

Criminal

Manitoba's top judge talks virtual hearings, digitized documents

By **Terry Davidson**

(June 23, 2023, 2:54 PM EDT) -- Increased Internet connectivity is the "major solution" to improving access to justice in Manitoba's north, says the province's new top judge.

Manitoba Chief Justice Marianne Rivoalen, announced earlier this month as Prime Minister Justin Trudeau's pick for the province's new top judge, says lessons must continue to be learned from the COVID-19 pandemic when it comes to using virtual technology to help close the gaps in serving remote parts of the province.

Manitoba has the largest Indigenous population of all the provinces (not including the territories), according to a Department of Indigenous Service 2020 report to Parliament.

Manitoba's Indigenous account for 18 per cent of the province's population, with a significant number residing in northern communities.



Manitoba Chief Justice Marianne Rivoalen

When it comes to issues in rural parts of the province, Chief Justice Rivoalen speaks from experience: She served on Manitoba's King's Bench (family division) from February 2005 to September 2018 and presided over circuit courts in rural communities such as Thompson, The Pas and Flin Flon.

Speaking with *Law360 Canada*, Justice Rivoalen, who is also Chief Justice of Manitoba's Appeal Court, acknowledged that the lack of access to justice in the north particularly impacts the provincial court.

"Now, since the pandemic, do I think things have improved? Probably not," she said. "I think the risks are always amplified, particularly in northern provincial court, because, in fairness, it's the provincial courts who carry the heavy workload up in the northern regions of Manitoba. And I think what the pandemic has shown us is the lack of Internet services up north. It's something we don't

have a lot of control over as a judiciary, but ... it is a problem.”

Chief Justice Rivoalen said Canada’s Federal Court of Appeal, on which she sat before this latest appointment, “pivoted very quickly during the pandemic.”

She spoke of the courts’ use of video conferencing.

“We did Zoom hearings, Zoom appeals, and that worked extremely well. I don’t know if that [would] be the right platform [for Manitoba’s north], but we need to get those kinds of tools in place immediately, and that will then answer, I think to a great extent, some of the challenges up north.”

With this, she remains optimistic the ongoing situation in the north will improve.

“The good thing is we know what the problems are, and I think there are solutions. Internet connectivity is the major solution, and then getting the courts properly equipped with the proper technology to have virtual hearings.”

Manitoba’s rural courts have experienced problems as of late.

Back in November, it was announced that the provincial court had to pull out Shamattawa First Nation due to a lack of utilities in a number of the community’s buildings.

Also, flight cancelations due to a pilot shortage have resulted in delayed proceedings in a number of circuit courts in remote northern communities. As of February, Provincial Court Chief Justice Margaret Wiebe said short term solutions were on the way.

Chief Justice Rivoalen spoke of how technology could possibly fill some gaps.

“The physical getting people up there is one thing, but I think that the pandemic has shown us that you don’t always have to physically have a judge up there in order to deal with busy courts. We have to figure things out in a more creative way, and we have seen that it can work. Now, I’m not speaking for my colleague, Chief Judge Wiebe, or the soon-to-be new Chief Judge [Ryan] Rolston, because they are the experts [in terms of] what happens in the provincial courts, but those are some of my big-picture views of access to justice.”

However, she acknowledged issues would remain when it comes to computer illiteracy amongst some residents.

“It’s almost the kind of thing where you’d almost have to be able to establish community hubs, maybe at a school or a nursing station, where there are access to computers for individuals who may need to use a computer to connect in whichever way they need to,” she said. “There are a lot of challenges, but I feel like where there are challenges, and where there are new creative ways of thinking, I think there are opportunities. But the bottom line ... is Internet connectivity.”

Another challenge for Manitoba’s courts, generally, is the need for the increased use of online document filing instead of paper-based methods.

“I think the biggest challenge for Manitoba courts — and it’s probably fair to say it’s for the three courts: my court, King’s Bench and provincial court — is bringing our paper-based systems into the twenty-first century. I think it’s across the board. We’re all paper-based courts, and that’s just not on anymore. We need to be able to have the ability for people, the public, the parties to file documents online. And that is, again, another access to justice issue. If you’re up in Thompson ... why would you have to mail something in or have somebody physically file something for you because the registry of the court of appeal is in Winnipeg? If you can file online, that makes things easier for people.”

If you have any information, story ideas or news tips for Law360 Canada, please contact Terry Davidson at t.davidson@lexisnexis.ca or 905-415-5899.