

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

Judges around the world must grapple with technological change and its impact on their role and the judicial sector, which has only been emphasized by COVID-19. The purpose of this research is to develop an informed understanding of the role of technology in the work of the judiciary.

The following results summary outlines how judges use technology in their work, judges' experiences with tech support, and the effects of technology in the judicial sector. It is followed by key findings that provide insight into interesting trends raised by data analysis.

RESULTS SUMMARY

Capacity, Use, and Support

Almost all (97%) of judges had participated in remote trials or hearings using videoconferencing technology in the past five years. A number of judges (around 20%) use computers to prepare decisions, remote videoconferencing software, online legal databases, and audio playback. Almost all judges reported they had court and remote access to online legal databases and were satisfied that these resources met their needs. However, more sophisticated systems, like case management software or electronic trial systems, are less popular, being used by only 9% of judges. 42% of respondents reported that a case management system was either not available, or they did not know about it. Some judges (13%) also use technology for “nudging,” alerting, or correcting their judgments. Most notably, 44% of judges reported that technology aids in creating template decisions.

While the majority of judges rated their personal courtroom equipment as “good” or “excellent,” the overall quality of courtroom tech and IT support only received an “adequate” score. This rating dropped when it came to IT equipment used in trials, with 20% rating the equipment as “poor.”

Respondent judges were not overly impressed with the quality of technology available in their courts. The poorest ratings were for judges' Internet access in court and equipment used in trials. 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.

The administrative support available to judges when working with technology at court was rated as “adequate.” The quality of the available support was considered to be between “good” and “adequate.” The ratings of this support was slightly lower for remote work.

Judges were divided concerning their satisfaction with the extent and quality of training related to technology used in their work. Most judges were “satisfied” or “completely satisfied” with such training, but over 40% reported that it “could be better” or that they “were not satisfied at all.” Most judges (55%) reported that there could be more time available to take technology training. 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.”

Effects of Technology

60% of judges reported that videoconferencing technology performs “well” or “very well” for remote hearings and that it supports fair outcomes. About the same number of judges stated that they would prefer a mixture of in-person and online proceedings.

Judges agreed that increased use of digital technology in the judicial system has had a positive impact on access to justice. The most important factors for the judges, related to 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.

KEY FINDINGS

We found some interesting trends by analyzing key demographics and other variables. We have identified five factors that appear to influence how technology is used by the judicial sector: the level of court, caseload type, circuit court designation, how long a judge has been on the bench, and gender.

In summary, how technology is used and what supports are available varies between levels of court. Use of technology and in-court IT support is lower in courts with a larger criminal caseload. Judges with criminal caseloads were less convinced that remote hearings have led to fair outcomes. Judges in circuit courts report 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 changes in the judiciary to be needed. The data suggests differing opinions between male and female judges about technology performance, remote hearings leading to fair outcomes, and change in the judiciary.

Look at some of the key findings below:

KEY FINDINGS

LEVEL OF COURT

- Higher courts evaluated the IT support available when working in court more favourably than did lower courts.
- Case management systems seem more prevalent and adequate in higher courts.
- Judges in higher courts appear to use more technology tools to assist their judging.
- All levels of court report that technology has had a positive impact on access to justice.
- Lower court judges were less convinced that their courts were making the best use of technology.
- All court levels agreed that technology could improve their efficiency.
- More of the highest court judges considered that their work had changed completely. This may be because in many cases these judges have been on the bench longer.
- Perhaps as a corollary, fewer higher court judges agreed that more change is needed.
- More higher court judges considered that change had brought judges to the breaking point.
- A larger proportion of judges at higher court levels were concerned about reduction in face-to-face hearings.

CASELOAD

- It should be noted that the lower courts have the highest proportion of criminal cases.
- Judges in courts with a larger criminal caseload evaluated IT support in court less favourably.
- Judges in courts with a larger criminal caseload evaluated IT support even lower when working remotely.
- Judges with criminal caseloads seemed relatively satisfied with the performance of videoconferencing for hearings compared to judges with other caseloads.
- However, judges with criminal caseloads were less convinced that remote hearings led to fair outcomes.
- Judges with criminal caseloads rated the physical quality of the building in which they worked less highly than judges with other caseloads.
- And this trend continued in relation to the physical quality of the personal workspace of judges with criminal caseloads.

CIRCUIT COURTS

- Internet access is reported to be poorer for circuit courts when working remotely.
- Judges in circuit courts report more technical difficulties experienced by parties.
- Circuit court judges report lower morale of staff.

TIME ON BENCH

- Judges with more experience on the bench were more skeptical that judges would be replaced by artificial intelligence.
- Judges appointed earlier did not consider more changes in the judiciary to be needed.

GENDER

- Female judges were less impressed with the performance of videoconferencing for hearings.
- Female judges also had less confidence that remote hearings lead to fair outcomes.
- A higher proportion of female than male judges believed that too much change had been imposed on the judiciary.
- More of the female judges agreed that judges had reached the breaking point because of the amount of change.

The full report is available here: <https://ciaj-icaj.ca/en/reports-and-recommendations/>