

Report on the Results of a Survey of Canadian Judges Concerning Technology in Judging Conducted by the Canadian Institute for the Administration of Justice and Athabasca University in 2022

Table of Contents

INTRODUCTION	3
KEY FINDINGS	3
METHODOLOGY.....	4
RESULTS AND ANALYSIS	4
Information on Respondent Judges	4
Results	5
Capacity, Use, and Support.....	5
Use of Technology in Work.....	5
Quality of Technology and Support	5
Technology Use by Lawyers and Litigants.....	6
Effects of Technology on Fairness and Access to Justice	6
Analysis of Factors.....	7
FACTOR 1: LEVEL OF COURT	7
Finding I:.....	7
Finding II:.....	8
Finding III:.....	10
Finding IV:.....	10
Finding V:.....	12
Finding VI:.....	13
Finding VII:.....	15

Finding VIII:	16
Finding IX:.....	17
Finding X:.....	17
FACTOR 2: CASELOAD.....	18
Finding I:.....	18
Finding II:.....	19
Finding III:.....	19
Finding IV:.....	20
Finding V:.....	21
Finding VI:.....	24
Finding VII:.....	25
FACTOR 3: CIRCUIT COURTS	26
Finding I:.....	26
Finding II:.....	27
Finding III:.....	28
FACTOR 4: TIME ON THE BENCH.....	29
Finding I:.....	29
Finding II:.....	29
FACTOR 5: GENDER IDENTITY.....	30
Finding I:.....	30
Finding II:.....	31
Finding III:.....	31
Finding IV:.....	31

INTRODUCTION

Judges around the world must grapple with technological change and its impact on their role and the judicial sector, which has only been emphasised by COVID-19. As jurisdictions across the globe adopt technologies in different ways, transnational collaborative research projects are necessary to understand the impact of that technology upon the administration of justice.

The following report details the results of the Canadian component of an international survey of judges led by the University of Newcastle, Australia and conducted by scholars from several other countries including Ireland, the UK, and New Zealand. The purpose of the research is to have an informed understanding of the role of technology in the work of the judiciary. The goal of the survey was to gather information on the experiences of judges working with digital technology, how digital technology may impact their roles as adjudicators, and the attitudes of judges towards digital technology.

Findings from this and similar surveys may help in the allocation of government resources, as the justice sector becomes invested with more and more technology. Further, pinpointing the sectors of the justice system that need the most support could speak to how to deploy digital technology in such a way as to maximally reduce the barriers the public faces in resolving their legal disputes in court.

KEY FINDINGS

The data gathered from the survey speaks to two overall results categories: (1) capacity, use, and support of judges in their use of technology; and (2) judges' opinions on the effects of the technology at their disposal on fair hearings and access to justice. Within these two larger categories, we identified five factors that appear to influence how technology is used by the judicial sector: the level of court, the caseload type, the circuit court designation, the length of time a judge has been serving on the bench, and the gender identity of the judge.

Taken together, the survey results reveal that the participating judges found that the digital technology at their disposal did have a positive impact on access to justice. However, some disparities in technological capacity, use, and support of judges between higher- and lower-level courts were reported. Higher court judges evaluated the IT support available when working in court more favorably than did those in lower courts. Lower court judges were less convinced that their courts were making the best use of technology. Judges with criminal caseloads were less convinced that remote hearings led to fair outcomes.

Further, judges in circuit courts reported more technical difficulties experienced by parties, lower morale of staff, and poorer internet access when working remotely. Judges with more experience on the bench were more skeptical that judges would be replaced by artificial intelligence and did not consider more change in the judiciary to be needed.

Finally, the data suggests differing opinions between male and female judges about technology performance, remote hearings leading to fair outcomes, and change in the judiciary.

Note that these findings are only indicative of trends the data gathered does not allow rigorous statistical analysis.

METHODOLOGY

The survey was conducted by the presentation of a bilingual online questionnaire addressed to judges at all levels across Canada. The CIAJ brought it to the attention of judges, and it was opened for response in April 2022 and closed in December 2022. Response data was accumulated by the University of Newcastle and supplied to the Canadian researchers.

RESULTS AND ANALYSIS

Information on Respondent Judges

There were 115 Canadian respondent judges. Not all judges completed each question in the survey. Amongst the respondents, several levels of courts were represented: 43% of respondents being from intermediate or second level courts, 37% from first instance courts, and most of the remainder from higher or third instance court levels. The great majority of these judges worked full time in that role.

Most of the respondents (57%) stated that their caseload comprised a mix of civil and criminal matters, followed by those who dealt mostly with criminal cases (11%), and an equal number dealing mainly with civil matters.

A slightly smaller number of respondents reported their gender as female (46%) compared to male (54%). The largest age group represented was those between the ages of 55–59 (24%), followed by those 70 or over (16%), and then respondents between 50–54 years (15%). In terms of experience on the bench, 25% of respondents reported having been a judge between 4 and 7 years, 23% had 8 to 12 years, experience, and 21% had less than 4 years, experience on the bench.

Results

As mentioned above, the survey yielded two clear result categories: (1) data on the opinion of the judge's capacity, use, and support of the technology at their disposal; and (2) judges' opinions concerning the effects of the technology at their disposal on fair hearings and access to justice. The former category is broken down into three subcategories of: (a) use of technology in work, (b) quality of technology and support, and (c) technology used by lawyers and litigants.

Capacity, Use, and Support

Use of Technology in Work

Almost equal numbers of respondents (close to 20%) reported using these technologies in their work: computer use to prepare decisions; remote video conferencing; and online legal databases, followed by audio playback at 16%. Much smaller numbers used case management or electronic trial systems (9% for each). When asked about the technology their judicial colleagues used, the results were much the same. A substantial number of respondents (44%) stated that technology helped in creating template decisions, and some (13%) reported the use of technology in "nudging," altering, or correcting judgments.

Quality of Technology and Support

During the COVID pandemic, 42% of respondents went to the courthouse most or all the time when there were lockdowns. Another 45% stated they attended occasionally at those times. Almost all respondent judges (97%) had participated in remote trials or hearings using video-conferencing technology in the past five years.

Respondent judges were not overly impressed with the quality of technology available in their courts, most of them rating it between "good" and "adequate" and rating the IT support only "adequate." However, a majority (57%) rated the standard of equipment provided to them personally in court as "good" or "excellent." That number dropped somewhat when evaluating the equipment they used for remote work. The poorest ratings were for judges' Internet access in court and equipment used in trials.

The standard of IT equipment for use in trials was rated as "poor" by 20% of respondents, while only 4% considered it "excellent." Respondents' assessment of the usability of a case management system, its availability, and the quality of training on it was markedly lower, tending to a "poor" rating. A sizeable number of respondents (42%) reported that a case management system either was not available, or they did not know about it.

IT support in court was rated as "poor" by 24% of the judges, but 42% considered it "good" or "excellent." When working remotely, IT support was evaluated as "poor" by 37% of respondents.

Judges were divided concerning their satisfaction with the extent and quality of training related to technology used in their work. Although most respondents were “satisfied” or “completely satisfied” with such training, over 40% reported that it “could be better” or that they “were not satisfied at all.” Concerning the time available to take technology training, 55% of respondents chose “could be better” or “not satisfied at all.” The most popular areas where training would be welcomed were “hands-on training using IT in court,” “understanding how artificial intelligence can impact judicial work,” and “conducting remote hearings.”

The amount of administrative support available to judges when working with technology at court was rated as “adequate,” while its quality was considered to be between “good” and “adequate.” Ratings of this support when working remotely were slightly lower.

Finally, internet access and Wi-Fi was reported to be available in most courts for judges and others.

Technology Use by Lawyers and Litigants

Regarding technology use by litigants and lawyers, respondents reported that, to the best of their knowledge, it was used mainly for the following purposes: lodging claims or other documents; finding out and understanding the next step in a case; advocating and advising; and understanding what happens in a trial or hearing. A large majority of the judges (79%) stated they believed parties experience difficulties using remote services provided by their courts. The causes of such problems were identified as “quality of audio-visual technology” (31%), “difficulty accessing technologies for remote access” (28%), “availability of audio-visual technology” (21%), and “complication of court processes when accessed remotely” (15%).

Almost all judges reported they had court and remote access to online legal databases and were satisfied that they met their needs.

Effects of Technology on Fairness and Access to Justice

A majority (60%) of respondents thought that video conferencing technology performs “well” or “very well” for the purpose of remote hearings and that it supports fair outcomes. However, about the same number stated that they would prefer a mixture of in-person and online proceedings.

There was strong agreement amongst respondents that increased use of digital technology in the judicial system has had a positive impact on access to justice. The most important factors affecting the impact of technology on access to justice were: quality of Internet access for the public, digital literacy of lawyers, digital literacy of litigants, and availability of internet and audio-video technology.

Analysis of Factors

Although the data does not permit statistically significant correlations to be identified, analysis of key demographic and other variables revealed some interesting trends, which we identify as factors contributing to the judges' answers regarding the effect of technology on the judicial sector. The five factors were: (1) the level of court, (2) the caseload type, (3) the circuit court designation, (4) the length of time a judge has been serving on the bench, and (5) the gender identity of the judge.

The following sections provide detail on the five factors. Each factor is broken down by one or several findings from the responses to the question associated with the factor. We have provided selected additional written comments by the respondents to some of the questions. Many comments were received, and the following excerpts were chosen based on their representativeness of other comments, thoughtful insights, and suggestions, and to illustrate the range of opinion.

FACTOR 1: LEVEL OF COURT

Finding I:

Higher courts evaluated the IT support available when working in court more favorably than did lower courts.

Question:

Q11—IT support when working in your court building (i.e., access to technical support).

	Excellent	Good	Adequate	Poor
Lower Court or First Instance Judge	5.3%	26.3%	34.2%	34.2%
Intermediate Court or Second Instance Judge	16.7%	23.8%	42.9%	16.7%
Higher Court or Third Instance Judge	31.3%	25.0%	18.8%	25.0%

Comments:

- (1) *We have an allowance that we can use to purchase hardware, software and internet for remote work. I am therefore able to purchase the best equipment, software and IT*

- speeds for remote work. The Court IT had, until recently, supported this hardware but has recently stopped and will therefore not assist with installing necessary software to facilitate remote work on hardware purchased with this allowance. This will require me to use the court provided hardware which is inferior and cause delay and slower and speeds. This is very frustrating to have an allowance to purchase hardware to use at home but then not have the IT support to use it.*
- (2) *The IT support is available, it is just difficult sometimes to know where to go to get it.*
 - (3) *We have almost no IT support. There is also no administrative leadership whose job it is to proactively plan and ensure we have useful equipment and e-systems. The government is reactive and slow at best. Our Chief Justice's legal staff do some of it. But they are lawyers and not administrators with access to funds. So they can coordinate between use and the reluctant civil service.*
 - (4) *I worked as a sole practitioner prior to my appointment, which compelled me to be my own IT support. I brought those skills with me to the court.*
 - (5) *We have excellent IT services that are court employees, not government employees to sustain independence.*
 - (6) *Covid forced rapid and unplanned deployment of electronic resources and ways of conducting hearings. Our I.T. infrastructure did a remarkable job of coping and the government was prepared to spend the necessary funds. What this will look like in 2 years is dependent on a number of factors.*
 - (7) *Some of our circuit courts have no internet access in the courtroom and limited hard-wired access only in Chambers. This is a significant obstacle to sitting when on those assignments. Whenever there are changes in hardware it takes months or years for the hardwired changes to be made to allow chambers access in circuit. There is no onsite support—IT resources only work remotely so any upgrade requiring a physical installation are rarely if ever done.*
 - (8) *We are very fortunate in our Court to have top-notch technical support. We, as an appellate Court, have also been a leader in the use of electronic filing and the use of virtual hearings during the pandemic.*

Finding II:

Case management systems seem more prevalent and adequate in higher courts.

Question:

Q13—Usability of the electronic case management system.

	Excellent	Good	Adequate	Poor	Does not exist or do not know
Lower Court or First Instance Judge	7.9%	5.3%	23.7%	10.5%	52.6%
Intermediate Court or Second Instance Judge	2.5%	12.5%	30.0%	15.0%	40.0%
Higher Court or Third Instance Judge	13.3%	26.7%	33.3%		26.7%

Comments:

- (1) *Case record systems and case management systems would improve our work immensely. The technology and software exist now but is only being explored by our court. One of the biggest hurdles to our efficiency and effectiveness is not having access to the court file and filed materials. We are a paper based system and it simply is inefficient and does not provide access to the materials required to perform the role effectively.*
- (2) *[We will be more efficient and effective] When our jurisdiction is given access to proper e-filing and case management software.*
- (3) *Improvements in case management software, voice recognition, and the availability of digital case records will enhance ability to manage cases.*
- (4) *Better case management tech would help me be more efficient. Online access to full case files electronically would also help.*
- (5) *[We will be more efficient and effective] Once we get scheduling software and user-friendly access to files and case management tracking. Software the hours and hours per week I spend on administrative, secretarial, and inputting functions that take me away from deciding and writing cases.*
- (6) *Our court is slowly moving towards the adoption of an end-to-end case management system that will improve access to court records.*
- (7) *I know I am not using the case management system as well/efficiently as I could—I don't know the tricks, but no time to train/learn. Just jumped in and two years later, still coping. Same goes for even basic things like using ADOBE remotely.*
- (8) *Our Court is starting a electronic management system due to the pandemic. It is not great and has not been rolled out to all areas. A work in progress.*

Finding III:

Judges in higher courts appear to use more technology to assist their judging.

Question:

Q9—Number of Technologies Used

	0	1 tech	2 tech	3 tech
Lower Court or First Instance Judge	57.5%	30.0%	10.0%	2.5%
Intermediate Court or Second Instance Judge	63.0%	28.3%	8.7%	
Higher Court or Third Instance Judge	38.9%	50.0%	11.1%	

Finding IV:

All levels of court report that technology has had a positive impact on access to justice.

Question:

Q29—What impact has the increased use of digital technology in your judicial system had on access to justice?

	Positive	Negative	No impact
Lower Court or First Instance Judge	80.0%	5.7%	14.3%
Intermediate Court or Second Instance Judge	80.6%	16.7%	2.8%
Higher Court or Third Instance Judge	93.3%	6.7%	

Comments:

- (1) This was difficult to answer as my specific answer would be that our current use of the digital technology has had positive and negative results which have likely balanced each other out. Our only use of digital technology has been to have online hearings after the pandemic started. Parties have had to file their materials through a general email*

address. Clerks then print the materials, put them on the file and the materials are uploaded for the specific day that there is a hearing. There have been significant delays, to the point where materials submitted for filing are not filed or available to the judge for the hearing. The positive of online hearings is that it reduces the need for the public to travel to the judicial centre to attend for an interlocutory matter. This may mean not having to miss an entire day of work. The negative has been that many self represented litigants do not have the technology or capacity to use it effectively. They also do not treat the hearing with the same level of respect they would if at the courthouse. People have been able to participate when they were unable to leave their homes and absent a virtual appearance would not have had their day in court.

- (2) This [remote hearings] can reduce costs and avoid important witnesses being missed. Opportunities for legal research are much better, especially from home. Documentary evidence can be searched more efficiently, which is good as long as the searching does not distort the reading of the document as a whole thing. Digitized sound can be a big help for parties who cannot hear well. Access to metadata can show much about electronic records.*
- (3) I sit in an area where transportation is poor and there are great distances to get to some court locations. Remote hearings or court attendances have allowed more people to attend court at a fraction of the cost and with in many cases better accessibility to the court system.*
- (4) I think it helps level the playing field for self represented litigants; also it has enhanced access for parties outside of the major centres.*
- (5) Easy access to all decisions and exponential ability to locate the most relevant decisions. [In French, in the original: Accès facile à toutes les décisions et capacité exponentielle de localiser les décisions les plus pertinentes.]*
- (6) We live and work in a smaller urban centre, and our circuit courts are in remote areas. Technology allows us to be connected to our different Court centres and not be subject to weather, lack of resources etc. It also gives us easy access to reference materials, continuing education etc. that would otherwise require us to travel to access.*
- (7) Massively positive. It is the first real step to decrease cost since the Supreme Court of Canada identified cost and delay as preventing the majority of Canadians from having access to civil justice in 2014. While some litigants find it challenging, there are always people who need help whether with or without technology. Because we are older as a cohort and we had resources at our law firms, I think most judges in Canada grossly under-estimate how computer literate most regular Canadians are. It is much harder for us to get used to using tech than for the public. We are more cloistered and undertrained.*

- (8) *Lots of people have followed my Zoom trials who never would have had the time or opportunity to attend the court in person. Some might have been fearful to come, especially witnesses.*
- (9) *The witnesses can testify remotely, the lawyers can plead remotely. All this reduces costs. [In French, in the original: Le témoin peut témoigner à distance, l'avocat peut plaider à distance. Tout cela diminue les coûts.]*
- (10) *For both sophisticated self-represented parties and represented parties, I think that it has the potential and can facilitate access to justice, particularly in remote communities, a convenient time so party doesn't lose a whole day of work for a one hour attendance, etc. But not everyone has access. I think courts should provide zoom rooms and computers for those without access.*
- (11) *It is easier for litigants to access substantive decisions, understand procedures and participate in hearings without having to incur the costs of travel.*
- (12) *Negative—The advent of digital technology gives a mixed effect. It distances citizens from the decision makers, but in some circumstances allows for access without having travel or work loss concerns. If you had a 50/50 answer, I would have selected that one.*
- (13) *There has been improved access through use of remote and hybrid hearings but there have also been problems, for example “zoom bombing” and inappropriate use of court proceedings streamed on the internet. At the same time there has been a reduction of public access because despite our commitment to the open court principle, it is not always easy to access remote hearings and extremely difficult at present for the public or the media to access court files. Also use of technology and access to technology is uneven amongst lower income groups, persons suffering from disabilities and other factors such as the geographical availability of reliable internet services.*
- (14) *The impact is neutral. Savvy litigants enjoy the efficiency of digital technology, but marginalized litigants and complainants are more excluded from the process, often leaving the outcomes of these proceedings as meaningless to them (leading to more failures to appear or participate in court proceedings).*
- (15) *Technology is a convenience. I would not equate it to “access to justice” any more than I would equate faster elevator service in the courthouse to “access to justice”.*

Finding V:

Lower court judges were less convinced that their courts were making the best use of technology.

Question:

Q31—Do you think that your court’s current use of technology in the court process is the best use of that technology?

	Yes	No
Lower Court or First Instance Judge	14.7%	85.3%
Intermediate Court or Second Instance Judge	24.3%	75.7%
Higher Court or Third Instance Judge	64.3%	35.7%

Finding VI:

All court levels agreed that technology could improve their efficiency.

Question:

Q32—The existing court process could be made more efficient with the best use of technology.

	Strongly Disagree	Not sure	Agree	Strongly Agree
Lower Court or First Instance Judge	3.7%	3.7%	44.4%	48.1%
Intermediate Court or Second Instance Judge	6.9%		51.7%	41.4%
Higher Court or Third Instance Judge	16.7%		50.0%	33.3%

Comments:

- (1) Absolutely. Case record systems and case management systems would improve our work immensely. The technology and software exists now but is only being explored by our court. One of the biggest hurdles to our efficiency and effectiveness is not having access to the court file and filed materials. We are a paper based system and it simply is inefficient and does not provide access to the materials required to perform the role effectively.*

- (2) *We will be able to handle more matters remotely which will provide greater flexibility for the court and litigants. The eventual creation of e-filing and online document management will render the preparation for court and decisions far more efficient.*
- (3) *Maybe—There are technologies that could make our work more efficient, but I question whether there will be budget available. If only the bare minimum of technologies is adopted, then in many ways, they make our work less efficient. I can process a paper divorce or will much faster than the way we are doing it online now, which involves slow opening and moving in the document, an inability to sign in the program such that we have to download, save and sign elsewhere, upload, etc.*
- (4) *Paperless files, access to databases, judgment writing support will help the judge. [In French, in the original: Dossiers sans papier, accès aux bases de données, support à la rédaction des jugements aideront le juge.]*
- (5) *No—The technology we had ten years ago was adequate, if properly implemented with the right hardware, to accommodate the needs for virtual appearances.*
- (6) *Adoption of knowledge management practices and software in Chambers would streamline research and writing and increase consistency where appropriate.*
- (7) *Need to be able to chair hybrid hearings to accommodate people with special needs. [In French, in the original: Besoin de pouvoir présider des audiences hybrides pour accommoder des gens ayant des besoins particuliers.]*
- (8) *Having access to the entire Court file without having to chase paper makes my job easier and more efficient. Videoconferencing assists counsel to juggle multiple demands by reducing their travel time and permitting them to multi-task while waiting for their turn—I find that this helps Court to run on time.*
- (9) *No—The most difficult and time consuming aspect of the work is the analysis required to explain the reasons for a decision. This requires a human brain.*
- (10) *I anticipate that technology will continue to enhance the ease of access to critical materials, but not replace analysis.*
- (11) *No—I consider the best result is obtained by communication in person with people, and the computers now are sufficient to produce decision. My work, in essence, is people driven work.*
- (12) *No—Law is a human enterprise. Artificial intelligence takes the human aspect out of the legal system.*

- (13) *Initially the forced adoption of technology during Covid has made judges less efficient because they have been forced to attend to tasks that would have been done by clerical staff in the physical court room and because they have had to learn new unfamiliar skills and perhaps because we continue to replicate traditional methods of dealing with paper. Over time we will standardize processes, develop new roles and skills for court staff and some tasks will be delegated to software or become automated.*
- (14) *COVID has demonstrated pre-trial and case management matters can be managed effectively with technology. I remain unconvinced that technology has yet evolved to make trial and sentencing matters more effective. However I anticipate there will be developments that address my concerns over time.*
- (15) *Maybe—Technology may be able to assist in some aspects of my work (e.g., research), but it will be a grave mistake for people to think that technology is an answer to all problems. As a colleague once said to me: if you think technology is going to solve all your problems, you do not understand technology and you do not understand your problems.*
- (16) *The decorum and gravitas of the courtroom are important however so is physical access to justice. In remote areas, both witnesses and interested community people will have the ability to access proceedings virtually. Technology will only improve in time which opens up future ways to increase access to justice.*

Finding VII:

More of the higher court judges considered that their work had changed completely. This may be because in many cases these judges have been on the bench longer.

Question:

Q39— To what extent do you feel that your work as a judge has changed since you were first appointed as a judge?

	It has not changed at all	There has been some change that affects me	There has been a large amount of change	It has changed completely
Lower Court or First Instance Judge	11.8%	41.2%	44.1%	2.9%

Intermediate Court or Second Instance Judge	2.8%	41.7%	44.4%	11.1%
Higher Court or Third Instance Judge	6.7%	13.3%	66.7%	13.3%

Finding VIII:

Perhaps as a corollary, fewer higher court judges agreed that more change is needed.

Question:

Q40— More change is still needed in the judiciary.

	Strongly disagree	Disagree	Not sure	Agree	Strongly agree
Lower Court or First Instance Judge	2.9%	5.9%	8.8%	55.9%	26.5%
Intermediate Court or Second Instance Judge			19.4%	47.2%	33.3%
Higher Court or Third Instance Judge		26.7%	20.0%	33.3%	20.0%

Comments:

- (1) *Some judges do not embrace technology, which creates an impediment for a court to go fully digital. Making good use of technology should be a requirement for new judicial appointees.*
- (2) *I have zero interest in AI. It would be a terrible development for humanity.*
- (3) *I was appointed just as the pandemic was starting, so I cannot comment on what things were like before the pandemic. I do know that there has been exponential change in a very short period of time, even relative to what was going on when I started.*

- (4) *Once we get the right software and support, life should improve. But I don't know if that is likely to ever happen. There is no political will to fund civil courts or court in general in a country that devotes most of its public resources to free health care.*
- (5) *Remote hearings have downloaded a tremendous amount of work on judges, with no admin support.*
- (6) *High quality software exists that should be used in our court. Now, it is just one big virtual "paper chase" that has left lawyers and the public confused and upset. Judge and lawyers are expected to do everything twice due to inadequate software.*
- (7) *Due to lack of training I believe some of my judicial colleagues are at the breaking point with technology developments. I have managed the changes.*

Finding IX:

And more higher court judges considered that change had brought judges to the breaking point.

Question:

Q40—The amount of change in recent years has brought judges to breaking point.

	Strongly disagree	Disagree	Not sure	Agree	Strongly agree
Lower Court or First Instance Judge		41.2%	23.5%	26.5%	8.8%
Intermediate Court or Second Instance Judge	5.6%	25.0%	25.0%	25.0%	19.4%
Higher Court or Third Instance Judge	6.7%	33.3%		26.7%	33.3%

Finding X:

A larger proportion of judges at higher court levels were concerned about reduction in face-to-face hearings. This is somewhat surprising since such courts do not usually hear witnesses.

Question:

Q41—Reduction in face-to-face hearings.

	Not concerned at all	Only slightly concerned	Not sure	Somewhat concerned	Extremely concerned
Lower Court or First Instance Judge	9.1%	18.2%	18.2%	24.2%	30.3%
Intermediate Court or Second Instance Judge	11.4%	22.9%	14.3%	25.7%	25.7%
Higher Court or Third Instance Judge		21.4%	7.1%	42.9%	28.6%

FACTOR 2: CASELOAD

Finding I:

It should be noted that the lower courts have the highest proportion of criminal cases.

Question:

Q8—Caseload Character

	Mostly Criminal	Mostly Civil	Civil-Criminal Mix	Administrative and Other
Lower Court or First Instance Judge	23.1%	23.1%	41.0%	12.8%
Intermediate Court or Second Instance Judge	8.7%	19.6%	60.9%	10.9%
Higher Court or Third Instance Judge	11.1%	5.6%	77.8%	5.6%

Finding II:

Judges in courts with a larger criminal caseload evaluated IT support in court less highly.

Question:

Q11—IT support when working in your court building (i.e., access to technical support).

			Excellent	Good	Adequate	Poor
Caseload Character	Mostly Criminal	Count	0	4	3	7
		% within Caseload Character	0.0%	28.6%	21.4%	50.0%
	Mostly Civil	Count	0	1	11	3
		% within Caseload Character	0.0%	6.7%	73.3%	20.0%
	Civil-Criminal Mix	Count	13	16	15	10
		% within Caseload Character	24.1%	29.6%	27.8%	18.5%
	Administrative and Other	Count	2	4	3	3
		% within Caseload Character	16.7%	33.3%	25.0%	25.0%

Finding III:

And they rated it even lower when working remotely.

Question:

Q11—IT support when working remotely (i.e., access to technical support).

			Excellent	Good	Adequate	Poor	Do not have
Caseload Character	Mostly Criminal	Count	0	1	4	8	1
		% within Caseload Character	0.0%	7.1%	28.6%	57.1%	7.1%
	Mostly Civil	Count	0	1	7	6	0
		% within Caseload Character	0.0%	7.1%	50.0%	42.9%	0.0%
	Civil-Criminal Mix	Count	8	13	15	17	1
		% within Caseload Character	14.8%	24.1%	27.8%	31.5%	1.9%
	Administrative and Other	Count	2	4	2	4	0

Finding IV:

Judges with criminal caseloads seemed relatively satisfied with the performance of videoconferencing for hearings compared to judges with other caseloads.

Question:

Q15—How well do you think that videoconferencing technology performs for the purpose of fully or partially remote hearings?

			Very well	Well	Average	Poor	Very poor
Caseload Character	Mostly Criminal	Count	1	6	5	1	1
		% within Caseload Character	7.1%	42.9%	35.7%	7.1%	7.1%
	Mostly Civil	Count	2	9	1	3	0

	% within Caseload Character	13.3%	60.0%	6.7%	20.0%	0.0%
Civil-Criminal Mix	Count	12	20	15	7	0
	% within Caseload Character	22.2%	37.0%	27.8%	13.0%	0.0%
Administrative and Other	Count	1	5	5	1	0
	% within Caseload Character	8.3%	41.7%	41.7%	8.3%	0.0%

Finding V:

However, judges with criminal caseloads were less convinced that remote hearings led to fair outcomes.

Question:

Q16—How well do you think fully or partially remote conferences, trials or hearings using video-conferencing technology lead to fair outcomes?

			Very well	Well	Average	Poor	Very poor
Caseload Character	Mostly Criminal	Count	1	4	6	3	0
		% within Caseload Character	7.1%	28.6%	42.9%	21.4%	0.0%
	Mostly Civil	Count	2	9	1	2	1
		% within Caseload Character	13.3%	60.0%	6.7%	13.3%	6.7%
	Civil-Criminal Mix	Count	13	22	15	3	1
		% within Caseload Character	24.1%	40.7%	27.8%	5.6%	1.9%

Administrative and Other	Count	1	6	3	1	1
	% within Caseload Character	8.3%	50.0%	25.0%	8.3%	8.3%

Comments:

- (1) *For matters where there is only argument, virtual court works well and is accessible to most (but not all) participants. In-person examination and cross-examination is better in-person. Our courts do not manage well with hybrid hearings—where part is on-line and part in-person—as the technology is not that versatile.*
- (2) *Fine for evidence where credibility is not in issue; mixed feelings about video for complainants, accused, in criminal trials—better view of the witness, but limited non-verbal communications.*
- (3) *I sit on an appellate court. The availability of online appeal hearings promotes access to justice or at least access to affordable justice. As appeal courts seldom hear from witnesses, online hearings should be allowed upon request, if not actively promoted.*
- (4) *Remote hearings present difficulty in document management. Oral evidence should not be done remotely. Hearings with just oral submissions can be effective either remote or in person. But parties using remote hearing technology do not respect the court process and importance in the same way.*
- (5) *I find that they lead to the same outcome that would occur in the court room. They can improve access to justice for many people. On the other hand, they can denigrate respect for the law and the court process as it is seen as just another errand in the day. Regardless of the potential for online hearings, the current bandwidth, technical proficiency of court staff, ease of document transfer and other such matters are inadequate in our court, such that whatever potential there may be cannot be fully realized.*
- (6) *Video hearings are a very poor second choice in every single respect. Smoothness of proceedings, courtesy, respect for the court, the ability to have the parties caucus, and the reasonableness of positions taken all suffer in the “virtual”. Claims of enhanced “accessibility” reduce to lazy lawyers not wanting to put on a suit properly. Virtual hearings are a profound diminution of justice and respect for the institutions of Court and the rule of law.*
- (7) *Managing the electronic materials is often very difficult for counsel. I usually download the electronic materials to my computer. It takes at least twice as long to conduct remote*

hearings as it used to take when there were paper copies of documents and when everyone was in person. When the litigants appear without counsel, they are at a disadvantage. The courtroom decorum is consistently negatively affected: parties interrupt the judge, dress inappropriately, eat and drink during hearings. It can be difficult for the judge to manage unruly parties. On administrative attendances: adjournments, scheduling matters etc. remote works very well. In criminal matters, time is saved when incarcerated persons can attend via videoconference and need not be transported to the courthouse. Similarly, travel time for judges is reduced when we are not required to physically circuit to different courthouses.

- (8) *When we first prepared rules of procedure covering video conference testimony in about 2005, we were doubtful that the broadcast would be good enough to allow fair assessment of witnesses. I was quickly surprised by how well and quickly the available technology developed. With proper controls, some of which are in our Civil Procedure Rules, a judge is able to fairly assess remote testimony.*
- (9) *Trials and hearings with more than a small amount of live witness testimony are poorly suited to everyone being on video. 1 or 2 witnesses by video and everyone else together in a courtroom is fine. Remote hearings not involving live witness testimony are well-suited to everyone being on video.*
- (10) *Witnesses and accused persons are often on iPhones or other devices with very small screens. In our jurisdiction video links at correctional services facilities vary in quality and availability.*
- (11) *I have not had issues with remote trials and using video-conferencing. In practice prior to my appointment, I had used videoconferencing technology extensively in my practice, and I was able to transfer those skills after my appointment. I know that many of my older colleagues or those with less exposure to technology have struggled with it.*
- (12) *I have had great experience in civil cases especially hearings on a written record. We have also been surprised at how well settlement conference work remotely. We thought in person would be better to appeal to people to settle. Not the case at all. Plus I have heard many witnesses remotely.*
- (13) *My experience relates to appeals and motions, but not trials which pose a completely different challenge. We have a written record available to us and then hear arguments. Accessing the material we need while conducting a remote hearing is straight forward. Remote hearings have improved access to appellate justice in our jurisdiction in which parties often have to travel long distances.*

- (14) *There is a need for the judge to have additional monitor screens to view witnesses and counsel. Otherwise to conduct a trial in this matter is like putting an elephant through a garden hose and, when it emerges, it becomes one large informational blast, visually with witnesses, documents and attempts to keep notes and assimilate the case to something manageable.*
- (15) *It is a poor alternative if the case is complex, voluminous or very contentious/ conflicting evidence*
- (16) *I sit in the court of appeal. In person hearings are still preferable for most appeal hearings. Remote is preferable for all motions.*
- (17) *Online trials involve two separate technologies. One is the videoconference so that participants can see and hear each other—that is easy and it works well—although there are nuances such as swearing witnesses and verifying who is in the room with him or her, etc. The other is the organization and presentation of electronic documents—and identification and marking of exhibits—which is a separate process and is more complicated.*
- (18) *Having said in person is better, I recognize other stakeholders feel access to justice is enhanced by mixed style hearings in appropriate circumstances. I remain concerned that excluding the accused and other interested parties from being physically present diminishes the impact of the court proceeding and consequently undermines the administration of justice. When I am involved in an online hearing I am mindful of those concerns and take extra measures to check and re-check with online participants to ensure they are as engaged as possible in the proceedings.*
- (19) *It has contributed to access to justice. Some people do not have the luxury of travelling to the big city to appear in court. It saves time and money.*

Finding VI:

Judges with criminal caseloads rated the physical quality of the building in which they worked less highly than judges with other caseloads.

Question:

Q33—Physical quality of the building.

			Excellent	Good	Adequate	Poor
Caseload Character	Mostly Criminal	Count	2	2	3	6
		% within Caseload Character	15.4%	15.4%	23.1%	46.2%
	Mostly Civil	Count	1	3	6	3
		% within Caseload Character	7.7%	23.1%	46.2%	23.1%
	Civil-Criminal Mix	Count	7	9	19	13
		% within Caseload Character	14.6%	18.8%	39.6%	27.1%
	Administrative and Other	Count	1	1	6	3
		% within Caseload Character	9.1%	9.1%	54.5%	27.3%

Finding VII:

This trend continued in relation to the physical quality of the personal workspace of judges with criminal caseloads.

Question:

Q33—Physical quality of your personal workspace.

			Excellent	Good	Adequate	Poor	Total
Caseload Character	Mostly Criminal	Count	4	4	2	3	13
		% within Caseload Character	30.8%	30.8%	15.4%	23.1%	100%
	Mostly Civil	Count	3	5	5	0	13

	% within Caseload Character	23.1%	38.5%	38.5%	0.0%	100%
Civil-Criminal Mix	Count	14	15	15	4	48
	% within Caseload Character	29.2%	31.3%	31.3%	8.3%	100%
Administrative and Other	Count	0	4	6	1	11
	% within Caseload Character	0.0%	36.4%	54.5%	9.1%	100%

FACTOR 3: CIRCUIT COURTS

Finding I:

Internet access is reported to be poorer for circuit courts when working remotely.

Question:

Q11—Internet access for you when working remotely.

			Excellent	Good	Adequate	Poor	Do not have
Q6—Please indicate if your work involves circuit courts. (Choose Yes or No)	Yes	Count	9	15	23	9	2
		%	15.5%	25.9%	39.7%	15.5%	3.4%
	No	Count	9	15	8	2	1
		%	25.7%	42.9%	22.9%	5.7%	2.9%

Comments:

- (1) *There is secure WiFi for judges and court staff. There is public wifi for the public. The wifi for judges and court staff has poor coverage. I am able to access it in my court office approximately 50% of the time.*
- (2) *The wifi for the public is not very good.*
- (3) *The strength of the wireless internet connection within the court building is poor and the log-in process is unduly cumbersome, to the point that persons typically use their own data.*
- (4) *Poor bandwidth. Not user friendly. Every day there are down time or other issues with wifi if coverage.*
- (5) *The quality of WiFi leaves plenty to be desired in the court facility since it is the capacity limitation of WiFi that remains problematic.*
- (6) *WiFi access is poor throughout our Court system.*
- (7) *The wifi provided in court houses for lawyers, the public or judges who are not using their official laptop is cumbersome because of the password and other requirements needed to access it. We have a different wifi system if we use our official laptop because that connects to the ordinary court network. In some cases, county law associations also have wifi deployed in the courthouse.*
- (8) *We do not have ability to take laptops on the dais. For Webex, we are connected through the clerks portal.*
- (9) *Time limited passwords for non-court persons.*

Finding II:

Judges in circuit courts report more technical difficulties experienced by parties.

Question:

Q23—Tech Difficulties for Parties.

		0	1 tech difficulty (td)	2 td	3 td	4 td	5 td	
Q6—Please indicate if your work involves circuit courts. (Choose Yes or No)	Yes	Count	17	5	18	7	12	2
		% within Q6	27.9%	8.2%	29.5%	11.5%	19.7%	3.3%
	No	Count	19	3	7	5	5	0
		% within Q6	48.7%	7.7%	17.9%	12.8%	12.8%	0.0%

Comments:

- (1) *Access to sufficient internet bandwidth in some remote areas is limited. Most people are able to access the technology, but there are some people who struggle with it (particularly litigants who are older).*
- (2) *Connection reliability of the participants and witnesses.*
- (3) *The novelty of accessing the court on-line and the incomplete transition to on-line services. For example, the court file is now fragmented and not all of the new electronic documents are accessible to the public or to litigants and counsel. This is a work in progress. We also have various interim solutions—for example electronic filing of certain—but not all—documents, two or more different methods of filing electronically—and the same number of staff now trying to manage filings from various different sources. Lawyers and litigants are in a state of confusion as we transition.*
- (4) *We do not have an A-to-Z electronic platform and we keep changing the processes.*
- (5) *Some lawyers have very poor internet connections and therefore are “dropped” or indicate they are unable to participate by video. Sound packages break up. Marginalized litigants who are struggling with basic needs have no reliable access to technology and are further excluded from the justice system with these developments. Community agencies do not receive the funding to fill the gap by becoming remote access court sites.*

Finding III:

Circuit court judges report lower morale of staff.

Question:

Q33—Morale of court staff.

			Excellent	Good	Adequate	Poor
Q6—Please indicate if your work involves circuit courts. (Choose Yes or No)	Yes	Count	4	10	21	17
		% within Q6	7.7%	19.2%	40.4%	32.7%
	No	Count	1	15	9	7
		% within Q6	3.1%	46.9%	28.1%	21.9%

FACTOR 4: TIME ON THE BENCH

Finding I:

Judges with more experience on the bench were more skeptical that judges would be replaced by artificial intelligence. For example, in the next 30 years:

Question:

Q19 — Replaced by AI in 30 years?

			Yes	Maybe	No
Time on the Bench	1999 or earlier	Count	0	4	7
		% within Time on the Bench	0.0%	36.4%	63.6%
	2000–2009	Count	5	7	6
		% within Time on the Bench	27.8%	38.9%	33.3%
	2010 to present	Count	8	20	28
		% within Time on the Bench	14.3%	35.7%	50.0%

Finding II:

Judges appointed earlier did not consider that more change in the judiciary was needed.

Question:

Q40—More change is still needed in the judiciary.

			Strongly disagree	Disagree	Not sure	Agree	Strongly agree
Time on the Bench	1999 or earlier	Count	1	3	2	4	1
		% within Time on the Bench	9.1%	27.3%	18.2%	36.4%	9.1%
	2000–2009	Count	0	1	2	8	7
		% within Time on the Bench	0.0%	5.6%	11.1%	44.4%	38.9%
	2010 to present	Count	0	3	9	28	15
		% within Time on the Bench	0.0%	5.5%	16.4%	50.9%	27.3%

FACTOR 5: GENDER IDENTITY

Finding I:

Female judges were less impressed with the performance of videoconferencing for hearings.

Question:

Q15—How well do you think that videoconferencing technology performs for the purpose of fully or partially remote hearings?

			Very well	Well	Average	Poor	Very poor
Q43—Are you:	Male	Count	9	21	6	6	0
		% within Q43	21.4%	50.0%	14.3%	14.3%	0.0%
	Female	Count	5	12	17	1	1
		% within Q43	13.9%	33.3%	47.2%	2.8%	2.8%

Finding II:

And they also had less confidence that remote hearings were leading to fair outcomes.

Question:

Q16—How well do you think fully or partially remote conferences, trials, or hearings using video-conferencing technology lead to fair outcomes?

			Very well	Well	Average	Poor	Very poor
Q43—Are you:	Male	Count	10	20	7	3	2
		% within Q43	23.8%	47.6%	16.7%	7.1%	4.8%
	Female	Count	5	15	13	2	1
		% within Q43	13.9%	41.7%	36.1%	5.6%	2.8%

Finding III:

A higher proportion of female than male judges believed that too much change had been imposed on the judiciary.

Question:

Q40—Too much change has been imposed on the judiciary in recent years.

			Strongly disagree	Disagree	Not sure	Agree	Strongly agree
Q43—Are you:	Male	Count	10	18	6	4	5
		% within Q43	23.3%	41.9%	14.0%	9.3%	11.6%
	Female	Count	0	12	7	10	7
		% within Q43	0.0%	33.3%	19.4%	27.8%	19.4%

Finding IV:

And more of the female judges agreed that judges had reached their breaking point because of the amount of change.

Question:

Q40—The amount of change in recent years has brought judges to a breaking point.

			Strongly disagree	Disagree	Not sure	Agree	Strongly agree
Q43— Are you:	Male	Count	4	19	8	7	5
		% within Q43	9.3%	44.2%	18.6%	16.3%	11.6%
	Female	Count	0	8	7	14	7
		% within Q43	0.0%	22.2%	19.4%	38.9%	19.4%