

FINAL REPORT

Criminal Conviction/Acquittal Pilot Project

September 9, 2010 – December 31, 2013

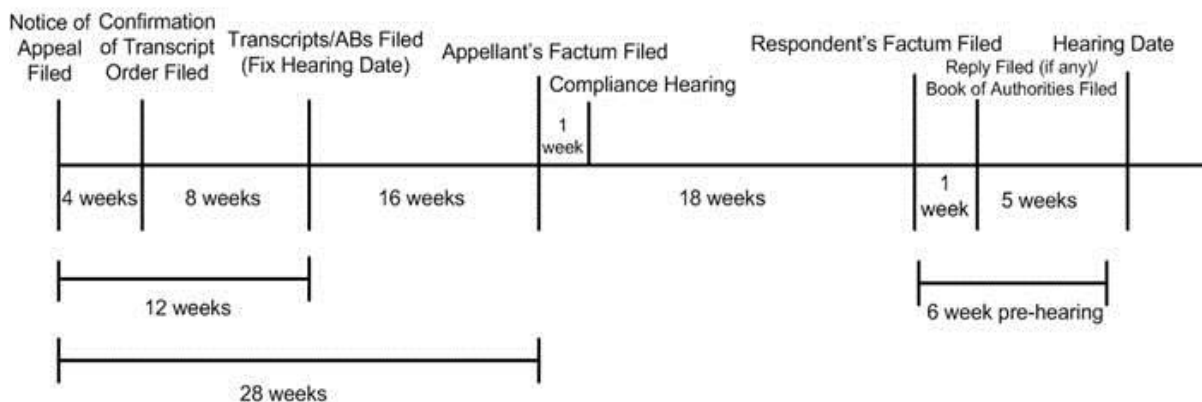
The Honourable Madam Justice Prowse
The Honourable Madam Justice Bennett
J. Jordan, Registrar
May, 2014

Executive Summary and Recommendations

[1] In September, 2010, the Court of Appeal initiated a Pilot Project (the “Pilot”) aimed at reducing unnecessary delays in the prosecution of criminal conviction and acquittal appeals. Without restricting the power of the Court, or a justice, to give such directions as are necessary to ensure the appeal is heard in a timely manner, the Court adopted a protocol designed to have all criminal conviction/acquittal appeals heard within one year of the filing of the Notice of Appeal, or so soon thereafter as possible. This protocol was adopted after consultation with representatives of the federal and provincial Crown, defence bar, and Legal Services Society (“LSS”), as well as registry staff and representatives of transcription companies.

[2] The Pilot was monitored from the outset with a view to evaluating it and reporting back to the Court, the bar and others involved in the consultation process. The Pilot was extended from December 31, 2011 to December 31, 2013 in order to collect further information upon which to prepare an evaluation. The intention was that if the Pilot proved successful in reducing delays, it would ultimately lead to amendments to the *Court of Appeal Criminal Appeal Rules, 1986* (“the Rules”), and, in particular, to the filing timelines set out in the Rules. The timelines of the Pilot are as follows:

Timeline for Criminal Conviction Appeal
Notice of Appeal to Hearing Date = 1 year



[3] This is the final Report on the outcome of the Pilot. The evaluation consists of two components: a quantitative, or statistical, analysis and a qualitative analysis, based on feedback received from all interested groups including the criminal bar, LSS, the judiciary, and registry staff.

[4] In brief, the statistical analysis, based on appeals commenced and heard under the Pilot (for the period September 7, 2010 to December 31, 2013) indicates that, following an adjustment period when all participants were acclimatizing themselves to the new timelines and procedures, the Pilot has been successful in reducing delays at every step of the filing process.

[5] More particularly, the Pilot saw reductions in time as follows:

- a) Eight weeks reduction in filing transcripts
- b) Eleven weeks reduction in the filing of the Appellant's factum
- c) Fourteen weeks reduction in the filing of the Respondent's factum
- d) Sixteen weeks reduction from the initiation to the hearing of the appeal

[6] These statistics are all the more telling as the pre-pilot Rules established unrealistic time limits which were never followed and were substantially shorter than the time limits provided in the Pilot. For instance, the Rules required the filing of a transcript within 60 days (roughly 8 weeks) of the commencement of the appeal. The Pilot required the transcripts to be filed within 12 weeks of the commencement of the appeal. Yet the statistics show that despite this difference there was an 8 week improvement in the filing of transcripts under the Pilot.

[7] The conclusion is that with more realistic time limits, the filing times are more likely to be followed by the parties, thus bringing more consistency to the average filing times.

[8] The qualitative evaluations also support the conclusion that the Pilot is achieving success in reducing delays in the system. At the beginning of the Pilot, it was not disputed by any of the participants that the Rules, insofar as they relate to filing deadlines, are unrealistic, and have been consistently honoured in the breach.

[9] Case management has been a significant tool employed in the process of reducing delays, particularly in more complex cases and those involving unrepresented appellants.

[10] An unexpected by-product of the Pilot has also been to highlight particular problems giving rise to delay, and to generate solutions to these problems as the Pilot progresses.

[11] The Pilot has, however, been accompanied by greater demands on registry staff, counsel (Crown counsel, in particular), and on the judges involved in case

management. In other words, the benefits achieved in reducing delays in the process are accompanied by costs. The issue will be whether the benefits achieved are worth the costs to the judges and staff.

Recommendations

Recommendation 1: Incorporate the Pilot timelines into the revised *Criminal Appeal Rules*.

[12] The timelines have been successful in reducing delay. They have also been successful in bringing more consistency to the progress of an appeal through the Court.

Recommendation 2: Address the delays arising from the appointment of counsel by the Legal Services Society.

[13] Delays at the commencement of the appeal relating to funding of counsel and transcripts is a major hurdle and cannot be resolved by the Court. It is largely the responsibility of the Legal Services Society, which must review and decide whether to fund counsel in an appeal. To do so, it must obtain and undertake an assessment of portions of the trial record. Delays were noted in this process.

[14] If the Legal Services Society refuses to fund an appeal, the party may then apply to the Court under s. 684 of the *Criminal Code* for the appointment of counsel.

[15] During the Pilot Project, delays were noted, both by the Legal Services Society and the Court, in obtaining the record. While some of these delays were related to accessing transcripts, those issues have been addressed through changes to court access policies. As discussed below, while other issues remain, they cannot be addressed by the Court.

Recommendation 3: Review and request additional scheduling resources in the Court Registry.

[16] The extra work for registry staff in monitoring these appeals and scheduling case management cannot continue without extra assistance. Other registry duties are being delayed to devote resources to these criminal files.

[17] The balance of this report contains more detail with respect to the concerns leading to the implementation of the Pilot, a more complete description of the Pilot and the results of the evaluation process.

Recommendation 4: Review the time spent by registry staff in maintaining the pilot project and measure it against the benefit gained in the reduction of delay.

[18] The Pilot Project has been successful in reducing delays at every step in the process. However, as described below, this has not come without the use of additional staff time. To ensure that the Pilot Project is achieving a meaningful

result, the additional staff resources will have to be compared against the achievements of the pilot project to date.

The Problem of Delay

[19] While the issue of delay in criminal matters is one that has been under increasing public scrutiny over the past year or so, particularly at the trial level, the introduction of this Pilot predates, and is independent of, those initiatives. It represents an ongoing effort by this Court to address access to justice issues in both criminal and civil matters. It proceeds on the assumption that justice delayed is justice denied, and that every effort should be made by the Court, within the limits of the resources available, to have appeals heard in a timely manner.

[20] In the case of criminal appeals, victims of crime, witnesses, and the public in general have an obvious interest in having criminal prosecutions proceed in an efficient manner from the time charges are laid until a court decision is made, in some cases, at the appellate level. Persons convicted of crime who take the position that their convictions are wrongful also have a vested interest in having their appeals resolved expeditiously.

[21] From 2006 to 2009, the usual time in criminal conviction appeals between filing and hearing was relatively lengthy. During this pre-pilot time period, only 28% of the appeals had been heard within one year, and at 18 months only 54% of the appeals had been heard. Almost 25% of the conviction and acquittal appeals took over two years to be heard.

[22] It was apparent that the Rules governing Criminal Appeals (in force since 1986) were not effective in having a significant number of appeals heard in a timely manner, and that they were largely disregarded at all stages of the appeal process - from filing Notices of Appeal, to filing transcripts and appeal books, to filing factums, and in obtaining hearing dates.

[23] The Rules Committee struck a subcommittee to identify the causes of the delay and to propose solutions, both immediate and long term. Members of the Subcommittee were Madam Justice Prowse, Mr. Justice Frankel and Madam Justice Bennett. In 2009 the Subcommittee held consultations with members of the bar, including Crown and defence counsel. The Legal Services Society was also an active participant in these discussions. The Pilot was the outcome of those discussions.

[24] Any criminal conviction or acquittal appeal filed after September 7, 2010 became part of the Pilot. A primary goal of the Pilot was to set reasonable time limits for the filing of documents, with a view to obtaining a hearing date within one year of the filing of the Notice of Appeal. The ultimate goal is to resolve all appeals in as timely a manner as reasonably possible.

[25] This goal should be viewed against the backdrop of Court statistics which show that the “overturn” rate over the last five years for criminal appeals has ranged

from a high of 41% in 2008 and 2009 to a low of 21% in 2012. In many of these cases, new trials are ordered, with the result that the entire process begins again, assuming that witnesses are still available, willing and able to testify.

How Delay is Addressed Under the Pilot

[26] The registry staff play an essential role in the Pilot. Upon receipt of a Notice of Appeal that fits within the Pilot, the registry sends a letter to counsel for the appellant and the respondent setting out the relevant filing dates for that specific appeal. They then monitor the filings by computer prompts and contact counsel when a date is missed, seeking explanations for any delay.

[27] As was previously the case, the Deputy Registrar exercises a degree of discretion in dealing with delays. The Rule 13(3) reference is used to bring counsel before the Court to explain delays. When there are problems which need judicial attention, (usually after one 13(3) reference has proven unsuccessful in remedying the problem) both registry staff and individual judges refer cases to case management.

[28] Case management is usually conducted by judges who are members of the Criminal Rules Subcommittee, (currently Frankel, Neilson and Bennett JJA) but it is also done by other judges from time to time. Case management most frequently occurs with unrepresented appellants (who are often experiencing delays in seeking the appointment of counsel through legal aid or under s. 684 of the *Criminal Code*), on cases where the trials were of greater length or complexity, or where there are unexplained recurring delays. On some appeals, case management requires only one appearance; in others, many appearances may be required before the appeal is “on track”.

[29] A significant feature of the Pilot is the requirement that counsel provide proof of the date the transcripts are ordered. This step is important as it is a signal that the appellant is able to move forward with an appeal (i.e. funding has been obtained) and does away with the complaint from the transcription companies when tasked with extensive delays that the transcripts were not ordered or were ordered late. Unfortunately, only about 50% of counsel are filing this proof. This will take more staff time to insure compliance. Despite this problem, at the end of the Pilot, the average time for filing transcripts was at least two months earlier than it had been pre-pilot.

[30] Another significant feature of the Pilot is the “compliance hearing date” which is specified in the original letter to counsel and falls one week after the date the appellant’s factum is due. If the factum has not been filed, counsel are required to appear before a justice, advise of any problems and set a timely schedule for future filings. As a practical matter, the filing of the appellant’s factum is usually the time at which hearing dates are set (they can be set as early as the filing of the transcripts), and it is therefore important to identify and resolve any outstanding problems at that time.

[31] Despite the fact that the current Rules set the time for filing the appellant's factum 12 weeks from the initiation of the appeal, and the Pilot set the time for filing the appellant's factum at 28 weeks, there was still an average of almost 12 weeks' improvement in the date for filing the appellant's factum over the time set out in the current Rules.

The Process of Evaluating the Pilot

[32] The Subcommittee decided to apply both qualitative (anecdotal) and quantitative (statistical) evaluation methods to determine whether, and to what extent, the Pilot succeeded in reducing delays in the appellate process. The qualitative analysis consisted of requesting and reviewing the results of questionnaires sent to counsel who had participated in the Pilot, feedback from the consultation group, ongoing discussions with the LSS and the registry, and requests for input from members of the Court.

[33] The quantitative analysis consisted of putting together relevant statistical data relating to the progress of appeals both before and after the Pilot, and requesting an outside evaluator to analyze the data and provide a report on the relative success of the Pilot in reducing delays based on the data available to December 31, 2013 .

Statistical Findings

[34] To determine whether the Pilot made a difference in moving appeals through the system more quickly, statistics were compiled for the Pilot from September 2010 to December 31, 2013, and were compared to equivalent statistics from the previous three years, from September 2007 through September 2010.

[35] There were only modest improvements to reducing delay if one reviews the number of appeals concluded within one year (the aim of the Pilot) and compares it to the other filing targets as set out in the timeline.

% of Cases Achieving Targets between Filing Notice and:	Pre-Pilot Project	Pilot Project	Difference
Filing Transcripts within 12 weeks	23%	45%	22%
Filing Appellant factum within 28 weeks	26%	23%	(3%)
Filing Respondent factum within 46 weeks	28%	36%	9%
Hearing date within 52 weeks	26%	31%	5%

[36] However, if the time limits are relaxed, there is a dramatic improvement over the pre-pilot statistics.

% of Cases Achieving Targets between Filing Notice and:	Pre-Pilot Project	Pilot Project	Difference
Filing Transcripts within 20 weeks	45%	67%	22%
Filing Appellant factum within 40 weeks	44%	68%	24%
Filing Respondent factum within 58 weeks	43%	64%	21%
Hearing date within 60 weeks	33%	45%	12%
Hearing date within 69 weeks (16 months)	45%	60%	15%

[37] The final comment on the statistics is that the Pilot reduced the variability between the various events, suggesting a greater uniformity between achieving each of the events and achieving greater predictability as the Court and the parties adopt the timelines of the Pilot.

Preliminary Qualitative Findings Based on Feedback from Participants

[38] Questionnaires were sent to defence counsel and Crown following the hearing of their appeals to request feedback based on their experience in the Pilot. Members of the Court were canvassed, as well as the registry staff and the original Criminal Advisory group of Crown and defence counsel. LSS was specifically asked to provide feedback.

[39] The following is a brief summary of some of the comments received from the above sources.

Crown Counsel

[40] Crown counsel in charge of the Pilot for the provincial Crown attended almost all case conferences and played a very significant role in communicating with the registry; drawing attention to appeals which required case conferences; commenting on the problems which arose during the course of the Pilot from a variety of perspectives; and generally acting as a problem-solver. The Crown is positive about the role of the Pilot in reducing delays, specifically the role case management plays in moving appeals forward. The Pilot is much more consistent and “far superior” to the former Rule 13(3) in addressing delays.

[41] The Pilot, however, requires significant time commitment. As well, the registry staff, particularly the Deputy Registrar, spend extra time to ensure that delays are dealt with at the earliest reasonable opportunity.

[42] For the registry staff, work in contacting counsel, setting up and providing courtrooms for case management, including videoconferencing for many of those in custody, has increased. Thus, there are costs associated with the Pilot along with the benefits. On a cost-benefit analysis, the Crown is in favour of continuing the regime established by the Pilot.

[43] Case management works, since having one judge seized of the file provides consistency and it is considerably more effective than Rule 13(3) references.

[44] Without the dedication of the provincial Crown office, the Pilot would not have been as successful. The same holds true of additional work and resources which LSS has contributed to the Pilot. Their cooperation has been, and continues to be, essential in reducing delays.

[45] There were fewer appeals involving federal Crown counsel and there were several different counsel who appeared on those appeals, including case management. In general, the federal Crown found the Pilot to be preferable to the former regime since the filing deadlines are more realistic. Again, the view is that case management under the Pilot is more successful than the former Rule 13(3) regime, since the latter permits counsel to simply “recycle excuses for delay” among more judges.

Responses from Defence (Appellant) Counsel

[46] Defence counsel indicated that there were two to three months delays in obtaining funding from LSS in about 50% of the files.

[47] Again, case management, which included two complex appeals, was useful in moving the appeals forward. On one complex appeal involving five counsel, case management was extremely helpful in getting all counsel to agree on timetables and procedures. As one counsel commented:

“Having counsel all present together for discussion and being asked to agree to sensible and reasonable proposals made it very easy to arrive at a consensus agreement. The process encourages resolution. Even when one party may be a little reluctant, the experience of seeing everyone else willing to agree is a strong motivator.”

[48] While the case management process meant more work at the front end, counsel agreed that the benefits were realized at the hearing of the appeal. The issues were clarified, resulting in less time for the hearing of the appeal, and counsel could agree on consolidating some of the materials presented to the Court.

[49] Most counsel found the new timelines assisted in their management of the appeal; although two counsel indicated that they would have preferred to run the appeal according to their own timetable, and stated that deadlines put a lot of pressure on counsel. These comments may be indicative of the fact that the prior

Rules were not considered by many to be “deadlines” or dates which were required to be met.

[50] There was another comment from counsel that LSS funding for appeals was not as attractive as funding for trials, that the work was more onerous, and that fewer experienced counsel were willing to take on appeals on a legal aid basis. LSS confirmed this was so, but stated that it had not yet encountered a situation where it was unable to retain counsel for an appeal.

Legal Services Society (LSS)

[51] LSS was an active and invariably helpful participant in the Pilot, and was also involved in problem-solving on an ongoing basis. During the course of the Pilot, regular and effective communications between the registry and LSS concerning appeals awaiting legal aid funding were established and were extremely helpful in determining the causes of delay, and expediting the approval process in many cases. This communication also obviated the need for appearances in many instances since the reasons for delay, and the likely length of the delay, were already known. There was improvement in reducing delays in many instances at this early stage of the process.

[52] Delays are an ongoing problem, likely caused by the reduced funding available to LSS to do its work. However, there are other delays in the process of gathering information to reach a funding decision including: contacting former counsel; the applicant failing to respond in a timely manner to communications from LSS for information; obtaining transcripts and reasons for judgment, jury charges, rulings, and other information essential to evaluating a case for funding.

[53] Changes to access policies in the Supreme Court and Provincial Court were initially an issue. As well, there were delays from the transcription companies if the trial dates were not correctly provided in the request. During the Pilot efforts were ongoing in identifying the issues and seeking out the responsible individuals in an effort to resolve the issues.

[54] At this point, it is important to note that many delays arise before a notice of appeal is filed, with the result that significant delays may not be captured by the Pilot. In those cases, the notice of appeal is filed once the question of funding has been determined and requires a notice of motion seeking an extension of time (which is almost invariably granted).

[55] On review of the Pilot cases, the statistics show that less than 50% of the appeals filed in the Pilot were filed within 30 days of the rendering of the lower court judgment (the time set by the Rules). After 180 days from the lower court judgment, 85% of the appeals were filed. This is obviously a significant delay which was not included in the Pilot. However, it is also something that has existed before the Pilot was implemented. For pre-Pilot cases, again only 50% of appeals were filed within 30 days and 90% of the cases were filed at the 180 day mark.

[56] Further assistance with information about when funding is obtained could be taken from the time the proof that a transcript has been ordered is filed. While this step is part of the new timelines, only a fraction of parties (30%) are filing this proof. More staff time would be required to monitor this step.

[57] If LSS funding is refused, the client is sent material on how to apply to the Court for a lawyer under s. 684 of the *Criminal Code*, and appointments of counsel under s. 684 are administered by LSS. (As noted, delays in processing s. 684 applications continue to be a significant problem, but progress is recently being made in finding solutions.)

Judiciary

[58] The Court has been updated on the progress of the Pilot since its inception, primarily at Court meetings. Other than the case management judges, and the occasional appearance in chambers, the rest of the judges have mainly noticed that case managed appeals are assisted by case management.

[59] The other comment is that the time before Court is becoming filled with case management hearings and it is often difficult for the Court to find time to give oral judgments before the regular sitting day begins.

Case Management Judges

[60] The case management judges are all of the view that case management is effective not only in reducing delays, but also in ensuring that appeals that eventually come before a division are well-organized and can be more efficiently dealt with by the division hearing the appeal. Most case management involves unrepresented appellants, at least in the initial stages, and most of these appellants are in prison, generally appearing by videoconference.

[61] Their appeals bog down at almost every stage of the process and require considerable flexibility in attempting to move their appeals forward to hearing. The appointment of interim counsel under s. 684 to make a full s. 684 application for counsel is one of the approaches which has been taken in many cases to avoid more extensive delays and consequent waste of Court time and resources. This, in itself, creates its own delays, but these are often seen to be preferable to having the appellant stumble through the process without any legal assistance whatsoever.

[62] The case management judges are also of the view that having fewer judges engaged in case management is helpful in generating some degree of consistency in how like cases are treated. These judges often also do related applications, including bail and s. 684 applications, which avoids duplication of effort by judges and by the registry.

Registry Staff

[63] Extra staff time is required to monitor these appeals. The Deputy Registrar and other staff have been supportive of the Pilot and in sharing some of the additional responsibilities associated with it. These include contacting counsel, liaising with LSS, use of clerk and court time for case management, and updating filing schedules and WebCATS. The staff perception is that, after a somewhat slow start, counsel have come to accept the new timelines and are endeavouring to work within the new guidelines. Over time, the role of the compliance hearing has been effective in either having the appellant's factum filed on time, or fixing a revised date for the filing, where necessary.

[64] Section 684 applications are time consuming for the staff. As well as arranging for dates for counsel to appear, the registry also has to field calls from the incarcerated appellants. Recent progress is being made in expediting the paper work for s. 684 applications and it is anticipated that this will reduce staff involvement to some extent.

[65] Case management can be time-consuming for the staff since courtrooms have to be booked, counsel have to be contacted, and clerks have to move from other duties to sitting in court. However, many case management appearances would previously have been dealt with as Rule 13(3) references, the main difference being that only one judge is involved in resolving delay issues, rather than several. Further, a number of the appeals giving rise to case management under the Pilot would likely have been dealt with in case management in any event.

Primary Factors Giving Rise to Delay

[66] At the outset of the appeal (and often before a Notice of Appeal is filed), funding applications dealt with by the LSS are a significant source of delay. Some of this delay has been addressed through the Pilot but more work needs to be done to streamline some of the processes.

[67] If legal aid is refused, a further, and often lengthy, period of delay arises in relation to applications under s. 684 for the appointment of counsel. These delays are often caused by the difficulties many inmates experience filling out and filing the forms, particularly where the inmates have limited reading and writing skills, mental disabilities, or where English is their second language.

[68] Further delays are then encountered in having counsel appointed and in counsel bringing themselves up to speed. If counsel are not appointed, additional delays are encountered in endeavouring to assist unrepresented appellants through the system - an often insurmountable task given their inability to fund transcripts or take any steps necessary to perfect their appeal.

[69] Other significant delays can arise where counsel appointed have busy schedules which interfere with the timely preparation of factums. As earlier stated, LSS rates for counsel on appeals are not as attractive as those for trials, and this

affects the priority which are given to these files and also results in appeals being taken on by fewer members of the bar. Monitoring by registry staff, Crown counsel, and case management judges has assisted in keeping the appeals moving forward and in resolving problems more expeditiously as they arise.

Unexpected Benefits Derived from the Pilot

[70] One of the most positive outcomes of the Pilot to date has been the increased level of communication and cooperation among almost all participants in the Pilot. It is fair to say that the initial consultations with the bar regarding the implementation of new guidelines for filing, with reduced reliance on Rule 13(3) references to address delay, indicated that the participants were willing to give the Pilot a try, but with somewhat muted enthusiasm. This attitude was apparent in the early months of the Pilot when counsel, registry staff, and case management judges struggled to adapt to the changes. Since that time, new and better lines of communication have emerged between the registry and LSS, between the registry and various institutions involved in bringing appellants in by videoconference, between the bench and the bar through the consultation process, and between the registry and the judges involved in case management. In fact, this was a benefit noted by one counsel where he stated: “The pilot project highlighted the tremendously collegial relationship between the Crown and Defence Bar and between the Bar and the Court...”

[71] It is fair to say that most participants in the process approached the Pilot with a view to problem-solving, perhaps in part because of a common recognition that all participants are putting considerable energy into making the Pilot work. For example, a plan was developed to reduce the delays in processing s. 684 applications by having law students from the province’s three law schools attend at various institutions to assist applicants in filling in and filing their applications. This initiative, in itself, has the potential to substantially reduce delays at the front end of the system, although it may take some time to realize the benefits of this assistance.

[72] The registry staff also identified a number of files involving appellants suffering from mental disorders who, not surprisingly, had been unsuccessful at finding their way through the system. As a result, the Court amended its prior Mental Disorder Practice Directive with a view to making it easier for appellants suffering from mental disorders to pursue an appeal. It is too early to determine whether this initiative will be successful, but it is another instance of participants in the Pilot identifying problems giving rise to delay and looking for ways to solve them. It is an ongoing and, to some extent, trial and error process.

Conclusion

[73] From a statistical point of view, delays have been reduced under the Pilot. This trend continued over the more than three years of the Pilot. The recommendation arising out of the Pilot is to incorporate the Pilot timelines into the next revision of the *Criminal Appeal Rules*.

[74] From a qualitative point of view, the responses which have been received from almost all sources also indicate that the Pilot has been successful in terms of providing more realistic filing dates, monitoring the appeals, and obtaining more timely hearing dates. Case management, in particular, is viewed as being much more effective than serial Rule 13(3) references before different judges.

[75] Greater communication between the registry staff and LSS has also enabled delays to be more effectively monitored and, in some cases, obviated the need for repeat appearances by counsel. Further, there is now the prospect of delays in s. 684 applications being reduced by obtaining assistance for inmates in filling out and filing the requisite forms, which should also reduce the demands these applications have often placed on registry staff.

[76] The benefit of the Pilot in terms of reducing delays and solving some of the problems associated with delay comes with a cost. In particular, registry staff have taken on more work in all aspects of the Pilot. Similarly, Crown counsel, in particular, have devoted considerable time to the Pilot, and this has impacted on their availability for other work or has simply meant that they have to work harder. Additional responsibilities and time have also been devoted by case management judges.

[77] With the termination of the Pilot and the continuation of the timeline and process adopted under the Pilot, the Subcommittee recommends that funding should be made available to assist the Court registry in handling its increased workload. There may also be a need for more judges be added to the list of judges available for case management. Crown counsel may also have to seek additional assistance in fulfilling their important role in reducing delays in the Court. Further funding from LSS for appeals would also be a significant step in encouraging present counsel and additional counsel to take on more appeals as part of their practice.