having worked in Traffic Court for 7 hours.

Tiffany Emberley, a student from Southwest Arm Academy, Little Heart's Ease, completed a job shadowing session at the Provincial Court in Clarenville on November 3, 2004. This was part of a school program where students indicated areas in which they may be interested in pursuing a career. Tiffany was eager to learn the different roles of the professionals who attended court, in particular the role of Judge Kennedy and the Crown Prosecutor. It was also a great learning experience for the staff and Tiffany was provided with some basic information about the Court process and the roles of different stakeholders.

Stephen Casey, a student from Corona College, Grand Falls-Windsor, completed a four-week work term at the Provincial Court in Grand Falls-Windsor. Stephen is enrolled in the Criminology Diploma program and wanted exposure to the practical aspects of the Courts. He was able to observe the roles of the various stakeholders and received exposure to all divisions of the Court. Stephen proved to be a very diligent, punctual, and reliable student. Upon completion of his work term, he advised the staff that his exposure to the criminal justice system had cemented his pursuit of becoming a police Officer.



*Christine Care and Student Katie Kirkland
(Gonzaga High School)*



*Anastasia Dunn (Traffic Court)
and Grand-daughter, Julia Byrne
Grade 9 Student
Mount Pearl Intermediate*

LUNCH WITH A JUDGE

This year's "Lunch with a Judge Program" was another success. Approximately 64 students from both Bishop Abraham and Holy Cross Elementary attended. Lunch with a Judge Program targets students who may be "at risk" for becoming involved in the youth criminal justice system. However, participation is offered to **all** students; therefore, eliminating the possibility of "singling out" students who may already feel alienated from their peers. Four students at a time, along with their teacher/guidance counselor, come to the court to have lunch with a judge and court administrator, tour the youth court, and visit the holding cells. This visit involves the judge talking to the students interactively about their reputation, the meaning of a criminal record, and answering the many questions students have. Lunches are prepared by the Whitbourne Correctional Facility for Youth and is the same lunch that a youth in custody would receive if they were in custody at the Provincial Court holding cells.

Positive feedback has been received by both schools and as one teacher said, *"the kid's can't wait to go to Grade Six to participate in the program"*.

The Court is indebted to Judge G. Brown, Judge D. Orr, Christine Care, Dolores Hutton and Anna Warford for their continuing involvement and being the "face" of the Court in this volunteer program.



*Judge G. Brown
and a
Student from Bishop Abraham*



*Anna Warford, Christine Care
and a
Student from Bishop Abraham*



*Judge G. Brown and Students at an
Appreciation Lunch at Bishop Abraham*

CLOSURE OF SPRINGDALE COURT

As the population of the Springdale area has decreased, so has the court's caseload. This prompted the closure of the Springdale Provincial Court in August 2004. An analysis of the demographics and court statistics for the region showed a drastic decline in the Springdale and surrounding area. The majority of persons that appear before the Criminal Courts are in the age category of 15-39; and in that age bracket the population of the Springdale region had declined by 40 percent between the years 1991 and 2004, which resulted in a decline of 50 percent in the caseload for the Centre.

Since 1990, the Springdale Court sittings have been done by a travelling Judge. In essence, it has operated as a Judicial circuit since that time. With the closure of the Springdale office, the caseload was sent to and incorporated into the Grand Falls-Windsor Court Centre. However, the Baie Verte and area part of the Springdale judicial district was transferred to the Corner Brook Centre. The presiding judge for Baie Verte is from Corner Brook, which makes it more practical to have the files housed in the same location.

The last day of counter service in the Springdale Court was Friday, August 13, 2004, with the files being transferred on that weekend to the two alternate locations. The majority of the files were transferred to Grand Falls-Windsor, and the staff of that court worked diligently and long hours to ensure that the Springdale files were incorporated into the Grand Falls-Windsor courthouse. All of this was done with the minimum disruption to service. A special note of thanks goes to the Grand Falls-Windsor staff for the successful completion of integration, Springdale falls into their courthouse.

One of the major tasks with the closure was to ensure that the public and the agencies that use the court were not

inconvenienced. Steps were taken to ensure that the local detachments of the Springdale District would be able to use the electronic method to lay Informations. Criminal forms and applications used by the law enforcement agencies and the public are on the Provincial Court website at [www.@provincial.court.nl.ca](http://www.provincial.court.nl.ca). Payment of fines can be made through mail by either money order or cheque. Payment can also be made at the local bank after the fines have been transferred to Motor Registration Division. If a person needs to pay a fine immediately, he/she can make a direct deposit to the Court's bank account. Request for Letters of Conduct can be made either by Canada Post or faxing requests to the Court. This method has been used in all rural communities in Newfoundland and Labrador for many years and has worked extremely well.

A Judge still travels to Springdale to conduct trials and hearings in the area, thus eliminating any cost of travel to the citizens and police of the area. The Court sits in Springdale at a rental facility on an average of four to five days per month.

The Director and Manager of the Western Region have a line of communication open with the Mayor and Councillors of Springdale. Any concerns that arise are acted upon quickly.

In conclusion, the Court had to balance the delivery of court services with the resources available. It was important that the Provincial Court of Newfoundland and Labrador maintain a quality service and to make the move seamless and transparent to citizens. Concerns initially raised by both the Town Council of Springdale and citizens were discussed with them. Subsequently, the Town of Springdale assisted the Court in finding new accommodations. The Springdale Court circuit appears to be working well.



VIDEO CONFERENCING

Happy Valley-Goose Bay “A Taste of Success”

At 8:30 a.m. on Tuesday morning January 12, 2005, the Court Administrator in Happy Valley-Goose Bay is checking her e-mail and notices a request for a video conference from the Crown Attorney’s office. The request stated that an accused person was in custody on the North Coast of Labrador and a bail hearing was being requested via video conference. A few months ago the Crown, in conjunction with the RCMP, would have had to arrange for the accused person to be flown to Happy Valley-Goose Bay via police plane or scheduled charter. If the accused was released after the bail hearing, then the Labrador Correctional Centre would be responsible for the cost of transporting the person back to his/her community. Depending on weather conditions, especially in the winter months, the accused person could be in Happy Valley-Goose Bay for up to a week or more and the Labrador Correctional Centre would have to seek accommodations (usually at the Labrador Friendship Centre) for the person. Airfare and accommodations can be quite costly in Labrador but because of video conferencing technology, that cost is no longer a concern.

The Court Administrator proceeds to go on-line to Smart Labrador, where she books the sites, parties involved, and time required. This is completed within a matter of minutes and e-mail notification to Crown and Defence confirming time and date.

Prior to vide conferencing and e-mails, numerous phone calls would be made. Before the court could schedule the actual court time, they would wait until the flight actually arrived. Once the RCMP arrived at the Court with the original Informations, Defence Counsel would require time to speak with their client. Oftentimes it would be too late in the day to start the bail hearing due to the late arrival of the flight, which meant the Judge would remand the accused until the next morning. No longer does the accused have to wait sometimes as much as three days or longer, depending on the weather conditions and flights, in order to appear before the judge.

To summarize, video conferencing has been working extremely well-especially for bail hearings, sentencings, and witness testimony. Video conferencing enables the accused to have his/her bail hearing in their home com-

munity and allows witnesses to give their testimony without leaving their hometown.

This technology has provided more timely access to the Courts, allowed the police officers to remain in the community where they are stationed, and proven to be a more effective use of resources in the criminal justice system.

From April 28, 2004, to March 31, 2005, 76 video conference hearings were scheduled. Ten were cancelled because the Crown no longer needed them and 6 were cancelled because no remote site was available or the equipment was not functioning.



Standing L/R: Judge W. English & Cora Hamel
Seated L/R: Judy Blake & Debbie Fillier

Video Conferencing Unit



WEEKEND & STATUTORY COURT

As of February 25, 2005, Provincial Court Judges are available on a 24/7 rotational basis to process applications for search warrants in Newfoundland and Labrador. This means that where it would be impracticable for a peace officer or social worker to appear personally before a Provincial Court Judge to acquire a search warrant, due to distance, an application can be made by some form of telecommunication, as authorized by law. In these instances, the applicant would first make telephone contact with the on-call Judge before faxing any documents in respect to the search warrant. The judge would then review the documents and render his/her decision.

The Provincial Court acquired 9 Polycom Soundstation EX telephones in 2004/05 in order to make weekend

court available in all areas of the province. Prior to this, weekend court was held only in St. John's. This meant that persons who were arrested in other locales around the province after 4:30 p.m. Friday did not have the opportunity to make their first court appearance until Monday morning. Usually, the arrested accused were brought before a fee-for-service Justice of the Peace who usually remanded them to Monday morning. Since February 2005 when a person is arrested during the weekend, he/she can appear within 24 hours of their arrest, via telephone before a Judge assigned weekend duty who may be stationed at either of the Provincial Court centres. All the paperwork associated with weekend court is processed at the St. John's court centre where a court clerk is permanently assigned weekend court hours.



Polycom Soundstation EX

A YEAR IN THE LIFE OF A CAPCJ PRESIDENT (2003-04 and then some)

by: Judge Robert Hyslop



It is difficult to believe that I am nearing the end of my term as Past President of the Canadian Association of Provincial Court Judges and will be leaving the Executive Table as of September 2005 when my good friend and colleague, Judge John Guy of Winnipeg will assume the Chair.

I had an eventful year as president. I was able to visit every provincial association except Prince Edward Island and Saskatchewan. The education programmes sponsored by local associations to improve the skills of provincial judges were most impressive. As might be expected, the larger provinces were able to present larger and more ambitious programmes. Both as President and as Past President, I represented the Association at the annual meetings of the Quebec Conference of Judges. This required public speaking in our other official language. I am happy to report that laughter occurred in all the appropriate places. The Quebec judges presented a comprehensive programme in 2003 on Judicial Ethics and in 2004 on the prospect of a unified trial courts. In the former session, Mr. Justice Louis Lebel of the Supreme Court of Canada was a guest speaker, and in the latter, Gilles Rémillard, a former Cabinet Minister spoke eloquently on the need for reform in the administration of justice in the province.

I worked hard to ensure that the National Association maintained good relations with external organizations such as the Canadian Bar Association. I headed the CAPCJ delegation to the Canadian Bar Association Conference in Winnipeg in August 2004, and met with the Federal Justice Minister, the Hon. Irwin Cotler in order to discuss matters of mutual concern. We responded to the call for help from the legal community issued by Stephen Lewis, the UN Special Envoy of the Secretary General for the control of AIDS. We assured Mr. Cotler that as a National Association of Judges, we were willing and able to assist those countries struggling to cope with this epidemic and that we are prepared to take whatever steps are necessary to assist in the establishment of courts and legal systems that honour and respect the Rule of Law in countries that have been ravaged by this plague.

We continued to work closely with the Canadian Council of Chief Judges and jointly proposed a legislative scheme that would (if implemented provincially) make it possible for provincial judges to enter into cross-Canada exchanges for period of up to two years. We are still working on uniform rules and procedures for Judicial Council hearings in order to eliminate disparity across the country.

The National Association was, unfortunately, put into the position where it was necessary to intervene in cases against the governments of Alberta and New Brunswick, which were heard before the Supreme Court of Canada in November 2004. This involved a considerable outlay of money, and I was pleased to see that our membership contributed generously above and beyond the payment of annual dues in order to fight for and preserve the independence of the judiciary. It is unfortunate that this effort had to take place. In the end, the judges of Ontario and the provincially-appointed judges in Quebec, as well as the Quebec Municipal Judges, found themselves before the Supreme Court at the same time that the New Brunswick and Alberta cases were heard. (These cases involved slightly different variants of the same questions involving judicial independence, and the duty of tribunals established to determine judicial compensation and benefits). For our Association, this case was most stressful and time consuming. It is unfortunate that the time, energy, and talent of so many had to be diverted to this enterprise. As of May 15, 2005, the decision has not been rendered by the Supreme Court. We are confident that it will be another milestone and that the efforts of so many will not have been in vain.

I formally relinquished my presidency to Chief Judge Heino Lilles of Whitehorse, the venue of our 2004 Conference in June of that year. Because of court commitments, President Lilles asked me to remain as Acting President until October 2004. Judge Lilles hosted an excellent conference in Whitehorse. The temperature averaged 40 degrees Celsius and the sun refused to set. The warmth of the days assured a high attendance at the education sessions as the conference room was the only air conditioned facility in the City! The theme of the

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conference was “Enhancing Judicial Skills in Cases of Domestic Violence and Abuse”. The education session was sponsored by the National Judicial Institute; Supreme Court and Queen’s Bench Justices from across the country were invited to join us. This resulted in a very collegial atmosphere and allowed an open dialogue with colleagues from all across the country at both trial levels in an area of the law that is common all across the country. We learned how to craft better and clearer court orders, about the need for early intervention with children affected by violence, and, were treated to an excellent presentation by Tom Mahoney of St. John’s (who works with the John Howard Society) about the dynamics of abusive relationships.

The course materials were excellent, and we presented a copy to Mr. Cotler when we met with him later in the year.

The next few weeks should see the publication and release of a paper written by Professor Peter McCormick (Lethbridge University) dealing with the question of judicial governance. This paper examines the history of the phenomenal growth in stature and importance of Provincial Courts all across Canada (in particular since 1970); and it examines the interfaces between governments and the courts, and between chief judges, governments, courts and judges’ associations. It presents a compelling history of the development of the provincial judiciary and points to the future. There has been very little academic writing in this area. This work has been made possible by funding from the Alberta and British Columbia Law Foundations. I have worked with our

Executive as both President and Past President, to see the completion of this project as it has been the subject of much debate and a project which has been outstanding for several years.

On another important note, the Canadian Judicial Council is now examining alternate models of administration of the Provincial Superior Courts and the Federal Court. Our Association has been asked to provide input into those deliberations. We welcome that opportunity and have nominated a Past President of CAPCJ (Justice Katie McGowan of London, Ontario) to work with the Council. The Canadian Council of Chief Judges has also been asked to participate and is represented by our colleague, Chief Justice Brian Lennox of Ontario.

After our CAPCJ 30th anniversary celebrations in 2003 in St. John’s, we decided to continue to update and consolidate our own archives. Judge Yvon Mercier of Quebec commenced this work and has now retired. Judge Cheryl Daniel of Calgary is now completing the task.

As Past President, I have represented the President at the Canadian Bar Mid-Winter Meeting in Charlottetown and represented the National Association in Quebec and New Brunswick.

Our Board met in Ottawa in May 2005 with Judge Lilles in the Chair, passed our new annual budget, and engaged a facilitator to assist with the preparation of a Strategic Plan and an organization of our priorities in order to better represent our members in the years to come.



COURT SECURITY

The Provincial Court Security Committee consists of seven members and is co-chaired by Louise Daley, Manager of Strategic Planning and Chris O'Neil of the Deputy Sheriff's Office, Manager of Court Security for the St. John's Provincial Court. Members include representatives from St. John's (Shelley Organ, Anne Donnelly, and Dayna Wicks), Happy Valley-Goose Bay (Judy Blake), and Corner Brook (Deborah Lemoine). The members from outside St. John's are

included via teleconference for quarterly meetings. One of the prime areas that the Committee is working towards is the delivery of court security training. In addition, the Committee reviews court security incidents which occur and the actions taken to respond. The Committee also reviews the bi-annual/court security audits, as well as identifies the need for new or revised court security policies.



*Deputy Sheriffs
Provincial Court - St. John's*

TRAINING

For the 2004/05 fiscal year, the Provincial Court collectively logged 292.5 training days. This represents a significant commitment to training on the part of the Provincial Court's management and employees. Training occurred during normal work periods and also during evenings and weekends. With a complement of 66 employees, that works out to an average of 4.4 training days per employee in 2004/05. Training covered a wide range of topics, for example: computer skill development, leadership training, caseload management, court finances, survey preparation, quality service, and pre-retirement planning. These examples are just an indication of the training which occurred. Opportunities

for training were delivered both in-house and through a number of other venues: the 5 West Learning Centre, Statistics Canada, Memorial University of Newfoundland and Labrador, and the Institute for Court Management. As the nature of court work becomes increasingly complex, business processes become more sophisticated, information demands increase, standards of service expectations are raised and court administration becomes more professionalized. The court will need to respond by ensuring staff and management are continually upgrading their skills sets to be able to perform at an appropriate level.

COURT MANAGEMENT PROGRAM Institute for Court Management National Centre of State Courts, Williamsburg, VA

In August of 2004 Treasury Board, through the 5 West Learning Development Centre, requested proposals from government departments for funding for strategic learning initiatives that fall outside the day-to-day training priorities, and that would help advance a Department's long-term strategy. As a result, Shelley Organ, Manager of Court Services, Eastern and Robert Mavin, Manager of Court Services, Western, began the Institute for Court Management's "Court Management Program" in February 2005.

The Court Management Program consists of two phases: Phase I includes seminars in Fundamentals of Caseload Management, Managing Human Resources, Managing Technology Resources and Technology Projects, Court Performance Standards, and Managing Courts Financial Resources. Phase II explores additional court management competencies and candidates apply knowledge, skills, and abilities acquired in Phase I during a week-long seminar. The seminar is built around the following

three areas and topics: Introduction to Leadership, Management Techniques, and Court Issues.

By the end of the 2004-2005 fiscal year, both Managers travelled to Nashville and Denver and each completed three of the five Phase I seminars. These seminars were very informative, and aside from the curriculum, the diversity and experiences of the participants proved to be very educational in itself. One lesson quickly learned was that Court Managers face the same challenges regardless where they work. It was also very obvious that managing courts is unlike managing government departments. The courses were specifically focused on management techniques in an environment where the judiciary is the third co-equal branch of government. ICM has developed their programs to meet the needs of the international courts as well as those in the United States.

The Honourable Judge Gerald Barnable



The following article was published in the magazine "Squid Pro Quo" by Pamela L. Taylor and is reprinted with permission.

On August 31, 2004, the Honourable Judge Gerald Barnable retired from the Provincial Court bench after a long and distinguished career. I recently had the pleasure of sitting down with Judge Barnable to reflect on his career and to discuss his plans for the future.

Judge Barnable was born in Renews in 1945. His father was Matthew Barnable, fisherman. Although they were a family of modest means, his mother, Margaret (Foley), always emphasized the importance of education. He also came from a community where education was stressed and where people were pushed and encouraged to pursue their goals. An additional stimulus for choosing education over the fishery was that he often suffered from seasickness when he went fishing with his father whilst growing up. He attended Memorial University of Newfoundland, where he received a Bachelor of Arts with a major in Social Work, and a Bachelor of Education with a major in English. He recalls with a smile that, in his family, he was not only a first generation university graduate, but also a first generation car owner!

Upon completion of his degrees, Judge Barnable embarked upon a career in education, first teaching school in his hometown of Renews, then Stephenville, and finally Petty Harbour. While teaching in Stephenville, he decided to pursue a Master's Degree in Folklore. He continued to teach while continuing his studies. During the time he was teaching in Petty Harbour, he noticed an advertisement wherein the government was seeking applications for the position of magistrate. He thought this might be interesting, so after some thought, decided to apply in 1974. He did have some previous exposure with the law at that point, having worked as a court reporter for The Daily News while attending university.

I asked him what prompted him to apply to be a magistrate. He noted that he was asked that same question during the interview for the position. Judge Barnable related that his answer at the time was that he had seen an advertisement in the paper the year previous to that for a fish plant manager in Peru and had been nearly as tempt-

ed to apply for that position. In essence, his motivation at the time was the opportunity to try something new.

Judge Barnable was appointed as a Magistrate in the fall of 1974. He was sworn in on January 2, 1975, at the age of 29. Three other magistrates were appointed at the same time as Judge Barnable; however, he was the most junior of the four because he delayed his swearing in ceremony in order to continue teaching for an additional two months. He recalls that, at the time, he was directing a play for his students entitled "For Every Man an Island". He did not want to leave them in the middle of preparation for the play. He was happy to relate that the play had a very successful run, selling out the local hall twice.

Upon being sworn in as Magistrate, Judge Barnable spent a period of time studying pertinent legal texts and observing other magistrates in court. He was transferred to St. Anthony in the fall of 1975. His wife Patricia (Murphy), and their first child accompanied him. He stayed in St. Anthony until the spring of 1976, when he was transferred to Stephenville. He remained in Stephenville for approximately three years. Judge Barnable left Stephenville in 1979 to attend law school at Dalhousie University. He returned to Newfoundland in 1982. He then articulated for a period of time with the Department of Justice. He was called to the bar in December 1983. Upon his call he was transferred to the Provincial Court in Placentia where he remained for 22 years. Although he had opportunities through the years to transfer to other districts, Judge Barnable and his wife felt it was important to put down roots and provide stability while raising their three children, Tara, Rory, and Michael.

I asked Judge Barnable what he was most proud of during his career. "After some reflection, he related that a member of the bar wrote him after his retirement thanking him for his time on the bench and noting that he was always impressed with the respect that Judge Barnable showed people that appeared before him. Judge Barnable stated that he always tried to treat people with respect and really listen to their concerns. To have that recognized is something of which he is extremely proud.

Outside of the courtroom, Judge Barnable has served as Treasurer of the Newfoundland Provincial Judges Association for four terms and as President for two terms. He served for a number of years on the executive of the Canadian Association of Provincial Court Judges

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and served as President of that organization from 1993-1994. He has served and continues to serve on the Project Daisy Committee, a committee of the Law Society of Newfoundland and Labrador that is dedicated to collecting and recovering information on the practice of law in the province. Together with Judge Owen Kennedy and Mr. Brian Casey, he has researched and published *Sentencing in Newfoundland*, a summary of sentencing case law in Newfoundland. He is also the author of *Under the Clock: A Legal History of the "Ancient Capital"*.

I asked Judge Barnable what his plans were now that he has retired. He related that he has always had a great love of reading, writing, and of studying history. For the last ten years he has been compiling notes on the history of magistrates in the province, which he intends to eventually publish. He has collected biographies on all of his predecessors dating back to 1729. He also enjoys traveling and is looking forward to doing so with his wife, Patricia.

The Honourable Judge James Igloliorte



James Igloliorte was born in Hopedale, Labrador, to Susie and Matthew on July 16, 1949. He attended the Moravian Mission School there until the completion of Grade Eight and afterwards like many coastal Labrador Inuit children, went on

to Yale School in NorthWest River.

Judge Igloliorte attended Memorial University in the fall of 1968 and completed a conjoint B.Sc.-B.Ed. degree in 1973, having married Linda Carter of Corner Brook in 1972. The couple taught in Lark Harbour, Bay of Islands from 1973-1980, where Judge Igloliorte was Vice-Principal during that period. Three children Gareth, Mark and Heather were born there.

In the summer of 1980, Judge Igloliorte was appointed a Lay Magistrate for Labrador and completed training with Chief Magistrate Clem Scott. In the spring of 1981 the family moved to permanent residence in Happy Valley-Goose Bay as the circuit Judge for the Provincial Court.

In 1982, the family moved to Dartmouth, Nova Scotia to fulfill the contractual arrangement of a Dalhousie Law School program in exchange for continued service in Labrador. The couple's fourth child, Justin, was born two weeks before the start of law School. Judge Igloliorte completed his LL.B. in 1985 and returned to Goose Bay in September.

In the summer of 1993, the family moved to take up duties in Corner Brook, where Judge Igloliorte's responsibilities extended into circuit work along the Northern Peninsula, St. George's Bay area and Burgeo. In 1996 Judge Igloliorte was seconded as a member of the Labrador Inuit Comprehensive Land Claims Agreement in St. John's. That term ended in the fall of 1997 and the family again took up duties in Goose Bay, Labrador.

In 2002, Judge Igloliorte moved back to St. John's to take part in the 3-person Royal Commission on Renewing and Strengthening Our Place in Canada. In the fall of 2003, Judge Igloliorte resumed duties in St. John's Provincial Court with specific circuit duties in the Province. That fall he made his intentions known to Chief Judge Reid that he would be retiring from the Provincial Court with accumulated early provincial pension time.

Judge Igloliorte retired from the Provincial Court at the end of July 2004 and shortly thereafter picked up a hobby with the Labrador Inuit Development Corporation. Apart from a brief stint as Child and Youth Advocate, Judge Igloliorte has remained with the Inuit corporation in the capacity of Office Manager.

Geraldine Smith (Court Administrator) Placentia



Geraldine Smith terminated her employment with the RCMP in Whitbourne in 1973 with all intentions of becoming a full-time happy homemaker. However, afterwards the desire for a career lured her back into the public service. Geraldine applied for and obtained the position of Clerk-Stenographer II (GS17) at the Magistrate's Office in Placentia. Her first day on the job was September 12, 1974.

On November 1, 1979, she was reclassified to a Court Officer I position (GS22) and was made Clerk of the Provincial Court at Placentia. Another reclassification on October 14, 1987 promoted her to a Court Officer II position (GS23) and on March 10, 1988 the

Classification Appeals Board further promoted her to a GS 32.

Geraldine attended the first training course for Clerks of the Court, which was held from November 26-29, 1979, at the Bay St. George College in Stephenville. Geraldine subsequently attended all the Court Officers' Conferences. Over the years she completed numerous training courses offered both by the employer as well as courses at the Placentia Campus of the College of the North Atlantic.

For 30 years, Geraldine faithfully fulfilled her duties to the Court and was a dedicated and industrious employee of the Provincial Court of Newfoundland and Labrador. Geraldine plans to spend a great part of her retirement visiting and enjoying her grandson Jack.



*Geraldine Smith, Judge Barnable, and Glenys Walters
Placentia Court*

Provincial Court of Newfoundland and Labrador Judges and Staff

<u>Chief Judge's Office</u> Chief Judge M. R. Reid Marilyn Warren	<u>St. John's</u> Judge J. A. Woodrow Judge W. Baker Judge G. Brown Judge R. Hyslop Judge D. Orr Judge D. Power Judge J. Rorke Judge L. Spracklin Judge R. Smith	Andrea Butt Christine Care Michelle Cook Anastasia Dunn Susie Fewer Gwen Halliday Darlene Haring Dolores Hutton Marlene Kenney Elaine Mayo Wendy Penney Pamela Penton Anne Power	Jackie Power Maureen Quinn Patricia Ricketts Jody Shea Patricia Sheehan Joanne Spurrell Cynthia Thorne Denise Wade Joanne Walsh Dayna Wicks Derek Wicks
<u>Court Services</u> Pamela Ryder Lahey Shelley Organ Bob Mavin (Cr. Brook) Louise Daley Anna Warford			

<u>Harbour Grace</u> Judge Colin Flynn Mary Butt Marilyn McGrath Shirley Hogan	<u>Corner Brook</u> Judge D.S. Luther Judge K. Howe Judge W. Gorman Bob Mavin Brenda Eldridge Erika Perry Diane Price Lynn Ruth Beverly Young Carolyn Hobbs Deborah Lemoine Suzan Hartley	<u>Stephenville</u> Judge Catherine Allen- Westby Bernice Brown Jennifer Dawson Agnes Kendall	<u>H.V. -Goose Bay</u> Judge Wm. English Judge Bruce Short Judy Blake Cora Hamel Lisa Winters Debbie Fillier
<u>Placentia</u> Glenys Walters		<u>Grand Falls-Windsor</u> Judge R. Whiffen Judge T. Chalker Florence Tucker Donna Antle Terry Harvey Katherine Oake Sandra Wheeler Mary Ann Rowsell Vicki Caravan	<u>Wabush</u> Linda Fitzgerald Paige Blake (P/T)
<u>Clareville</u> Judge Patrick Kennedy Corrine Avery Marilyn Avery Tonya Bishop	<u>Gander</u> Judge Gloria Harding Judge David Peddle Rita Pritchett Phoebe Broomfield Mary Rose Christine Jenkins Cindy Oldford		
<u>Grand Bank</u> Judge Harold Porter Greta Miller Lucy Dominaux Mildred Bennett			

APPENDIX

**Provincial Court of Newfoundland and Labrador
Ten Year Statistics**

Court	'98-99	'99-00	'00-01	'01-02	'02-03	'03-04	'04-05
Clarenville	2944	3695	3094	2599	2871	3596	3997
Corner Brook	8161	7273	7785	8085	7445	10476	9967
Gander	4594	7153	4028	4520	4801	4589	3838
Grand Bank	1795	2012	1774	2241	2569	2296	2802
Grand Falls-Windsor	2129	3115	3447	4178	4644	4511	3998
Happy Valley-Goose Bay	4939	4824	5972	7110	7049	7462	7358
Harbour Grace	2613	2720	2590	3017	4159	4342	4338
Placentia	1866	1959	2438	2042	1971	1866	1760
Springdale*	1414	1016	941	1099	981	1335	583
St. John's	40302	35979	40151	41633	42607	45397	48800
Stephenville	3834	4501	4151	4585	4210	4622	4240
Wabush	677	737	938	994	930	1020	1525
TOTAL	75268	74984	77309	82103	84237	91512	93206

**Total Appearances - Youth Court
FY 1998-2005**

Court	'98-99	'99-00	'00-01	'01-02	'02-03	'03-04	'04-05
Clarenville	472	414	365	358	412	299	427
Corner Brook	1720	1320	1266	1628	2171	1872	1856
Gander	679	778	840	1611	1055	1016	1122
Grand Bank	285	439	362	687	449	367	349
Grand Falls	998	921	1050	2226	1762	809	738
Happy Valley-Goose Bay	1482	1293	1527	1597	2067	1178	1480
Harbour Grace	598	583	627	619	650	1250	1033
Placentia	448	716	752	691	554	623	322
Springdale*	398	199	73	211	529	340	43
St. John's	6903	4883	7464	8020	8620	9646	7655
Stephenville	754	930	854	948	760	860	486
Wabush	424	263	328	241	225	84	118
TOTAL	15161	12739	15508	18837	19254	18344	15629

**Provincial Court of Newfoundland and Labrador
Ten Year Statistics**

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Clarenville	1995-96	1033	88	687	1501	50	0	1858
	1996-97	1002	212	613	1185	144	0	1971
	1997-98	885	131	247	1081	342	0	1605
	1998-99	920	191	195	402	142	0	1448
	1999-00	985	189	212	399	130	0	1516
	2000-01	826	88	297	340	127	0	1338
	2001-02	672	119	266	437	84	0	1141
	2002-03	557	73	241	387	92	0	963
	2003-04	747	99	182	451	45	30	1073
	2004-05		135	187	389	62	8	1338

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Corner Brook	1995-96	2146	589	1944	3825	451	0	5130
	1996-97	2156	864	1439	2319	830	0	5289
	1997-98	2238	708	1103	776	910	0	4959
	1998-99	2442	646	644	1053	1570	0	5302
	1999-00	1844	405	506	616	1466	0	4221
	2000-01	2138	437	488	735	1490	0	4553
	2001-02	1941	479	358	1296	1421	0	4199
	2002-03	1780	520	290	936	1237	0	3827
	2003-04	2213	446	361	1215	538	517	3558
	2004-05	2069	531	176	860	358	460	3134

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Gander	1995-96	1796	371	797	1299	65	0	3029
	1996-97	1296	312	651	1512	144	0	2403
	1997-98	1152	275	395	734	234	0	2056
	1998-99	1199	235	390	698	273	0	2097
	1999-00	1242	238	222	374	225	0	1927
	2000-01	1119	185	252	574	226	0	1782
	2001-02	1022	297	218	851	238	0	1775
	2002-03	1160	314	197	824	381	0	2052
	2003-04	1053	337	235	879	218	149	1843
	2004-05	952	215	104	393	202	120	1473

**Provincial Court of Newfoundland and Labrador
Ten Year Statistics**

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Grand Bank	1995-96	1265	113	318	469	71	0	1767
	1996-97	832	127	211	417	66	0	1236
	1997-98	764	151	134	229	250	0	1299
	1998-99	778	146	123	228	186	0	1233
	1999-00	699	192	141	225	73	0	1105
	2000-01	680	155	75	173	111	0	1021
	2001-02	657	232	83	232	126	0	1098
	2002-03	979	235	111	289	129	0	1454
	2003-04	869	137	88	197	57	72	1151
	2004-05	849	144	45	167	84	38	1122

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
H.V. Goose Bay	1995-96	1382	580	296	708	85	0	2343
	1996-97	1393	704	150	495	131	0	2378
	1997-98	1432	624	112	183	191	0	2359
	1998-99	1624	488	148	190	194	0	2454
	1999-00	1503	408	103	172	187	0	2201
	2000-01	1512	451	107	180	214	0	2284
	2001-02	1954	368	305	143	316	0	2943
	2002-03	1811	529	150	312	286	0	2776
	2003-04	1999	350	79	188	100	69	2528
	2004-05	1835	467	62	145	237	112	2601

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Harbour Grace	1995-96	940	202	400	789	53	0	1595
	1996-97	1020	157	432	839	102	0	1711
	1997-98	931	263	268	237	242	0	1704
	1998-99	913	224	262	167	192	0	1591
	1999-00	1012	253	245	130	151	0	1661
	2000-01	814	164	193	233	129	0	1300
	2001-02	680	196	203	277	115	0	1194
	2002-03	797	185	213	321	174	0	1369
	2003-04	883	290	187	319	91	43	1451
	2004-05	1018	285	92	213	99	58	1494

**Provincial Court of Newfoundland and Labrador
Ten Year Statistics**

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Placentia	1995-96	713	122	108	84	56	0	999
	1996-97	668	124	63	103	93	0	948
	1997-98	735	165	27	26	124	0	1051
	1998-99	709	198	31	42	70	0	1008
	1999-00	726	196	32	43	57	0	1011
	2000-01	790	202	45	58	77	0	1114
	2001-02	614	234	33	91	59	0	940
	2002-03	532	210	31	63	48	0	821
	2003-04	526	200	52	114	9	26	787
	2004-05	589	118	22	36	16	9	745

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Springdale	1995-96	473	165	1243	1618	56	0	1937
	1996-97	544	117	1246	1892	170	0	2077
	1997-98	407	131	694	1588	241	0	1473
	1998-99	363	142	739	1968	185	0	1429
	1999-00	325	75	379	1409	179	0	958
	2000-01	315	28	690	1640	148	0	1181
	2001-02	342	79	656	1992	215	0	1292
	2002-03	203	92	581	2172	178	0	1054
	2003-04	300	94	685	2264	32	42	1111
	2004-05	90	20	83	255	18	12	211

**Provincial Court of Newfoundland and Labrador
Ten Year Statistics**

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Grand Falls-Windsor	1995-96	1451	320	0	55	0	0	1771
	1996-97	1233	426	0	154	0	0	1659
	1997-98	957	279	0	79	0	0	1236
	1998-99	739	313	0	132	0	0	1052
	1999-00	874	361	0	116	0	0	1235
	2000-01	745	266	0	184	0	0	1011
	2001-02	1108	573	7	92	0	0	1688
	2002-03	1011	467	0	73	0	0	1551
	2003-04	1096	254	29	59	169	51	1548
	2004-05	1099	224	147	492	172	114	1642

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
St. John's	1995-96	10653	2089	4081	3587	0	0	16823
	1996-97	8950	3139	4833	5920	0	0	16922
	1997-98	8925	1868	3205	4056	0	0	13998
	1998-99	10078	2231	2571	3759	7	0	14887
	1999-00	7906	1574	2209	3025	2	0	11691
	2000-01	7885	1869	1927	3050	0	0	11681
	2001-02	8532	2254	1605	4403	0	0	12391
	2002-03	8278	2427	1741	4904	0	0	12446
	2003-04	9319	2496	1545	4616	0	0	13360
	2004-05	8430	2135	865	3003	0	0	11430

Court	Fiscal Year	Adult	Youth	Civil New	Civil Follow-up	Family* New	Family Concluded	TOTAL
Wabush	1995-96	376	203	451	577	50	0	1080
	1996-97	370	142	41	54	19	0	572
	1997-98	326	130	175	42	52	0	683
	1998-99	190	163	163	34	67	0	583
	1999-00	268	111	136	60	93	0	608
	2000-01	242	93	93	108	84	0	512
	2001-02	268	68	321	210	95	0	752
	2002-03	295	85	223	424	147	0	750
	2003-04	295	25	80	161	41	14	441
	2004-05	354	74	26	127	118	22	572