

FAILURE TO ADAPT: READABILITY DEFICITS IN CANADIAN COURT DECISIONS INVOLVING PARTIES WITH UNIQUE READING NEEDS

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ABSTRACT

This article reports on two original empirical studies of the quantitative readability levels of Canadian court decisions from specialized contexts, involving cases where we might reasonably expect to find highly readable decisions. The first study examines decisions dealing with young persons who were prosecuted in youth criminal courts. The second study involves cases where at least one party was a self-represented litigant (SRL). The results from these studies suggest that the relevant decisions are generally not written at levels that allow for the parties (or the broader public) to easily understand the decisions. To the extent that courts may already be trying to adapt the language and styles of their decisions, these studies suggest that further, or different, adaptations are probably required. The most obvious weak point arises in cases involving SRLs, where the average decision is (counter-intuitively) less readable than the

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average Canadian trial or appeal court decision more generally. The article concludes by identifying some of the ways in which judges who care about communicating effectively with their audiences can improve the readability levels of their decisions in order to better reach these audiences.

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RÉSUMÉ

Cet article rend compte de deux études empiriques originales sur les niveaux de lisibilité quantitative des décisions judiciaires canadiennes de contextes spécialisés, notamment dans des affaires où l'on pourrait raisonnablement s'attendre à trouver des décisions particulièrement lisibles. La première étude examine les décisions concernant des jeunes qui ont été poursuivis devant les tribunaux pour adolescents. La deuxième étude porte sur des affaires dans lesquelles au moins une partie était non représentée. Les résultats de ces études suggèrent que les décisions concernées ne sont généralement pas rédigées à un niveau qui permette aux parties (ou au grand public) de les comprendre facilement. Dans la mesure où les tribunaux s'efforcent peut-être déjà d'adapter le langage et le style de leurs décisions, ces études suggèrent que des adaptations supplémentaires, ou différentes, sont probablement nécessaires. La faiblesse la plus évidente apparaît dans les affaires impliquant des partis non représentés, où la décision moyenne est (contre-intuitivement) moins lisible que la décision moyenne rendue par les tribunaux de première instance ou d'appel canadiens en général. L'article conclut en identifiant certaines des façons dont les juges qui se soucient de communiquer efficacement avec leur audience peuvent améliorer la lisibilité de leurs décisions afin de mieux atteindre ces audiences.

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Courts must always speak directly to the parties, who have a personal interest in the outcome of the dispute because their liberty, rights, property, reputation, business and/or family are at stake.¹

The Honourable Sheilah Martin,
Supreme Court of Canada

More and more people are self-represented in civil and criminal matters and they will not have lawyers to explain the nuances of a judge's decision. Therefore, on occasion, it is important that a judge's decision provide the answers to the issues in a form that can be easily understood by the litigants.²

The Honourable William deWit,
Court of King's Bench of Alberta

INTRODUCTION

COURTS seem to recognize an obligation to communicate their decisions in ways that parties to the proceedings can understand. This idea is implicit within the case law dealing with a court's obligation to give reasons in the first place:

[Reasons] are the primary mechanism by which judges account to the parties and to the public for the decisions they render. The courts frequently say that justice must not only be done but must be seen to be done, but critics respond that it is difficult to see how justice can be *seen* to be done if judges fail to articulate the reasons for their actions.³

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- 1 Office of the Commissioner for Federal Judicial Affairs Canada, "The Honourable Sheilah Martin's Questionnaire: Questionnaire for the Supreme Court of Canada Judicial Appointment Process" (last modified 21 December 2017) at part 10, question 4, online: <fja.gc.ca> [perma.cc/3K5M-V4EL].
 - 2 Department of Justice Canada, "The Honourable William T deWit's Questionnaire" (last modified 31 March 2017) at part 11, question 4, online: <canada.ca> [perma.cc/68TK-HPJR].
 - 3 *R v Sheppard*, 2002 SCC 26 at para 15 [emphasis in original]. The Court has also noted that "a duty to give reasons may be said to be owed to the public rather than to the parties to a specific proceeding" (*ibid* at para 22).

It is difficult to conceive of how justice could be seen to be done by the parties or the public if the reasons for a decision are incomprehensible to these individuals.

As a general matter, research elsewhere using a predictive linguistic readability formula suggests that Canadian judges and tribunal members are writing decisions that massive segments of the population will likely not understand.⁴ But without knowing (or being able to infer) more about the circumstances of the actual litigants in the cases that are being studied, it is difficult to determine whether the parties would likely understand their own decisions—regardless of the reading difficulty levels of the decisions. This article therefore looks more narrowly at readability levels for two specific classes of decisions involving litigants who likely need highly readable decisions from the courts dealing with their cases. By measuring and analyzing these readability levels, this article calls attention to several significant and undesirable gaps that exist between the types of language being used to write decisions, and the likely abilities of the affected parties to understand the decisions.

Specifically, this article reports on two original empirical studies that use a new, law-specific quantitative readability formula to compute readability scores for 249 different Canadian court or tribunal decisions that were published in 2022, consisting of more than 1.3 million words of text. The first study measures readability levels for cases involving prosecutions of young persons under the *Youth Criminal Justice Act*,⁵ because one might reasonably expect judges to write in simpler language when explaining their verdict or sentence to the young person who is affected by the court's decision. In this study, I find that the average youth criminal court decision requires a reader to have some post-secondary education (when the young persons who are the subjects of the decisions almost inevitably cannot yet have attained that level of education). The second study measures readability levels for cases wherein at least one party is a self-represented litigant (SRL), because judges have an obligation to make

4 Mike Madden, "Message Undeliverable: An Empirical Assessment of the (Un)Readability of Canadian Court Decisions", 57:2 Ottawa L Rev [forthcoming in 2026], DOI: <10.2139/ssrn.5172476> [Madden, "Message Undeliverable"].

5 The *Youth Criminal Justice Act* provides that a "young person" is someone who "appears to be twelve years old or older, but less than eighteen years old" (see SC 2002, c 1, s 2(1) sub verbo "young person" [YCJA]).

all aspects of the court process (presumably including the decision itself) as simple and convenient as possible in cases involving SRLs.⁶ The results of this study suggest that the average SRL decision requires readers to have more than a completed undergraduate degree in order to easily understand the decision. These results also offer us some preliminary data suggesting that judges tend to write less (rather than more) readable decisions in cases involving SRLs.

The results of each study are discussed in detail in the body of this article. However, it is immediately worth noting that the average decision within each of the two studies requires a reader to have at least some post-secondary education in order to easily understand the decision, when 43% of Canada's people have only up to a high school diploma as their highest level of education,⁷ and approximately 16% have not completed secondary school or equivalent education.⁸ In other words, the results contained within this article suggest that the average court decision in the studied cases—involving parties who likely need especially readable decisions—are not being written at levels that are responsive to the parties' circumstances. This situation creates potential problems for the parties receiving the decisions, and for the authoring judges whose decisions cannot be effectively understood by the primary audiences for the decisions.

In Part I of this article, I offer some brief background information about the readability formula that is used in the article's two studies. In Part II, I describe the first study of youth criminal court decisions, including the study's methods, before presenting and discussing the results. Part III follows the same structure, describing the methods for the study of self-represented litigant decisions before moving on to my analysis of the results of this study. The article concludes with an overarching assessment of how Canadian courts, in cases involving special types of parties, are failing to deliver meaningful and understandable decisions to these

6 Canadian Judicial Council, *Statement of Principles on Self-represented Litigants and Accused Persons* (Ottawa: Canadian Judicial Council, 2006) at 2, online (pdf): <cjc-ccm.ca> [perma.cc/L9VR-ALV9].

7 Statistics Canada, "Highest Level of Education by Census Year: Canada, Provinces and Territories, Census Metropolitan Areas and Census Agglomerations", Table 98-10-0384-01 (9 December 2022), DOI: <10.25318/9810038401-eng> [Statistics Canada, "Highest Level of Education"].

8 *Ibid.*

parties. This conclusion and its supporting data shows that there is significant room for improvement in how judges write decisions for young persons and SRLs if these decision-makers hope to effectively communicate the reasons for their decisions to the parties.

I. BACKGROUND

Readability formulas are predictive in nature. They typically use statistical techniques to analyze the language properties of documents that have been scored for reading difficulty by real people in order to identify which combination of language properties, with which weights, will best predict the scores that humans would have given to a text.⁹ But it is important to understand what these formulas are capable of telling us, and what limitations they carry.

To begin with, these formulas are all created based on specific (and generally, different) conceptions of what it means to “understand” a text. For instance, Rudolf Flesch used a set of standard reading comprehension passages as the basis for his Flesch Reading Ease formula.¹⁰ Each passage was accompanied by eight-to-ten comprehension questions. Flesch determined the reading grade level for each of these passages when students from a particular grade were able to correctly answer 75% of the comprehension questions.¹¹ Edgar Dale & Jeanne S. Chall, in contrast, used the same standard reading comprehension passages to create their readability formula, but they determined the reading grade level for each of these passages when students from a particular grade were able to correctly

9 James W Cunningham, Elfrieda H Hiebert & Heidi Anne Mesmer, “Investigating the Validity of Two Widely Used Quantitative Text Tools” (2018) 31:4 Reading & Writing 813, DOI: <10.1007/s11145-017-9815-4> (“[a]lmost all readability formulas, past and present, are regression equations” at 814). For an overview of how general-purpose readability formulas like the Flesch-Kincaid Grade Level formula were created and validated, see Michael Madden, *Putting Numbers to Words: Measuring the Readability of Court and Administrative Tribunal Decisions in Canada* (PhD Dissertation, University of Ottawa Faculty of Law, 2025) [unpublished] at 175–81, DOI: <10.20381/ruor-31322>.

10 In his study, Rudolf Flesch used the McCall-Crabbs’ Standard Test Lessons in Reading (see “A New Readability Yardstick” (1948) 32:3 J Applied Psychology 221 at 222, DOI: <10.1037/h0057532>).

11 *Ibid.*

answer only 50% of the comprehension questions.¹² Others have used altogether different measures—such as a person’s ability to correctly fill in the missing word within a text 35% of the time, for at least 50% of the people at that grade level.¹³ Madden’s Adjudicative Decision Readability Score (MADRS),¹⁴ like other recently developed readability formulas,¹⁵ relied on subjective assessments from readers as to their perceptions of a text’s difficulty. As these studies suggest, there is no consensus about what degree of comprehension is needed in order for a text to be understood.

However, the differing conceptions of what it means to “understand” a text also suggest that there are probably other deeper levels of understanding that go beyond the bare minimum that a reader would need to have to “understand” a text. We might therefore differentiate between a linguistic understanding of a text (that relies on a minimum but clearly less-than-perfect degree of comprehension) on the one hand, and higher or deeper levels of textual understanding, on the other hand. With respect to case law, this distinction might manifest when, for instance, a

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- 12 Edgar Dale & Jeanne S Chall, “A Formula for Predicting Readability” (1948) 27:1 Educational Research Bull 11 at 15.
 - 13 J Peter Kincaid et al, *Derivation of New Readability Formulas (Automated Readability Index, Fog Count and Flesch Reading Ease Formula) for Navy Enlisted Personnel*, Research Brand Report 8-75 (Millington, Tenn: Institute for Simulation and Training, 1975) at 11, citing John S Caylor et al, *Methodologies for Determining Reading Requirements Military Occupational Specialties* (Alexandria, Va: Human Resources Research Organization, 1973).
 - 14 Mike Madden, “How Understandable are Adjudicative Decisions?: Introducing and Applying Law’s Own Readability Formula”, 30 Leg Writing [forthcoming in 2026], DOI: <10.2139/ssrn.5110351> [Madden, “How Understandable”].
 - 15 In different studies, authors rely upon expert ratings performed by humans to generate readability scores (see Sasikiran Kandula & Qing Zeng-Treitler, “Creating a Gold Standard for the Readability Measurement of Health Texts” [2008] AMIA Annual Symposium Proceedings 353; Scott A Crossley et al, “Predicting the Readability of Physicians’ Secure Messages to Improve Health Communication Using Novel Linguistic Features: Findings from the ECLIPPSE Study” (2020) 13:4 J Communication Healthcare 344 at 344, DOI: <10.1080/17538068.2020.1822736>). In a similar study, the authors relied on Amazon Mechanical Turk—paid worker—raters to subjectively score text difficulty levels using pairwise comparisons (see Scott A Crossley, Stephen Skalicky & Mihai Dascalu, “Moving Beyond Classic Readability Formulas: New Methods and New Models” (2019) 42:3/4 J Research Reading 541 at 547, DOI: <10.1111/1467-9817.12283>).

reader understands the linguistic content of an adjudicative decision but does not necessarily understand the deeper legal content of the decision.

Consider, for instance, a decision dealing with an arbitrary detention under section 9 of the *Canadian Charter of Rights and Freedoms*. A reader might understand this decision in a linguistic sense because the reader is familiar with both the words “arbitrary” and “detention” in everyday English. But this does not mean that the reader would necessarily have a strong legal understanding of the decision, if the reader does not also realize that, according to Canadian case law, a detention can take place psychologically (as opposed to just physically),¹⁶ and that a detention is arbitrary if police do not have lawful authority to detain a person¹⁷ (even if there are other good reasons why police want to detain the person). As this example highlights, understanding an adjudicative decision—depending on how one defines and frames the concept of “understanding”—could involve much more than just being able to comprehend the linguistic meaning of the text of the decision. And in law, where common English words are often given unique or nuanced meanings,¹⁸ the gap between what is needed for a linguistic understanding of a decision and a deeper legal understanding of a decision will often tend to be large.

It must be understood that quantitative readability formulas, like the MADRS formula used in this article, do not assess deeper levels of comprehension. These formulas are only capable of predicting the level of comprehension that the researchers relied upon when creating the formula. So, a formula-based assessment that an adjudicative decision is readable to a person with a particular education level is not a signal that the person would likely understand the full legal content of the decision—only the linguistic content.

Until recently, there were no readability formulas that were designed specifically to be used on legal texts. However, in a previous article, I reported on the creation of MADRS, a law-specific readability formula.¹⁹ This formula was created from human expert assessments about how

16 *R v Grant*, 2009 SCC 32 at paras 30–31.

17 *Ibid* at para 54.

18 Brenda Danet, “Language in the Legal Process” (1980) 14:3 Law & Soc’y Rev 445 at 469, 476–77.

19 Madden, “How Understandable”, *supra* note 14.

well people of different education levels would understand text extracts from actual Canadian court and tribunal decisions. Through regression analysis, it was possible to develop this predictive formula that assigns readability scores to adjudicative decisions based on the linguistic properties of the decisions. The formula was validated on an independent data set, following validation methods that have been used to validate almost every other well-known linguistic readability formula in existence, and was found to be strongly capable of predicting the reading difficulty scores of texts that had been rated by human assessors.²⁰ In other words, the MADRS formula represents a computer-based tool that can quantitatively measure the readability levels of Canadian court and tribunal decisions on a massive scale, with relatively small effort. And this formula outperforms other well-known general-purpose readability formulas in terms of predicting human experts' readability scores for adjudicative decision texts.

The formula relies on six linguistic variables to produce a global readability score. Four of the variables measure word-related properties in the text, as described below.

1. **Kuperman Age of Acquisition (Content Words) / AoA_CW:** This variable measures the age at which individuals would have understood a particular *content* word if someone used it in front of them, even if the subject individual did not use, read, or write the word themselves at that age.²¹ Content words are words that tend to carry lexical meaning, and include nouns, verbs, adjectives, and

20 For a discussion on this point, see Michael Madden, *Putting Numbers to Words: Measuring the Readability of Court and Administrative Tribunal Decisions in Canada* (PhD Dissertation, University of Ottawa, 2025) [unpublished] at 175–81, DOI: <10.20381/ruor-31322>.

21 The authors of the study that created Kuperman's age of acquisition scores relied upon ratings from 1,960 American participants, who provided a total of 842,438 age of acquisition ratings for 30,121 words (i.e., each word was rated by approximately 28 different participants in the study) (see Victor Kuperman, Hans Stadthagen-Gonzalez & Marc Brysbaert, "Age-of-Acquisition Ratings for 30,000 English Words" (2012) 44:4 Behavior Research Methods 978 at 980–81, DOI: <10.3758/s13428-012-0210-4>).

some adverbs.²² The content words “momma,” “mama,” “mom,” and “potty” have the four lowest age of acquisition scores in the relevant database, while the content words “calceolaria,” “architrave,” “penury,” and “thrombocytopenia” are all among the ten highest scoring words.²³

2. **Medical Research Council – Imageability (All Words) / MRC_Imag_AW:** This variable measures the imageability of words used in a text. Imageability refers to the tendency for a word to evoke both a lexical and a visual representation of the word within the mind of a reader/listener.²⁴ For instance, the word “beach” (for which most of us have a strong mental image) has the highest imageability score in the relevant database, while the word “plenipotentiary” has the lowest score.²⁵
3. **Medical Research Council – Concreteness (Function Words) / MRC_Concr_FW:** This variable measures the concreteness of function words used in a text. Function words include pronouns, articles, conjunctions, and prepositions that fill grammatical

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- 22 Helen Bird, Sue Franklin & David Howard, “‘Little Words’ – Not Really: Function and Content Words in Normal and Aphasic Speech” (2002) 15:3/4/5 *J Neurolinguistics* 209 at 210, DOI: <10.1016/S0911-6044(01)00031-8>.
 - 23 Kuperman, Stadthagen-Gonzalez & Brysbaert’s full database was erroneously not included within the supplemental material accompanying their article when it was first published (see *supra* note 21). The database was subsequently made available in a notice of erratum (see Victor Kuperman, Hans Stadthagen-Gonzalez & Marc Brysbaert, “Erratum To: Age-of-Acquisition Ratings for 30,000 English Words” (2013) 45:3 *Behavior Research Methods* 900, DOI: <10.3758/s13428-013-0348-8>).
 - 24 Maya M Khanna & Michael J Cortese, “How Well Imageability, Concreteness, Perceptual Strength, and Action Strength Predict Recognition Memory, Lexical Decision, and Reading Aloud Performance” (2021) 29:5 *Memory* 622 at 622, DOI: <10.1080/09658211.2021.1924789>. Imageability scores are drawn from the scores that were assigned to 9,240 different words found in Coltheart’s Medical Research Council Psycholinguistic Database (see Max Coltheart, “The MRC Psycholinguistic Database” (1981) 33:A *QJ Experimental Psychology* 497).
 - 25 Max Coltheart & Michael Wilson, *MRC Psycholinguistic Database Machine Usable Dictionary: Expanded Shorter Oxford English Dictionary Entries* (11 March 1987), Oxford Text Archive (ota:1054), DOI: <20.500.12024/1054>. See also MRC Psycholinguistic Database, “MRC Machine Usable Dictionary: Version 2.00” (6 March 1997), online: <websites.psychology.uwa.edu.au> [perma.cc/4MP4-PB7F].

functions, but that do not tend to carry much lexical meaning.²⁶ Concreteness refers to the extent to which a word represents something that can be experienced by the senses.²⁷ For instance, the word “milk” (describing a liquid that can be distinctively experienced by most people through taste, touch, sight, and smell) has the highest concreteness score in the relevant database, while the word “as” has the lowest score.²⁸ In terms of function words, “me,” “I,” and “mine” have the three highest concreteness scores, while “as,” “of,” and “however” have the three lowest scores.²⁹

4. **General Inquirer Database – Legal (Nouns) / GI_Leg_Nouns:** This variable measures the proportion of words in a text that are found on a defined list of 192 words associated with legal, judicial, or police matters.³⁰ Examples of nouns contained within the General Inquirer’s legal word list (GI_Leg_Nouns) include the following: advocate, auditor, deposition, fugitive, junta, and legislator.

Another MADRS variable measures how commonly three-word phrases within a text can be found in a database of frequently used phrases.

5. **COCA – Spoken (Proportion of Trigrams in the top 30K) / COCA_Spoken_TriTop30K.** This variable measures how often trigrams (three-word phrases) within a text can be found within a list of the thirty thousand most-frequently used trigrams contained inside of the Corpus of Contemporary American English – Spoken (COCA – Spoken) sub-corpus. Individuals process

26 Sidney J Segalowitz & Korri C Lane, “Lexical Access of Function Versus Content Words” (2000) 75:3 *Brain & Language* 376 at 376, DOI: <10.1006/brln.2000.2361>.

27 Khanna & Cortese, *supra* note 24 at 623–24. Concreteness scores are drawn from the scores that were assigned to 8,228 different words found in Coltheart’s Medical Research Council Psycholinguistic Database (see Coltheart, *supra* note 24).

28 Coltheart & Wilson, *supra* note 25.

29 *Ibid.*

30 Harvard University, “Descriptions of Inquirer Categories and Use of Inquirer Dictionaries” (last visited 6 May 2026), online: <inquirer.sites.fas.harvard.edu> [perma.cc/R3RF-ZBJQ]. The “legal” word list originates from the Harvard IV-4 dictionary lists used by the General Inquirer, a 1966 database consisting of 11,000 words assigned to 119 different word lists (see Scott A Crossley, Kristopher Kyle & Danielle S McNamara, “Sentiment Analysis and Social Cognition Engine (SEANCE): An Automatic Tool for Sentiment, Social Cognition, and Social Order Analysis” (2017) 49:3 *Behavior Research Methods* 803 at 807, DOI: <10.3758/s13428-016-0743-z>).

frequently used multi-word phrases more easily than uncommon multi-word phrases.³¹ And the frequency with which one encounters words or phrases in spoken English is likely a better marker of one's ability to understand a word or phrase than the frequency with which one encounters words or phrases in written English, since people tend to have much greater exposure to spoken forms of language than to written forms.³²

The final MADRS variable measures an element of the grammatical complexity of phrases within a text.

6. **Dependents / nominal (no pronouns, standard deviation) / Nominal_Deps_NN_StDev.** The variable measures the number of dependent clauses associated with each noun-phrase in a text,³³ and computes the standard deviation for this number. A higher score for the variable *Nominal_Deps_NN_StDev* would likely be reflective of a text that has relatively more sentences with multiple dependents per nominal. In other words, a higher score would generally mean that a text uses longer sentences with deeper syntactical structures.

The six variables that contribute to the MADRS formula are weighted and combined with a constant to produce a readability score, according to the following statistically derived equation:

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- 31 See generally Inbal Arnon & Neal Snider, "More Than Words: Frequency Effects for Multi-Word Phrases" (2010) 62:1 *J Memory & Language* at 76.
 - 32 Xiaobin Chen & Detmar Meurers, "Word Frequency and Readability: Predicting the Text-Level Readability with a Lexical-Level Attribute" (2018) 41:3 *J Research Reading* 486 at 490, DOI: <10.1016/j.jml.2009.09.005>.
 - 33 Seymour Chatman, "Pre-Adjectivals in the English Nominal Phrase" (1960) 35:2 *Am Speech* 83 at 83–84, DOI: <10.2307/453731>.

$$\begin{aligned}
 \text{MADRS} = & 10.036 \\
 & + (0.471 * \text{AoA_CW}) \\
 & - (0.023 * \text{MRC_Imag_AW}) \\
 & + (4.513 * \text{GI_Leg_Nouns}) \\
 & - (0.650 * \text{COCA_Spoken_TriTop30K}) \\
 & + (1.802 * \text{Nominal_Deps_NN_StDev}) \\
 & - (0.018 * \text{MRC_Concr_FW})
 \end{aligned}$$

MADRS values that this equation produces fall somewhere on a scale from one to seven, based on the scoring criteria contained below in Table 1.

Table 1. MADRS Scoring Scale

This text could be easily understood by an adult who is fluent in English, who has some motivation to read the text, and:	
who has both a law degree and familiarity with the legal subject of the text.	7
who has a law degree.	6
who has an undergraduate degree, or higher level of non-legal education.	5
who has some post-secondary education.	4
who has completed secondary school.	3
who has some secondary school education.	2
who has no secondary school education, or who is less than fluent in English.	1

More information about how the MADRS formula was created and validated, and how it can be used, is contained within the study that initially reports on the readability formula.³⁴ Additionally, MADRS results can now be easily computed (alongside other well-known readability

34 Madden, “How Understandable”, *supra* note 14.

formulas) for single or multiple text files using a free online readability calculator.³⁵

Before presenting the readability results for each of this article's two ensuing studies, it might be helpful to consider how the MADRS formula operates in a few simple and familiar situations. I have therefore calculated MADRS values for several judicial texts that may be known to many lawyers. These texts, and their corresponding MADRS results, are discussed briefly below.

One of these texts was written by Lord Denning.³⁶ It discusses the delights of village cricket in the summertime and the law of nuisance. From a literary perspective, Lord Denning's writing is elegant and memorable. I calculated MADRS values for the opening paragraph of Lord Denning's opinion and for the opinion as a whole. The first paragraph scores a 2.7, while the full opinion scores a 3.6. A person with less than a secondary school diploma could easily understand the opening paragraph, but one would need more than this diploma to understand the opinion as a whole. The difference in these results is not surprising: as the opinion moves from general matters of familiar everyday life (at least, for villagers in England) to more technical and unfamiliar legal matters of tort law, pleadings, easements, prescriptions, and discretionary remedies, one might expect the reading difficulty of the text to increase. This expectation may arise as a matter of common sense, but also as a function of the variables that are included within the MADRS formula, several of which are essentially proxy measures for a person's likely familiarity with a word or phrase.³⁷

35 ARTE, "ARTE – Automated Readability Tool for English" (last visited 6 May 2026), online: <readabilitytools.com> [perma.cc/V5JB-2G99]. Individual files can be scored using the "Analyze" function, while groups of files can be scored using the "Batch Upload" function, both of which can be found in the menu column located at the left side of this webpage.

36 *Miller v Jackson*, [1977] EWCA Civ 6.

37 For instance, the variable "Age of Acquisition – Content Words" measures the age at which a person would understand a word or phrase if it was used in front of them. The age at which one "acquires" a word is inevitably related to the frequency with which that word manifests in the person's life at the age of acquisition. The examples (see the text accompanying note 14) of the words with the youngest ages of acquisition (like "momma" and "potty") are illustrative of this point. Similarly, the variable "COCA – Spoken (Proportion of Trigrams in the top 30K)" measures the ratio of

Two other famous tort cases that law students would likely have encountered were also assessed. *Palsgraf v. Long Island Railroad Co.* involved a woman who was injured when a man dropped a package that exploded while she was boarding a train.³⁸ *Donoghue v. Stevenson* involved a woman who fell ill after drinking soda from a bottle that contained a decomposed snail.³⁹ The MADRS result for Justice Cardozo's majority opinion in the former case was 4.7. The result for the complete decision (consisting of five separate opinions) in the latter case was 5.0. Both texts therefore require something close to a completed undergraduate degree from a reader if the reader is to easily understand the decisions.

Finally, I have examined a Canadian example. Justice David Watt wrote in a way that "is seen by some as part of a welcome trend away from impenetrable, legal jargon."⁴⁰ I calculated MADRS values for one of Justice Watt's notable decisions.⁴¹ The opening section scored 2.5,⁴² while

three-word phrases in a text that are found on a list of the thirty thousand most-frequent three-word phrases in a massive database of naturally spoken English. The inclusion of this variable therefore also implies that more familiar expressions of language are easier for readers to understand than less familiar expressions of language.

38 248 NY 339 (NY App Ct 1928).

39 [1932] UKHL 100.

40 Kirk Makin, "The Judge Who Writes Like a Paperback Novelist", *The Globe and Mail* (10 March 2011), online: <theglobeandmail.com> [perma.cc/8QSE-DT9A]. However, Elaine Craig has persuasively advanced a powerful critique of the way in which Justice Watt writes in many of his decisions (see "Judicial Audiences: A Case Study of Justice David Watt's Literary Judgments" (2018) 64:2 McGill LJ 309).

41 *R v Shafia*, 2016 ONCA 812 [*Shafia*], leave to appeal to SCC refused, 2017 CanLII 20378 (SCC).

42 The first four paragraphs of the decision read as follows:

Boaters who travel the Rideau Canal system between Colonel By Lake and Lake Ontario pass through a series of locks at Kingston Mills. Lock gates open. Boats enter. Lock gates close. Boats leave.

But not always.

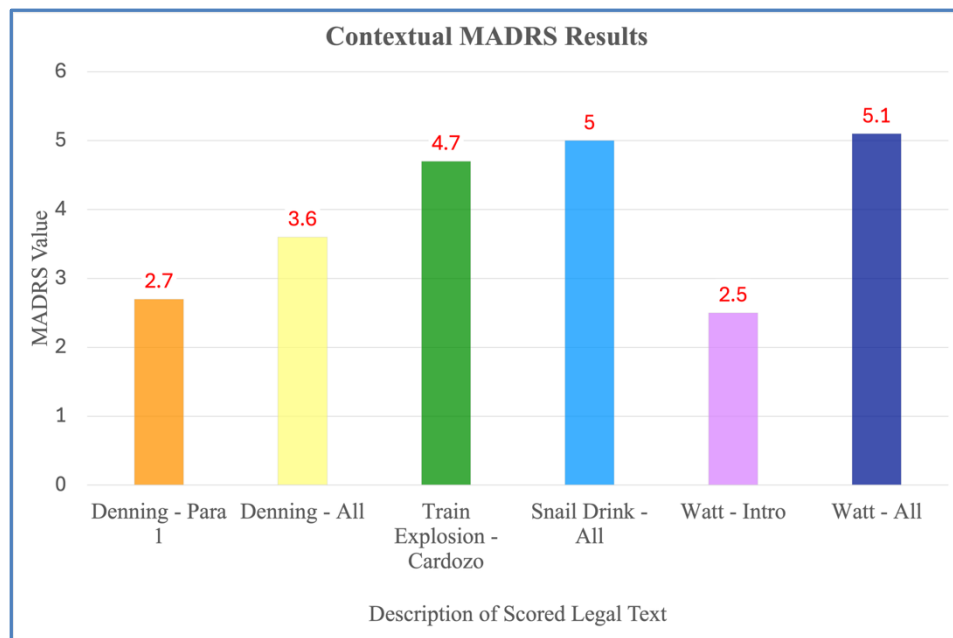
One morning—June 30, 2009—boaters could not enter Kingston Mills Locks. Oil on the water of the upper lock. A closer look revealed its source. Something in the water.

In the water was a Nissan Sentra. Driver's window open. Ignition off, but not locked. Headlights off. Seatbelts unfastened. Front seats reclined. Rear name plate damaged (see *Shafia*, *supra* note 41 at paras 1–4).

the entire opinion scored 5.1. Again, the scores are not surprising when one reads the decision. The opening section is written in a distinctly different (more conversational, more informal) style than the remainder of the decision. And the vocabulary in the opening section (discussing boats, a car, death, family members, etc.) is simple and concrete in comparison with the vocabulary in other parts of the decision (particularly from paragraph 167 onward, wherein Justice Watt discusses things like the four threshold requirement for expert evidence, the balance of probative value and prejudicial effect, and ante-mortem statements of the deceased that were not tendered under the state of mind exception to the hearsay rule).

The MADRS results for each of the above contextual documents are shown below.

Chart 1. Contextual MADRS Results



These scores, among other things, help to show how different parts of a text often have different readability scores. This knowledge is useful because it may caution us against drawing conclusions about a text based only on the more memorable, notorious, or sensational parts of the text. For instance, if a person with only secondary school education were truly interested in understanding Justice Watt's reasoning for upholding

murder convictions in the above case, the reader would not necessarily be assisted by the highly readable language that Justice Watt uses in the opening section of the decision (wherein he discusses facts and his conclusion, without any explanation as to how he reaches his conclusion), and might be confounded by the less readable language that the judge uses throughout the analytical portion of his opinion.

II. READABILITY SCORES FOR YOUTH CRIMINAL COURT DECISIONS

The above background information about the MADRS formula will ideally give readers some understanding of, and confidence in, the formula for the purposes of the two studies that follow within this article. The first study, discussed below, examines readability levels for Canadian court decisions involving prosecutions of young persons under the *Youth Criminal Justice Act* (YCJA).

There are many reasons why it may be desirable for courts to produce readable decisions. Judges themselves repeatedly profess to be communicating with everyday members of the public,⁴³ at all levels of courts from the Supreme Court of Canada,⁴⁴ to courts of appeal,⁴⁵ to superior

43 See e.g. Office of the Commissioner for Federal Judicial Affairs Canada, “The Honourable Mahmud Jamal’s Questionnaire” (last modified 17 June 2021), online: <fja-cmf.gc.ca> [perma.cc/ZU2D-CUZX]:

[T]he Court’s decisions speak directly to the Canadian public. The public has a right to understand how their highest court is grappling with the most pressing legal issues of the day. As Chief Justice Dickson underscored: “Our judgments touch the lives of all Canadians. They should convey meaning to all who read them, whether or not they are learned in the law.” This is especially important at a time when many justice system participants are self-represented. Clear and accessible reasons concretely improve access to justice (at part 10, question 4 [Office of the Commissioner for Federal Justice Affairs, “Jamal’s Questionnaire”] [references omitted]).

44 See e.g. Office of the Commissioner for Federal Judicial Affairs Canada, “The Honourable Michelle O’Bonsawin’s Questionnaire” (last modified 19 August 2022), online: <fja-cmf.gc.ca> [perma.cc/NDY6-EPAJ] (“[a]nother audience [for SCC decisions] includes lower courts, the legal profession, legislatures, academics, media and the public” at part 10, question 4).

45 See e.g. Department of Justice Canada, “The Honourable Jill Miriam Copeland’s Questionnaire” (last modified 30 May 2022), online: <canada.ca> [perma.cc/3QTW-HMWM]:

(trial-level) courts.⁴⁶ If the courts are to be successful in getting their messages across to ordinary members of the public, then presumably the courts' decisions need to be written in language that is understandable to broad public audiences. However, even lawyers benefit from more readable decisions: an Australian study found that lawyers who read a plain language version of a statute were able to complete tasks that applied the hypothetical statute in less than half the time that it took for lawyers who read a version of the same statute drafted in more traditional legalese.⁴⁷ In other words, many different types of readers would seem to be well-served by the production of readable court decisions.

The case for readable decisions is perhaps more powerful for cases involving young persons who are dealt with under the *YCJA*. These decisions all involve the same unique and special circumstance that tends to militate in favour of the production of a highly readable decision, especially if one accepts the idea that the parties are an important audience for any court decision.⁴⁸ Specifically, youth criminal court prosecutions

The public is also an important audience for Court of Appeal decisions. Judicial independence structures and limits the way that judges are accountable to the public. Written decisions (or oral decisions with adequate reasons) are one of the most important ways that judges are accountable to the public for how they carry out their judicial role. This is not a process of pandering to the public or trying to write a decision that the public will like. Judicial independence and impartiality prevent a judge from proceeding in that manner. But a judge has a duty to explain what decision he or she has made and why. This is an aspect of justice being done and being seen to be done. The public has a right to review the reasons for decision, and comment on and criticize them if they feel that is warranted (at part 11, question 4)

- 46 Department of Justice Canada, "The Honourable Renu Mandhane's Questionnaire" (last modified 28 March 2022), online: <canada.ca> [perma.cc/83PL-XJS2] ("[r]easons must provide guidance to the public, including the media. This requires reasons that are written in plain language, efficient, and available in accessible formats. Judgments should be fulsome enough that the reader does not need to consult pleadings, case law or secondary sources to understand them. On the other hand, the reasons cannot be overwhelming or require specialized knowledge" at part 11, question 4).
- 47 Austl, Victorian Law Reform Commission, *Plain English and the Law: The 1987 Report Republished with a New Preface* (Melbourne: VLRC, 2017) at para 106, online (pdf): <lawreform.vic.gov.au> [perma.cc/432Y-XMCE].
- 48 The Honourable Mr Jamie WS Saunders, "Reflections on the Art and Science of Decision-Making and Decision-Writing" (Paper delivered at the Maritime Provinces' Law Societies' Professional Development Conference, Halifax, 9 November 2017) [unpublished] at 71, online (pdf): <courts.ns.ca> [perma.cc/PU9H-9XQD];

always involve an accused person or offender who was less than eighteen years old at the time of the alleged offence, and who is regularly still less than eighteen years old at the time the decision is released. The accused person or offender in these cases is therefore not someone who is likely to have acquired any post-secondary education. If courts are really taking the circumstances of the parties into account when writing decisions, then one would expect that MADRS scores for this class of cases should be somewhere near the 3.0 level. The study that follows tests this hypothesis.

A. Method — Measuring the Readability of Youth Criminal Court Decisions

In order to assess readability levels of Canadian youth criminal court decisions, I first compiled a corpus⁴⁹ of reported decisions from 2022 that involved the prosecutions of young persons. My initial searches into the population size for this class of cases indicated that it was small, so I used the entire population rather than a random sample (subject to exclusionary criteria, discussed below).

1. Case Selection

In terms of case selection, I proceeded as follows. I first searched for cases using the CanLII database.⁵⁰ I began with a full text search for documents containing the phrase “youth criminal justice act.” I then filtered to include all provincial and territorial jurisdictions other than Quebec. Decisions from Quebec were overwhelmingly written in French, and the MADRS readability formula is based on the English language. The variables that contribute to the formula all rely on measurements about uniquely English words, phrases, or grammatical structures. The COCA_Spoken_TriTop30K variable, for instance, compares the trigrams in a text against a list of the top thirty thousand trigrams that appear in a

Department of Justice Canada, “The Honourable Steven Wilson’s Questionnaire” (last modified 1 March 2017) at part 11, question 4, online: <canada.ca> [perma.cc/ZTP4-HJV6]. See also Gerald Lebovits, Alifya V Curtin & Lisa Solomon, “Ethical Judicial Opinion Writing” (2008) 21:2 *Geo J Leg Ethics* 237 at 244.

49 The words “corpus” and “corpora” are terms that linguists use to refer to a database, or several databases (respectively) of language that form the basis of a study.

50 CanLII, “Canadian Legal Information Institute” (last visited 6 May 2026), online: <canlii.org> [perma.cc/E7Q7-V8MT].

corpus of spoken English texts. There is no identical corpus for the French language. Nor is there any obvious reason why three-word phrases that appear frequently in spoken English would also appear with the same frequency (in directly translated form, if such a translated form were possible to create) in spoken French, and would have the same effect on comprehension in French.

The same kind of language-specific problems exist for other MADRS variables. This is perhaps why scholars have concluded that “[u]nfortunately, existing approaches cannot be easily extended to handle thousands of different languages.”⁵¹ Formulas from one language cannot necessarily predict readability levels of texts from another language. MADRS, because of the language-specific variables that the formula relies upon, cannot be assumed to operate effectively on French texts—so the ensuing studies within this article have not applied the formula to French texts.

The MADRS formula was developed using texts of approximately six hundred words,⁵² so opinions with less than four hundred words were excluded as they would not necessarily provide enough linguistic information for the MADRS formula to accurately score the text. There was no upper length limit. This was because research in other contexts has shown that reading comprehension is not significantly affected by text length across a relatively wide spectrum of text lengths,⁵³ although I acknowledge (from personal experience) that a reader’s *motivation* to read a long text might be much lower than their motivation to read a short text, even if length does not affect that reader’s *comprehension* of the respective texts.

51 Jesse Saba Kirchner, Justin Nuger & Yi Zhang, “An Extensible Crosslinguistic Readability Framework” in Pascale Fung, Pierre Zweigenbaum & Reinhard Rapp, eds, *BUCC '09: Proceedings of the 2nd Workshop on Building and Using Comparable Corpora: From Parallel to Non-Parallel Corpora* (Stroudsburg, Pa: Association for Computational Linguistics, 2009) 11 at 11.

52 Madden, “How Understandable”, *supra* note 14 at 14.

53 Kristen L Beach, *The Effect of Media, Text Length, and Reading Rates on College Student Reading Comprehension Levels* (PhD Dissertation, University of Phoenix, 2008) [unpublished] (“there was no statistically significant difference between those reading the 600-word passage and those reading the 2,000-word passage in terms of reading comprehension scores” at 62–63).

Finally, I screened each decision within the remaining results and excluded any case where it was apparent that the case was not one that primarily involved the prosecution of charges against a young person. These exclusions arose where, for instance, the decision included the phrase “youth criminal justice act” for only incidental reasons, rather than because the decision was from a court that had been empowered under the *YCJA*. The exclusions also arose in criminal prosecutions of adults, but where the *YCJA* was implicated indirectly—for instance, when an adult accused person sought the production of criminal records relating to a young person who was a third party, and whose records were protected under the *YCJA*.

2. Text Extraction and File Preparation

Once a case was identified for inclusion within the corpus, I navigated to the web-based publication of the decision and manually copied from the first word to the last word of the body of the decision (or opinion, as appropriate). As this method choice suggests, all header and preliminary information that preceded the body of a decision (such as headnotes, counsel names, hearing location and date, docket number, etc.) and all end-matter that followed the last word of the body of a decision (such as footnotes, counsel names, court orders that did not form part of the body of the decision, etc.) were omitted from my selections of text. The selected text was then pasted into a new plain text file and saved within a file directory specific for that court level.

3. Linguistic Processing of Files / MADRS Calculations

I processed all text files containing court decisions through three different linguistic software applications to measure the relevant variables within the files that contribute to a text’s MADRS value.

Specifically, I processed the files through the Tool for the Automatic Analysis of Lexical Sophistication (TAALES) program.⁵⁴ TAALES reports results on different lexical sophistication and complexity variables, including four of the variables that contribute to the MADRS formula:

54 NLP Tools for the Social Sciences, “TAALES: Tool for the Automatic analysis of Lexical Sophistication” (last visited 2 November 2022), online: <linguisticanalysistools.org> [perma.cc/EKT7-GHPL].

MRC_Imag_AW; MRC_Conc_FW; AoA_CW; and, COCA_Spoken_TriTop30K. I then processed the files through the Sentiment Analysis and Cognition Engine (SEANCE) program.⁵⁵ SEANCE results contain data on different sentiment, cognition, and topic-related variables, including the variable GI_Leg_Nouns, which contributes to the MADRS formula. Finally, I processed the files through the Tool for the Automatic Analysis of Syntactic Sophistication and Complexity (TAASSC) program.⁵⁶ TAASSC results contain data on different syntax-related variables, including the variable Nominal_Deps_NN_StDev, which contributes to the MADRS formula. The output generated by each of these software programs saves as a comma-separated values spreadsheet file.

Once values had been calculated by these three different linguistic programs for each of the six variables that contribute to the MADRS formula, for each file within the YCJA corpus, it was possible to compute MADRS values for each file using the regression equation described in the previous Part.

B. Discussion & Analysis — Readability Scores for Youth Criminal Court Decisions

Once all exclusion criteria were applied, I ultimately ended up with a corpus that consisted of 74 decision files, containing over 546,000 words of text. A spreadsheet containing the full MADRS results for these decisions, including component scores for each contributing variable, is publicly available.⁵⁷ A graphical representation of MADRS results for these decisions is shown below in Chart 2, in the form of a boxplot. The “box” represents the interquartile range⁵⁸ for MADRS values of youth criminal

55 NLP Tools for the Social Sciences, “SEANCE: Sentiment Analysis and Cognition Engine” (last visited 2 November 2022), online: <linguisticanalysistools.org> [perma.cc/SA4L-PGUH].

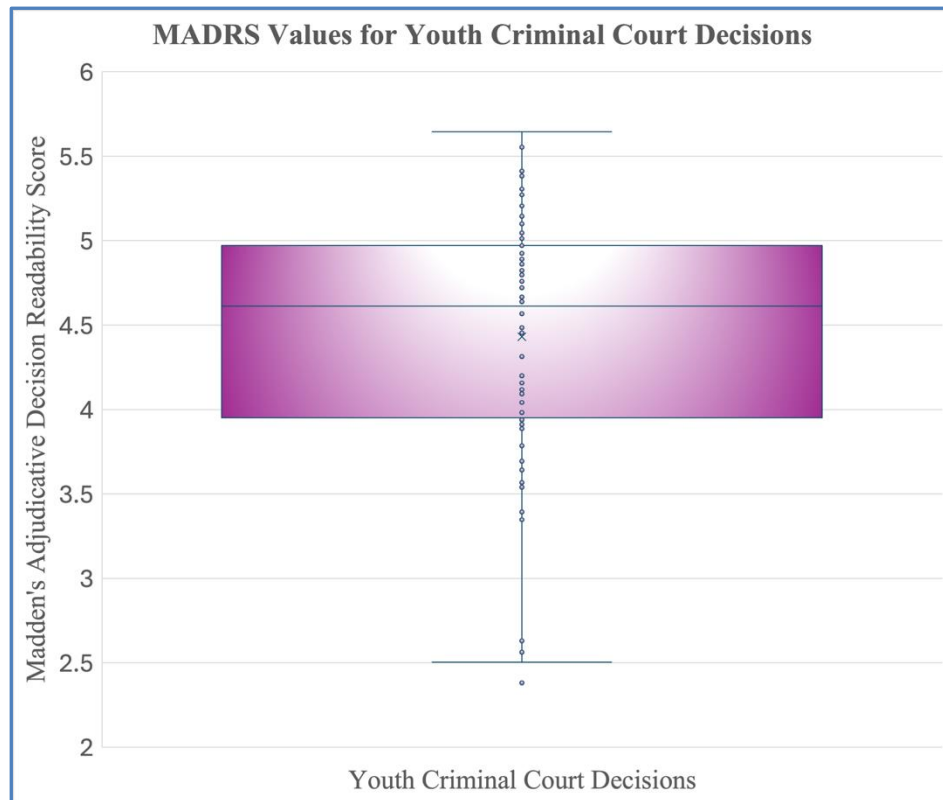
56 NLP Tools for the Social Sciences, “TAASSC: Tool for the Automatic analysis of Syntactic Sophistication and Complexity” (last visited 2 November 2022), online: <linguisticanalysistools.org> [perma.cc/2AW3-7XSW].

57 Mike Madden, “MADRS_MaddenDissertation_Chapter5_YouthCourtResults”, v 1.0, Harvard Dataverse (21 January 2025), DOI: <10.7910/DVN/H0DF2O> [Madden, “Youth Court Results Dataset”].

58 “Interquartile range” refers to the range between the 25th and 75th percentiles; it offers a view of the middle 50% of the data points, and is less sensitive to outlier points than other dispersion measures (see Michael O Finkelstein & Bruce Levin,

court decisions. The middle horizontal line represents the median, or middle, score (that is, the score that has an equal number of higher and lower scores within the results). The “x” represents the average score. The “whiskers” extending above and below the box extend to show the full range of the scores, or to 1.5 times the size of the interquartile range—whichever is less. Individual data points extending above or below the whiskers represent outlier values that are noteworthy for their distance away from the central tendency (that is, the average) for the data set. Similar boxplots are shown for other data (below), and should be read in the same manner as the current boxplot.

Chart 2. MADRS Values for Youth Criminal Court Decisions



These results, unfortunately, look surprisingly similar to the results for all inferior-court decisions that have been reported elsewhere.⁵⁹ The MADRS average for youth criminal court decisions here is 4.43, slightly higher than the average for all inferior court decisions (4.37) in a similar study that looked at readability variances across court levels.⁶⁰ In other words, inferior courts write subtly more readable decisions in general than youth courts write in decisions that involve prosecutions of young persons under the *YCJA*. That being said, the average score for these *YCJA* decisions is noticeably more readable than the average score for all criminal law decisions (4.69) that was reported elsewhere,⁶¹ and this is

59 Madden, "Message Undeliverable", *supra* note 4 at 22–23.

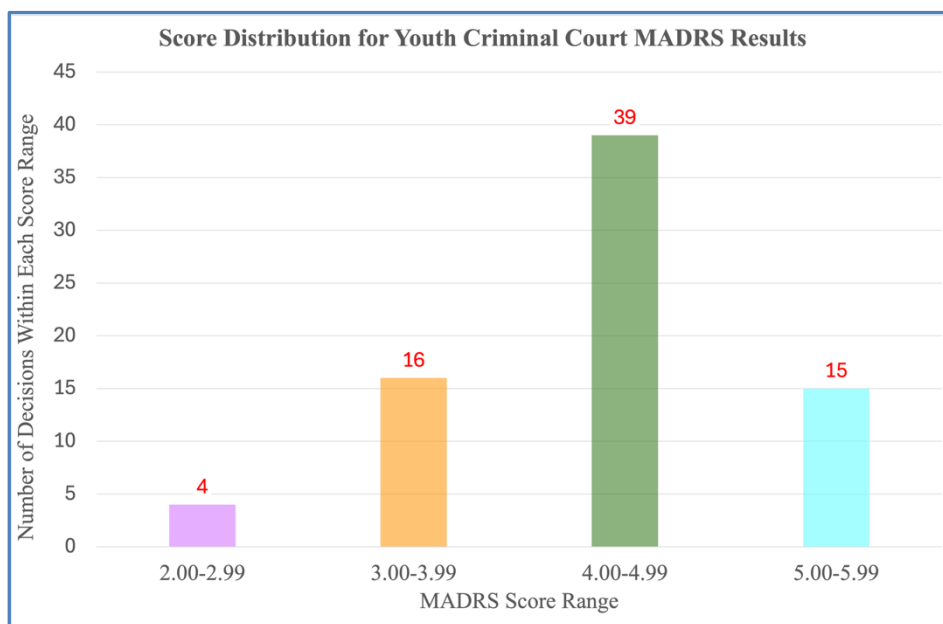
60 *Ibid* at 23.

61 *Ibid* at 46.

probably a more relevant comparator for *YCJA* decisions, since both sets of decisions deal with criminal prosecutions. Overall, the *YCJA* results suggest that individuals who are the subjects of youth criminal court decisions would need, on average, somewhere between “some post-secondary education” and “a completed undergraduate degree” to understand the decisions that relate to their own cases.

A breakdown of the score distribution for these youth criminal court decisions is shown below, in Chart 3.

Chart 3. Score Distribution for Youth Criminal Court MADRS Results



If we assume that the young persons who were the subjects of these decisions would typically not have completed more than secondary school education, then only 5.4% of the decisions (four of seventy-four) would be understandable to the people who are most directly affected by the decisions: the accused persons or offenders in those cases. Over 20% of the decisions (fifteen of seventy-four) were written at a level that requires a completed undergraduate degree to understand the decisions. In light of what we know or can assume about the education levels of young

persons who are prosecuted under the *YCJA*,⁶² there is a massive disconnect between the kind of language that these people can understand and the kind of language that is used in the decisions that dispose of charges against these people.

The two most readable decisions were written by judges of the Alberta provincial court (Judge D'Souza⁶³ and Judge Lloyd⁶⁴). The next two most readable decisions are from the Ontario Court of Justice,⁶⁵ and one

62 In *YCJA* cases, the accused person will always be someone who was under the age of eighteen at the time that the alleged offence was committed (see *YCJA*, *supra* note 5, s 2(1)). Such individuals will also regularly also be ones who are still under the age of eighteen when the decision is rendered. It would be exceedingly rare for such a person, who is under the age of eighteen, to have achieved much more than a completed secondary school diploma. This is because, in most parts of Canada (and in all parts of English-speaking Canada) individuals generally graduate from secondary school at the age of seventeen, or older.

63 This decision involved the prosecution of a historical sex offence, and was 6,658 words in length. Even within the Court's legal analysis section of the decision, the judge writes in language that I find to be simple and concrete. See e.g. *R v RM*, 2022 ABPC 230 at para 62, *aff'd* 2023 ABPC 66:

This Court listened and observed carefully both CW and KG during their evidence and was struck by their candour. KG acknowledged that her memory was not clear in certain regards and there was no attempt by either CW or KG to guess or embellish. Both CW and KG were clear on the material facts, and this Court finds that there is no effort or incident of either of them colluding or fabricating their evidence. They testified as to what happened. Both were clear on the material facts and both were specific. For example, the incident in the fort, the incidents of playing house, the cat poster in RM's bedroom, the music specific to the band and the song playing upstairs prior to the bathroom assault on KG. Both were also specific as to the house layout and the aunt's pink bathroom and events that happened years later where RM was present at the aunt's house in High River.

64 This decision involved a sexual assault from 2021 and was 5,486 words. It was rendered orally, which might help to explain its low MADRS result. As I noted above (see the text accompanying note 32), people tend to understand the language of spoken English better than they understand the language of written English. However, the length and comprehensiveness of the decision, and the absence of normal discourse markers (e.g., "um," "you know") that one can normally find in spoken language that has been transcribed, suggest that the decision was reduced to writing by the judge before it was delivered orally (see *R v TL*, 2022 ABPC 14).

65 The first decision involved a sexual assault prosecution, and was 16,449 words long (see *R v SP*, 2022 ONCJ 454). The second decision also involved a sexual assault charge, and was 18,576 words in length (see *R v LP*, 2022 ONCJ 55 [*R v LP*]).

of them was written by Justice Peter West⁶⁶ (who was mentioned in a similar study for having written two of the five most readable decisions from any level of court in the study of readability variances across court levels).⁶⁷ These Alberta and Ontario inferior-court decisions were the only ones in the present study that required less than a completed high school education to understand.

The least readable decision, scoring 5.64 (somewhere between requiring a completed undergraduate degree and a law degree in order to understand the decision) was from the Ontario Superior Court of Justice.⁶⁸ In some ways, one might have expected this decision to have a far lower MADRS result. The decision arises in the context of a first-degree murder charge that also involved an alleged terrorism component. The decision considered the constitutionality of certain provisions of the *Criminal Code* that apply in the case, and whether these provisions violate the accused person's rights under sections 7 and 11(d) of the *Canadian Charter of Rights and Freedoms*. All of these factors arguably create a powerful rationale for the decision to be written readably: the accused is a young person; murder is one of the most serious charges under Canadian criminal law; terrorism offences are also serious, and tend to attract a significant degree of public attention; and, the case has a constitutional dimension to it that may be of broad public interest. In spite of all of these factors—any one of which might have created a reasonable demand from audiences for a highly readable decision—the court wrote the decision in language that two-thirds of Canada's population likely cannot understand.

To be clear, judges have many difficult tasks that they must balance in performing their work, and communicating in ways that their audiences can understand is just one of these tasks. For instance, as former Chief Justice of Canada McLachlin has noted, trial judges must also clearly set out the findings of fact, and “get the law right”;⁶⁹ appeal judges must set “out the law as clearly as possible, thereby resolving the case

66 *R v LP*, *supra* note 63.

67 Madden, “Message Undeliverable”, *supra* note 4 at 23.

68 *R v OS*, 2022 ONSC 4217.

69 Rt Hon Beverly McLachlin, Remarks (delivered at the NJI and CIAJ Justice Advanced Judgment Writing Seminar, Perth, ON, 16 May 2010) [unpublished] at 6–8, online (pdf): <ciaj-icaj.ca> [perma.cc/BW3Y-WWSP].

justly and giving guidance to lawyers, judges and the public”;⁷⁰ and, Supreme Court judges must ideally write to achieve consensus, be brief, and settle legal issues of public importance.⁷¹ As these remarks suggest, a judge will often want to reach different audiences (with vastly different reading competency levels) all within a single decision. At first glance, this reality might make it harder for judges to write in universally understandable ways. The fallacy with this line of thinking, however, is that it fails to appreciate the cumulative nature of the reading competency acquisition process. Readers at the higher end of the reading competency spectrum theoretically continue to possess the ability to read and understand all texts up to, and below, their maximum competency level.⁷² In other words, a judge who writes in ways that are understandable to audience members at the lower end of the reading competency spectrum will almost inevitably also be writing in ways that are understandable to higher-level readers.

From all of the above results, it seems as if Canadian judges make some effort to write more readably than they otherwise might when dealing with *YCJA* prosecutions (as seen in the lower *YCJA* scores when compared to all criminal law scores). However, the level at which these *YCJA* decisions are written is likely not low enough to enable the subjects of the decisions to personally understand the contents of the decisions.

In reality, however, all of the accused persons or offenders in the current *YCJA* dataset were represented by lawyers.⁷³ So, one might argue that the readability levels of the decisions are not problematic as long as the lawyers can understand the decisions, and can explain them to their youthful clients. This argument might be compelling if lawyers had both the time and the ability to explain decisions to their clients so that clients

70 *Ibid* at 6-7.

71 *Ibid* at 7-8.

72 In their study, Dale and Chall posited that readers at a particular grade level can understand all texts written up to, but not beyond, that grade level as a foundational assumption of their readability formula (see *supra* note 12 at 19).

73 I verified this fact manually by noting that there was a named counsel for the accused person or offender mentioned in all seventy-four decisions within the present study.

could understand the relevant content—as is apparently required by Canada’s *Model Code of Professional Conduct* for lawyers.⁷⁴

We do not know the extent to which lawyers spend time explaining the meaning of a decision to a client, but anecdotal information suggests that legal aid lawyers, who tend to represent young persons in proceedings under the *YCJA*,⁷⁵ are already underpaid or not paid for many of the hours that they work.⁷⁶ Results from the current study indicate that the average reported *YCJA* decision is approximately 7,300 words in length. And, recent research suggests that adults read (silently) non-fiction texts at an average of between 175–300 words per minute.⁷⁷ So, a lawyer would need to spend approximately 30 minutes reading an average *YCJA* decision, one time. It is possible that a lawyer would need to read a decision more than once before being able to explain it to a client. Under these time and financial constraints that *YCJA* lawyers would face, it is probably imprudent to assume that a lawyer will explain the meaning of a court decision to their client in a way that gives the client the kind of understanding that the client would have if they could read and understand the decision personally. In any case, even if we are willing to make this assumption, research suggests that lawyers can read and apply plain language texts more than twice as quickly as they can read texts written in more traditional legalese⁷⁸—so more readable decisions from the courts would be systemically valuable even for young persons who are represented by (time-constrained) lawyers.

74 In the *Model Code of Professional Conduct*, rules 3.1-2 and 3.2-9, along with their accompanying commentary, together suggest that lawyers have a special obligation to explain decisions to minors in terms they can understand (see Federation of Law Societies of Canada, *Model Code of Professional Conduct, as Amended April 2024* (Ottawa: FLC, 2024) at 20, 27, online (pdf): <flsc.ca> [perma.cc/C28R-5RSE]).

75 Young persons generally have the ability to obtain government-funded representation through legal aid schemes in far wider circumstances than adults (see Department of Justice Canada, *The Costs of the Youth Criminal Justice System 2010*, by Ting Zhang & Josh Hoddenbagh, Catalogue No J4-67/2013E-PDF (Ottawa: JUS, 2013) at 16, online (pdf): <publications.gc.ca> [perma.cc/X6MG-YED6]).

76 Breese Davies, “Going Broke in Legal Aid: The High Cost of Cheap Justice”, *The Walrus* (last modified 1 April 2020), online: <thewalrus.ca> [perma.cc/3RX3-UG5T].

77 Marc Brysbaert, “How Many Words Do We Read per Minute?: A Review and Meta-Analysis of Reading Rate” (2019) 109 *J Memory & Language*, No 104047 at 21, DOI: <10.1016/j.jml.2019.104047>.

78 Victorian Law Reform Commission, *supra* note 47 at para 106.

The point of this discussion is not to suggest that judges are the only, best, or most efficient individuals who should bear the responsibility for ensuring that their decisions are understandable to the parties in any given case. If lawyers are paid less than judges (which they almost certainly are, at least in the case of legal aid lawyers), but they are just as capable of explaining the meaning of court decisions to the parties, then a persuasive economic argument could be made that judges should not spend time writing more readably (since lawyers will essentially explain any unreadable parts of a judge's decision to their clients in any event, at a lower dollar-cost to society).

But this argument only works if lawyers can and will perform these explanatory tasks—presumably because they are compensated for the work. And there are numerous indications that lawyers are not being paid to perform this kind of work, or other similarly essential functions that would benefit low-income and high-needs clients. For instance, in 2019, the Chief Justice of Ontario commented upon cuts to legal aid funding, and the impact of these cuts, in the following way:

It is not for judges to determine how public funding are to be allocated. The needs of the justice system must be balanced against challenges and demands of public health, education and welfare, and a host of other necessities of modern society. But what we judges can say is that reducing legal representation for the most vulnerable members of society does not save money. It increases trial times, places greater demands on public services, and ultimately delays and increases the cost of legal proceedings for everyone. We can also say that public confidence in the administration of justice is enhanced when the most vulnerable in our society are given a voice, so they can truly be heard.⁷⁹

As these remarks illustrate, legal aid funding is scarce, and this scarcity seems to be shifting at least some of the work that one might expect lawyers to perform onto the shoulders of other actors within the justice system. Consequently, it is not clear that the work of communicating the meaning of court decisions to clients is currently being performed by lawyers in ways that adequately compensate for the inability of many parties

79 Chief Justice George Strathy, Remarks (delivered at the Opening of the Courts of Ontario, Toronto, 10 September 2019) [unpublished], online: <ontariocourts.ca> [perma.cc/9MV6-QQHP].

to personally read and understand decisions. Under these circumstances, the argument for more readable decisions from judges becomes more urgent and persuasive.

Ultimately, the current study of *YCJA* decisions does not conclusively reveal how many people are actually incapable of reading decisions that they want to read. The current study also cannot tell us whether large gaps between the likely reading competency levels of *YCJA* accused persons/offenders, and the readability levels of court decisions that affect these people, are adequately bridged by explanations of decisions from lawyers who represent these clients. But the study does show how *YCJA* decisions are generally written at levels that the parties in those cases will not easily understand without some sort of external help—and this is a potential problem in its own right. Judges who purport to be writing “for the parties” do not tend to qualify their statements by saying things like, “who will, of course, need to rely on their lawyers in order to understand the decisions.” Rather, these judges appear to believe that they are writing directly for the parties, without any references to intermediaries or “explainers” of the decisions. So, the current study points to a disconnect between judicial statements about the primary audiences for their decisions,⁸⁰ on the one hand, and the reality of how unreadable their decisions will likely be to these audiences, on the other hand. This problem is one that merits further consideration and attention from judges (and from those responsible for the administration of justice in Canadian jurisdictions more generally), regardless of the extent to which lawyers might step in to help parties understand a decision. If nothing else, some reflection on the subject might allow judges to reconsider the coherence of their statements that they are writing for the parties.

In the following study, uncertainty about the extent to which lawyers help clients understand decisions is removed from the equation. The second study, below, deals only with court cases where one of the parties is self-represented—that is, cases where we cannot reasonably expect a lawyer to assist one of the parties in understanding the court’s decision.

80 For an example of such a statement about the primary audience for decisions, see Saunders, *supra* note 48 at 71.

III. THE READABILITY OF DECISIONS INVOLVING SELF-REPRESENTED LITIGANTS

The Canadian Judicial Council has noted in several ways how judges owe special responsibilities toward SRLs.⁸¹ Individual judges also acknowledge the importance of communicating so that SRLs can understand their decisions.⁸² In order to assess how judges write when one party is unrepresented, the study that follows is designed to isolate and report on the readability results of a corpus of decisions where each decision involves at least one self-represented litigant.

A. *Method — Measuring the Readability of Decisions Involving Self-Represented Litigants*

The research method that I used in this study was similar to the method for the previous study in most respects. I assembled a corpus of decisions that each implicated at least one self-represented participant. I began by searching the CanLII database's full text field for the phrase "self-represented." I then filtered the search period to only results from 2022, and to only "cases" (excluding secondary sources and legislation). I selected all jurisdictions other than Quebec, and filtered to "all courts" (excluding tribunals).

81 *Supra* note 6.

82 Justice Mahmud Jamal, for instance, concludes that writing decisions for everyone to understand, regardless of whether they are lawyers, "is especially important at a time when many justice system participants are self-represented. Clear and accessible reasons concretely improve access to justice" (see Office of the Commissioner for Federal Judicial Affairs Canada, "Jamal's Questionnaire", *supra* note 43 at part 10, question 4). See also Department of Justice Canada, "The Honourable Michele Hollins' Questionnaire" (last modified 31 March 2017), online: <canada.ca> [perma.cc/UH3G-2PJD] ("[a]s we continue to see increasing numbers of unrepresented litigants, the public is also an audience for judicial decisions and a compelling reason to make written decisions clear and concise"). See also Office of the Commissioner for Federal Judicial Affairs Canada, "The Honourable Nicholas Kasirer's Questionnaire" (last modified 10 July 2019) <fja.gc.ca> [perma.cc/44T3-U6LE] ("I support any measure intended to increase the parties' understanding of the reasons, and I note recent initiatives taken by the Supreme Court to limit the risks that its decisions will be misunderstood, especially given the increase in the number of self-represented litigants").

My list of search results at this point consisted of 1,588 cases, indicating that the full population of cases from 2022 was large enough to merit the use of a random-sampling approach. For most purposes, it is generally not necessary to have data about each individual element of a population in order to make use of the data because, if one uses a random sampling method, then it is possible to statistically estimate the relevant characteristics of the population as a whole: “Sampling allows the estimation of the characteristics of a population by directly observing a portion of the entire population.”⁸³ In other words, one can statistically infer characteristics of the entire population based on characteristics of the random sample.

I used a 95% confidence interval, and a 7% margin of error. Using these two parameters, and a total population size of 1,588 cases, I calculated the required sample size to be $N=175$, using a free online statistical calculator.⁸⁴ With these parameters, we can infer that results from this sample of self-represented cases would be representative of results (within a maximum range of $\pm 7\%$) for the full population of cases from which the sample is drawn, 19 times out of 20.

All other general exclusion criteria that applied to cases (above) for this article’s first study were also applied here, for all of the same reasons. Random selection of cases was achieved in the following manner. First, a full list of cases within the population was generated using CanLII. The full list of cases from 2022 was then transferred into a Microsoft Excel spreadsheet, sorted alphabetically by case name, and each case was assigned a number starting from one. Using a free online research randomizer tool,⁸⁵ I then generated a random list of numbers equal to my required sample size, such that each case within the total population had an equal chance of being selected for inclusion. I then highlighted the randomly identified cases (by number) within my list of all cases, and began

83 See Statistics Canada, *Statistics: Power from Data!*, Catalogue No 12-004-X (Ottawa: StatCan, 2 September 2019), s 3.2.1, online: <www150.statcan.gc.ca> [perma.cc/D5FW-S9LW].

84 Qualtrics, “Sample Size Calculator” (21 March 2023), online (blog): <qualtrics.com> [perma.cc/45LA-3JLV].

85 Randomizer, “Research Randomizer” (last visited 3 November 2025), online: <randomizer.org> [perma.cc/ES24-5S4A].

the process (described above for the first study) of downloading these cases for analysis.

In any situation where a randomly selected case did not meet the criteria for inclusion (for instance, the opinion contained less than four hundred words, or was a French-language decision), then the next number in the list of all cases that was not already marked for inclusion within the random sample was selected instead. However, I immediately (and expectedly) realized that my full text search for the term “self-represented” yielded a large number of false positive results—that is, results that contained the phrase “self-represented” within the decision even though all parties were actually represented by lawyers.⁸⁶ Consequently, I manually screened each result within my list of randomly selected cases to ensure that only cases that truly involved a self-represented litigant were included within my corpus. Following these steps caused me to exclude 46 of the 175 cases that had been randomly identified for inclusion—a much higher proportion of exclusions than in the previous study—but I attribute this higher exclusion rate to the relatively broad full text search phrase that I used to generate my list of results. Ultimately, each excluded case was replaced with the next-in-sequence case that met all the necessary criteria, so the uniquely high exclusion rate in this study is unlikely to have had any adverse impact on the results.⁸⁷ In the end, the corpus consisted of decisions that had been verified to each include at least one self-represented litigant, which allowed me to compute focused MADRS results for this special class of decisions.

B. Discussion & Analysis — Readability Scores for SRL Decisions

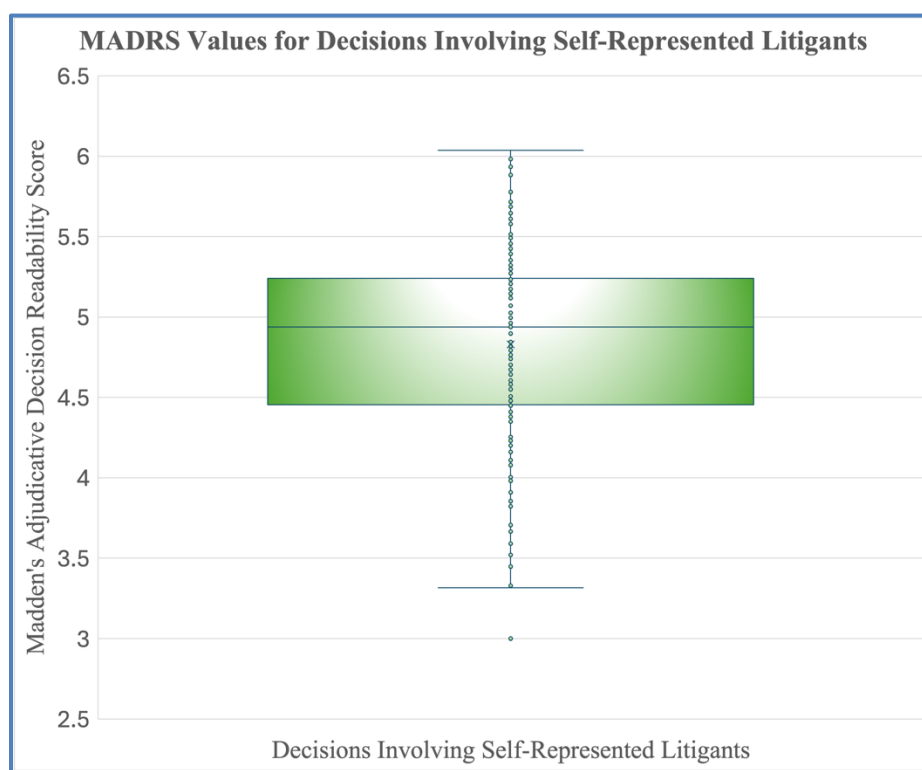
The 175 decisions in this corpus contained over 761,000 words of text. A spreadsheet containing the full MADRS results for these decisions,

86 Many of these false positives arose because the authoring judge referred, within their reasons, to other cases wherein someone was self-represented (e.g., to distinguish the judge’s present case from a previous case that would otherwise have had precedential value). Other false positives periodically arose because a party in the authoring judge’s case had, at some earlier point in the legal process, been self-represented—even though they were represented by counsel when the judge heard and decided the case that was the subject of the decision.

87 To the contrary, the exclusions indicate that I likely over-estimated the full population size of true “self-represented” decisions, which means that my sample size of N=175 would likely produce slightly better than a 7% margin of error.

including component scores for each contributing variable and my notes for any instance where a randomly selected case was excluded and replaced with the next-in-sequence case, is publicly available.⁸⁸ A graphical representation of the MADRS results is shown below in Chart 4.

Chart 4. MADRS Values for Decisions Involving Self-Represented Litigants



These results are, in many ways, both surprising and disappointing. The MADRS average for decisions involving self-represented litigants is 4.83, which means that something close to a completed undergraduate degree is needed to understand the average decision. This average result is noticeably higher than the average of 4.69 for criminal law decisions from a related study (that was mentioned above)⁸⁹—which is striking when one considers that all of the decisions within the criminal law corpus in that related study involved accused persons or offenders who were

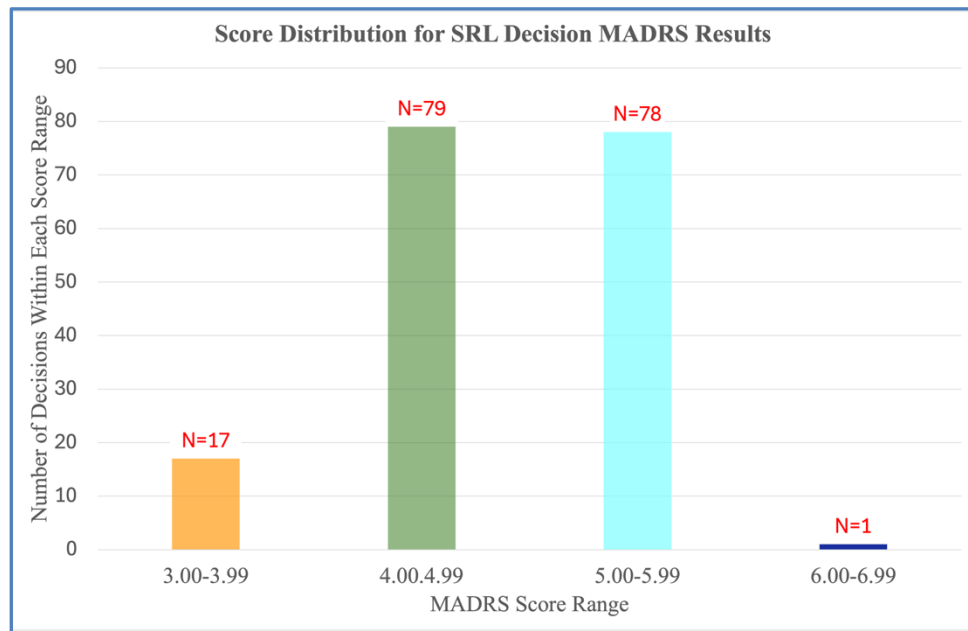
⁸⁸ Madden, "Youth Court Results Dataset", *supra* note 57.

⁸⁹ Madden, "Message Undeliverable", *supra* note 4 at 46.

represented by counsel.⁹⁰ Even though the differences in average scores between these two cases is relatively small, one might reasonably have expected the SRL decisions to have been written at least somewhat more readably than the other group of decisions, given the special responsibilities that judges are said to owe to SRLs.⁹¹

A breakdown of the score distribution for these SRL decisions is shown below, in Chart 5.

Chart 5. Score Distribution for SRL Decision MADRS Results



As this chart shows, only 9.7% of the decisions scored below four on the MADRS scale; 45% scored between four and five on the scale; and 45% of decisions scored above five on the scale (signaling that something between a completed undergraduate degree and a completed law degree would be needed to understand these last decisions). No decisions scored below three.

It is beyond the scope of this article to look in detail at each of the decisions within this study from qualitative writing and other socio-legal

90 *Ibid* at 52, n 101.

91 Canadian Judicial Council, *supra* note 6.

perspectives, to hypothesize in greater depth about the world of potential factors that might help us to understand why decisions X and Y are highly readable, while decisions A and B are highly unreadable. As I noted at the outset of the article (when discussing its limitations), quantitative readability formulas, alone, cannot provide such insights—even though these types of insights would clearly be valuable in helping us to develop better interventions to improve the readability of court decisions (if such a goal is even worth pursuing). In spite of this limitation, however, the above data provides a reasonable starting point for such further examinations. Future researchers can rely on the above data to explore, for instance, whether a judge’s attendance at judicial writing workshops tends to correlate with better decision readability levels, or whether a judge’s decision readability levels tend to improve or worsen in proportion to the number of SRL cases that they decide over time.

It is perhaps helpful to consider the above results alongside recent research involving SRLs whose information was collected between July 2021 and September 2023.⁹² This data shows that at least 47% of the 255 respondents reported their highest level of completed education as being less than a completed university degree or other professional qualification.⁹³ More specifically, 27.45% of respondents had a college diploma, 15.3% had a completed high school diploma, and 4.3% had not completed high school.⁹⁴ Recalling that a MADRS score of four means that a person with “some post-secondary education” could easily understand a decision, the above educational data suggests that 47% of SRLs need decisions to be written at or below the level of four on the MADRS scale in order to understand the decisions. Only 9.7% of the decisions in the present study are actually written at this reading level. The discrepancy between these two statistics provides us with a compelling indication of a problem: many decisions involving SRLs are potentially incomprehensible to the people most directly affected by the decisions.

I have characterized the above SRL results as surprising because a judge’s responsibility to assist a self-represented litigant is now well-

92 Keerthi Chintapalli, *Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self-Represented Litigants Project, 2021–2023* (Windsor: NSRLP, 2024) at 6, online (pdf): <representingyourselfcanada.com> [perma.cc/2N5U-PUZU].

93 *Ibid* at 11–12.

94 *Ibid*.

established. In 2006, the Canadian Judicial Council published guidance to judges that described their responsibilities “to ensure that self-represented persons are provided with fair access and equal treatment by the court,”⁹⁵ including by making “all aspects of the court process to be, as much as possible, open, transparent, clearly defined, simple, convenient and accommodating.”⁹⁶ Judges have acknowledged these responsibilities in case law:

It is well settled that where an accused is self-represented at trial, the presiding judge has a duty to ensure that the accused has a fair trial. To fulfill that duty, the trial judge must provide guidance to the accused to the extent that the circumstances of the case and those of the particular accused may require it. Within reason and without becoming counsel for the accused, trial judge must provide assistance to aid the accused in the proper conduct of his defence and to guide him, as the trial unfolds, in such a way that the defence is brought out with its full force and effect.⁹⁷

And, judges have similarly acknowledged these responsibilities in their extra-judicial writing and commentary.⁹⁸

All of the above discourse, however, seems to be preoccupied with helping SRLs who cannot afford lawyers, and who must therefore represent themselves in order to obtain access to justice.⁹⁹ These litigants seem to benefit from judicial sympathy and compassion. One might therefore reasonably expect judges to address these SRLs more directly in their decisions, by using language that the SRLs would likely understand without any need for external resources (like lawyers, who they have not

95 Canadian Judicial Council, *supra* note 6 at 1.

96 *Ibid* at 2.

97 *R v Breton*, 2018 ONCA 753 at para 13, citing *R v Richards*, 2017 ONCA 424 at para 110.

98 Wayne K Gorman, “Access to Justice in Canada: The Unrepresented Accused and the Role of the Trial Judge” (2020) 56:1 Court Rev 48 at 48.

99 Sean MacDonald, “Balance and Independence: The Judicial Process in the *Charter* Era” (2007) 16 Dal J Leg Stud 161 at 169. I note that this article, although styled as one that is authored by Sean MacDonald, is actually the transcript of an interview that took place in January 2007 between Sean MacDonald (a third-year law student at the time) and the Honourable Michael MacDonald (who was the Chief Justice of Nova Scotia at that time).

engaged). If judges accept that they have obligations to help these types of SRLs to understand and access the processes that ultimately lead to a decision from the court, then presumably judges would also accept that they have a responsibility to help these SRLs to understand the decision itself—by writing the decision in a way that is capable of being understood by the relevant SRLs.

However, former Chief Justice of Nova Scotia MacDonald noted that the above class of self-represented litigants (that is, people who cannot afford a lawyer but who still need to go to court) is only one of three common classes of SRLs.¹⁰⁰ A second class consists of people who “probably could afford lawyers but think, ‘There’s nothing to this,’ so they do it themselves. I think the more we try to provide access and help for people who really do need help, the more we accommodate people who really should and could have lawyers, but have chosen not to.”¹⁰¹ MacDonald seems to suggest that this second class of SRLs is perhaps not as worthy of judicial sympathy and assistance as the first class of SRLs—although it is not obvious to me why a person’s ability to afford a lawyer should obligate that person to spend their money on representation by a lawyer.

Chief Justice MacDonald also describes a third class of SRLs, who present a different kind of problem for the judiciary:

Lastly, and, tragically, we have a smaller group of litigants who may be small in number, but take up an enormous amount of court time. Their problems are intertwined with mental health issues and it becomes very much a challenge for the judiciary when they bring cases; these cases can go on and on, and they don’t necessarily appreciate the process. For instance, they will issue subpoenas for the Pope, the Governor General, the Premier, the Prime Minister. It’s very sad.¹⁰²

While MacDonald suggests that this final group of SRLs might benefit from judicial sympathy, it is unclear whether he feels that this third class of SRLs should benefit from assistance in the same way as the first class.

100 *Ibid.*

101 *Ibid.*

102 *Ibid.*

I have described these classes of SRLs here because it seems to me, impressionistically, that the MADRS results for cases involving SRLs might be affected by the heterogenous nature of the SRL population. In other words, most SRL discourse seems to focus on the plight of ostensibly worthy or deserving SRLs. From a readability perspective, we might therefore expect decisions in cases involving SRLs to be highly readable. After all, judges seem to show sympathy, and offer various forms of assistance, to these SRLs. But judges interact with all three classes of SRLs. And in some places, or for some judges, the interactions might be far more frequent with the second and third classes of SRLs, who judges may perceive to be less worthy of assistance from the court. To be clear, I am offering a hypothesis that might explain the results shown above in Chart 2, rather than declaring a truth that can be demonstrably substantiated by evidence. But perhaps the ensuing example relating to a judge from Alberta will help to support my hypothesis.

Consider, for instance, the situation of the Honourable John D. Rooke, who was Associate Chief Justice (ACJ) of the Court of King's Bench of Alberta during 2022, until he retired on 22 December of that year.¹⁰³ It struck me, as I was compiling the corpus for this study, how frequently I noticed ACJ Rooke's name within decisions that had been randomly selected for inclusion. He authored 11 (6.3%) of the 175 decisions within the corpus. That one author would have contributed so many decisions, when there are currently 1,189 federally appointed judges¹⁰⁴ and hundreds of other provincially appointed judges in Canada, is statistically unlikely. To even have two decisions from the same judge within my random sample would be unusual, if judges were presiding over cases involving SRLs at equal rates. It seems, therefore, that ACJ Rooke was deciding cases involving SRLs with disproportionate frequency.

But a closer look at ACJ Rooke's decisions within the sample reveals that he was not dealing with the kind of people who fit into Chief Justice

103 Prime Minister of Canada, News Release, "Prime Minister Announces Appointment of New Associate Chief Justice of the Court of King's Bench of Alberta" (10 October 2023), online: <pm.gc.ca> [perma.cc/74ZM-TSBD].

104 Office of the Commissioner for Federal Judicial Affairs Canada, "Number of Federally Appointed Judges as of February 1, 2026" (last modified 2 February 2026), online: <fja.gc.ca> [perma.cc/Y5ZQ-Y7LT].

MacDonald's first class of SRLs. For instance, in the first sentence of *Royal Bank of Canada v. Anderson*, ACJ Rooke describes the SRL in that case as follows: "Sandra Ann Anderson [Ms. Anderson] is a highly active Organized Pseudolaw Commercial Argument [OPCA] litigant whose illegal pseudolaw activities are documented in a number of Court Decisions."¹⁰⁵ In describing some of the evidence that this defendant submitted, ACJ Rooke lists, among other things,

A nonsensical pseudolaw document, titled "Writ-of-Quo-Warranto", that is reproduced in part in Appendix "A" below, that purportedly would be filed in the *RBC v Anderson* Action, but, startlingly, adds the "Treasury Inspector General of the United States of Alberta" as a "co-Plaintiff" with Ms. Anderson, and Queen Elizabeth II, personally, as a "Defendant", along with Counsel for RBC. In the interests of judicial economy, I will simply state that this document, at its most generous, appears to attempt to establish some kind of counterclaim or counter-law-suit, in the *RBC v Anderson* Action. The "Writ" is an absurd conglomerate of quotations, citations, and nonsense.¹⁰⁶

ACJ Rooke's description and treatment of the SRL defendant's documents in this case suggests that she falls into the third class of SRL, and that she does not deserve the court's assistance in any way.

The above passages also highlight how a judge who is dealing with this type of litigant may be partially limited in their ability to use simple language within a decision—because the judge must refer to the nonsensical language of the SRL to at least some extent when writing the decision. However, it also illustrates how a sense of frustration toward the SRL, or potentially some other factor within the judge's control, may also contribute to the production of a less readable decision—in this case, one that uses uncommon words like "purportedly" and "conglomerate,"¹⁰⁷

105 2022 ABQB 577 at para 1 [*Anderson* QB], leave to appeal to ABCA granted, 2024 ABCA 233.

106 *Anderson* QB, *supra* note 105 at para 17.

107 In the COCA corpus, the word "purportedly" is ranked #17,149 based on frequency of appearance in the corpus (see English Corpora, "Corpus of Contemporary American English" (last visited 2 February 2026) sub verbo "purportedly", online: <english-corpora.org> [perma.cc/T7DL-6HJG]). The word "conglomerate" is ranked

and phrases like “judicial economy.”¹⁰⁸ We cannot be certain that there is a causative relationship here that connects the SRL’s conduct to any frustration from the presiding judge, and ultimately to the readability level of the decision. After all, many other decisions that form part of other different readability studies also scored as high or higher on the MADRS scale when compared to ACJ Rooke’s decision,¹⁰⁹ and I have no plausible basis for suggesting that any of those other judges’ emotions were factors affecting the readability scores of the other decisions. Again, I am simply hypothesizing here that these factors may all be connected in cases involving certain types of SRLs, in ways that lead to less readable decisions.

The above decision from ACJ Rooke was his third-most readable decision of the 11 within the current study’s sample. It scored 5.07 on the MADRS scale. Based on the way in which the defendant was portrayed within the decision by ACJ Rooke, one suspects that Ms. Anderson would not have easily understood the decision.

ACJ Rooke’s decisions within this study scored an average of 5.22 on the MADRS scale. The least readable decision was a short one that scored 5.78,¹¹⁰ and that also involved SRLs who had litigation restrictions¹¹¹ imposed upon them by the Alberta courts. However, ACJ Rooke was not particularly critical of these litigants, and seemed to address them with practical direction about how they could continue to advance their litigation while complying with the litigation restrictions. The relatively few sentences that ACJ Rooke used in this case described procedural law using relatively uncommon terms, and sentences that were generally long

#12,555 (see *ibid* sub verbo “conglomerate”, online: <english-corpora.org> [perma.cc/54D6-EGLL]).

108 In the COCA corpus, the phrase “judicial economy” only appears a total of fourteen times across the more than one billion words of text in the corpus (see *ibid* sub verbo “judicial economy”, online: <english-corpora.org> [perma.cc/M7CY-CBAH]).

109 For MADRS results of each Supreme Court of Canada judge in their opinions from 2022, see Madden, “How Understandable”, *supra* note 14 at 54–56. For MADRS results from large databases of cases sorted by court level and by legal subject area, see Madden, “Message Undeliverable”, *supra* note 4 at chart 6.

110 See *Sun v Tesla*, 2022 ABQB 445.

111 Litigation restrictions seem to consist mostly of court-ordered restrictions that impose obligations on litigants who have shown a pattern of frivolous, vexatious, or abusive litigation to seek leave from the court before filing any new originating documents (see e.g. *Re Onischuk*, 2017 ABQB 663 at para 23).

with multiple clauses. The high MADRS value for the decision flows from these factors.

ACJ Rooke's second-least readable decision was, in my view, much more representative of his decisions within the sample as a whole. This decision (*Hayden v. Hayden*)¹¹² scored 5.72 on the MADRS scale. The first paragraph sets the scene: the plaintiff

is an aggressive, relentless, and seemingly unstoppable abusive litigant. [Her] successive hopeless lawsuits, and illegal applications, have now continued in the Alberta Court of King's Bench and other Alberta tribunals for well over a decade. [She] is also a highly active but consistently unsuccessful appeal court litigant.¹¹³

ACJ Rooke goes on to deal with the law about vexatious litigants, court access gatekeeping, and judge-shopping before offering his concluding thoughts:

I have exhausted the Court's mechanisms to manage Ms. Hayden. ... [P]redictably, Ms. Hayden will take additional future steps to achieve her intended objectives: to do whatever she wants, however she wants it. This ridiculous farcical festival will now continue to cycle over and over, around and around, with no end in sight. And Ms. Hayden is far from unique. Others also operate the same way, ignoring court procedure, resisting, or simply defying, any attempt at management, such as Chinedu Gideon Ubah, Keenan A Feeney, Janice Dmyterko, Sandra Ann Anderson, Salim Rana, and many more. They do whatever they want, squander court resources, harass and threaten staff, and incrementally erode the operation of courts and tribunals, often across many jurisdictions.

I do not see that as "access to justice". But such is the state of things in Alberta courts, because that is "the law".¹¹⁴

Several of the parties mentioned in this passage (Anderson, Ubah, Feeney) are also SRLs whose decisions appear in the current study's

112 2022 ABKB 648 [*Hayden*], leave to appeal to SCC refused, 2023 CanLII 24504 (SCC).

113 *Hayden*, *supra* note 112 at para 1.

114 *Ibid* at paras 13–14 [references omitted].

sample of SRL decisions. ACJ Rooke's frustration with these individuals is almost palpable from his sarcastic and hyperbolic language. He seemingly has no desire to assist these people. This sentiment may be understandable to other judges and lawyers who have experienced similar frustrations when dealing with challenging SRLs—a phenomenon that appears to be at least somewhat common within the sample of cases included in this study, if not in the broader population of Canadian SRL cases.

The irony, though, is that these SRLs are perhaps the ones who most need a readable decision from the judge in order to understand how and why their litigation is fruitless. But, whether from frustration or ill will, ACJ Rooke writes his decisions in these SRL cases using language that the litigants will likely find difficult to understand. And ACJ Rooke is not unique in adopting this writing style. In *Durkin v. Facebook, Inc.*,¹¹⁵ a different judge from British Columbia noted that “considerable qualification is required when describing [the plaintiff] as self-represented in the sense of inexperienced. He has been a party in the following cases [list of seven cases in which the SRL plaintiff was involved].”¹¹⁶ The judge goes on to explain how, in one of those prior cases, the SRL plaintiff had been found to have deliberately sworn a false affidavit,¹¹⁷ and in another, he had been characterized by the judge as “evasive, combative, deliberately vague and frequently dishonest.”¹¹⁸ The MADRS result for this decision was 5.52. In a case where the SRL plaintiff is not a particularly sympathetic character, one wonders about how much effort a judge is inclined to make in order to write a decision that this plaintiff will easily understand.

It is not for me to answer whether judges ought to help SRLs who behave in the ways that some of the above SRLs behave to the same extent that these judges help other SRLs who they seem to find more deserving. I can understand the frustration that these judges might feel when confronted with SRLs who try to use the court's processes for anti-social purposes. But Chief Justice MacDonald's description of the situation—that is, one where SRLs often make litigation decisions in ways that are likely affected by their mental health issues—as being sad and tragic is perhaps

115 2022 BCSC 1305.

116 *Ibid* at para 19.

117 *Ibid* at para 21.

118 *Ibid* at para 22, citing *SHH Management Limited v Philip*, 2020 BCSC 1411 at para 22.

worth recalling here. We do not know with precision how large the population of difficult SRLs might be, and it is difficult to quantify the extent to which these individuals might add to a judge's workload (or frustration) in any particular case. But where many of these SRLs might be less equipped to control and manage their litigation impulses than others in society, due to personality disorders or other mental health conditions, it is perhaps unjust to punish these individuals—in even a single case—with a form of judicial “cold shoulder” that other SRLs do not receive. After all, even criminal offenders who engage in anti-social behaviour can still expect respectful (and more readable) decisions from the courts—although their circumstances are different in the sense that they find themselves before the courts involuntarily, unlike the SRLs who instigate proceedings. Under these circumstances, it may not be fair or appropriate for SRLs like those described above to be denied the same treatment from the courts within the courts' decisions.

In spite of the above discussion about how a particularly difficult class of SRLs are treated and written about in court decisions, these individuals comprise a minority of the overall number of SRLs from decisions within the current study. The three least readable decisions within the study, for instance, all involve SRLs whose cases are unsuccessful but who are not characterized as abusive litigants. In *Curtis v. Canada (Employment, Workforce Development and Disability Inclusion)*¹¹⁹ (MADRS = 6.04), the plaintiff's claim against the Bank of Nova Scotia and several Crown actors was struck out as disclosing no cause of action. In *Toronto (City) v. Nawrocki and Zest For Living Etobicoke Inc.*¹²⁰ (MADRS = 5.98), the appellant municipal government successfully appealed the sentence imposed on the SRL respondent in relation to charges for operating the business in violation of Covid-19 restrictions. And in *Tewari v. Sekhorn*¹²¹ (MADRS = 5.93), the SRL plaintiff's statement of claim against the law firm that had successfully represented his employer in the plaintiff's action against the employer for unjust dismissal was again struck out for disclosing no reasonable cause of action.

It is possible that the SRLs in these cases fall within the second category described by Chief Justice MacDonald—people who have enough

119 2022 FC 826 at para 83, *aff'd* 2024 FCA 206.

120 2022 ONCJ 307 at para 22.

121 2022 ONSC 417 at para 22, *aff'd* 2024 ONCA 123.

money to afford a lawyer, but who choose not to engage one because they feel capable of representing themselves.¹²² There is not enough information about the financial circumstances of the SRLs in any of these decisions to allow us to make this determination. But despite the high MADRS results in each of these cases, they do not seem to flow from feelings of frustration with, or a lack of sympathy for, the SRLs in the cases. So regardless of whether these people fall into the first or second category of SRL, it is somewhat surprising that the decisions score so high on the MADRS scale: there are no indicators that the judges in these decisions are annoyed with the SRLs, and yet the decisions are still less readable than the average decision from many other contexts.¹²³ In each case, where a completed law degree would effectively be required to understand the decisions, the courts have almost certainly failed to communicate in language that the SRLs will understand. In other words, the high MADRS values within this study as a whole are not well explained just by reference to the phenomenon of especially difficult SRLs who appear before the courts.

The four most readable decisions in the current study all relate to family law.¹²⁴ None of the litigants are characterized as abusive. However, the *C.C. v. S.C.*¹²⁵ decision (MADRS = 3.45) is interesting, because the judge in this decision expresses considerable frustration with the SRL mother's conduct, while still showing a measure of empathy and concern for her. After recounting how the mother keeps sabotaging her case for greater access to her child by calling the police to the father's home without any basis, Justice Conlan makes the following statements:

I will see the mother in a few months. She should continue with her teaching in the meantime. She should get some counselling and therapy. She should focus on her own mental health. She should stop visiting websites where the common denominator is

122 MacDonald, *supra* note 99 at 169.

123 For average MADRS results of each Supreme Court of Canada judge in their opinions from 2022, see Madden, "How Understandable", *supra* note 14 at 54–56. For average MADRS results for cases based on court level and legal subject area, see Madden, "Message Undeliverable", *supra* note 4 at chart 6.

124 *Robert v Louiseize*, 2022 ONSC 1756; *Leavitt v Leavitt*, 2022 ABPC 200; *Walton v Davis*, 2022 ONSC 1784; *CC v SC*, 2022 ONSC 5225 [CC].

125 *CC*, *supra* note 124.

a disdain for and an overwhelming feeling of having been screwed by the justice system. ...

I think that this Court is in danger of becoming the person who cries wolf, but the mother must realize that there comes a time when even the most fervent hopes, even those for the sake of a child, are gone forever. There comes a time when the Court has no reasonable alternative but to make a final order that removes one parent completely from the life of her child. No judge wants to do that to [the child].¹²⁶

I have quoted from this part of the decision at length to illustrate how it is possible for a judge to be frustrated with the conduct of a SRL, while still writing a readable decision that the SRL can likely understand. Contrary to what was seen above in the decisions of ACJ Rooke and other judges who deal with abusive litigants, it is not necessarily the case that a judge must write a more complex or less readable decision just because one of the parties is difficult to deal with during the proceedings.

I acknowledge the difficult task that judges who preside over cases involving SRLs must confront. The level of emotion in these cases seems to be higher, while the levels of legal and procedural knowledge possessed by the SRL parties in them are far lower than in cases where the parties are represented by lawyers. Judging these cases is hard. And it seems almost indisputable that it would take judges at least some extra time to write more readable decisions (that depart from conventional judicial decision-writing styles) for the benefit of SRLs.¹²⁷ After all, there are time costs associated with most types of systemic changes within a justice

126 *Ibid* at paras 14–15.

127 Mark Duckworth alludes to this possibility when he describes how legalese and jargon are deeply entrenched in the consciousness of lawyers and judges:

The use of jargon among occupational groups is common. But the language of the law goes beyond jargon. It takes law students years to master it. Once they have mastered it many are unwilling or unable to abandon it. Lawyers also often write in legalese because it is so difficult to unlearn that which has been so arduously learnt. They are often unable to give up the language because they do not know how they can, even if they wanted to (see “Clarity and the Rule of Law: The Role of Plain Judicial Language” in Ruth Sheard, ed, *A Matter of Judgment: Judicial Decision-Making and Judgment Writing* (Sydney: Judicial Commission of New South Wales, 2003) 91 at 92).

system—at least until the change becomes fully adopted, and new procedures or processes become routine.

But the results of the present study are nonetheless disappointing. SRL parties are arguably people who are most in need of a readable decision. While all parties might ideally hope to be able to personally understand the decisions in their cases, those who are represented by lawyers at least have someone skilled to whom they can turn if they fail to understand the decision on their own. SRLs are alone. If judges do not write in ways that SRL parties can understand, then there is arguably very little hope for these parties to ever feel as if they have received a just decision. The “overwhelming feeling of having been screwed by the justice system” that Justice Conlan acknowledges in the SRL mother who appears before him¹²⁸ would probably be aggravated if the judge had chosen to write his decision in language that she cannot understand, instead of in the simple and straightforward way that Justice Conlan actually wrote the decision. And the same kind of feeling has likely manifested in the many other cases within the current study where judges have written decisions that cannot be understood by the SRL parties in those cases. Whether they engage in poor conduct before the courts, or are simply untrained in the law, SRLs deserve decisions that they can understand. Our courts should strive to provide them with these kinds of decisions.

IV. LIMITATIONS OF THE ABOVE STUDIES

The studies described above both have limitations that have impacts on the breadth of inferences that can be drawn from the results of the studies. A brief summary of these limitations is included here.

Time Frame. All decisions within the article’s two studies were drawn from the period between 1 January to 31 December 2022. Writing styles tend to change over time.¹²⁹ Thus, while one can reasonably infer that results from the above studies are likely to be representative of results within the full population of decisions from which the studied decisions were drawn (that is, decisions from 2022), one cannot infer with confidence that these results are representative for decisions from other

128 CC, *supra* note 124 at para 14.

129 See generally Wayne A Danielson & Dominic L Lasorsa, “A New Readability Formula Based on the Stylistic Age of Novels” (1989) 33:3 J Reading 194.

time periods. It is impossible to predict how readability levels would be different for either earlier or later periods, although some previous studies suggest that more recent court decisions are less readable than older decisions (at least in the United States).¹³⁰

Reported Decisions. Decisions within this article's two studies were drawn exclusively from the pool of reported decisions meeting the relevant inclusion criteria. Not all court decisions are reported, and it is difficult to determine how many unreported decisions are issued each year. In 1980, it was estimated that 65% of provincial decisions were reported, except in Ontario and British Columbia, where only 15% and 18% of decisions were reported.¹³¹ More recently, "[w]ith the advent of electronic products and then CanLII, it became even easier to obtain what would have been considered an 'unreported' case in the old days."¹³² However, there are still many decisions each year that are not reported or indexed in CanLII.¹³³ These decisions represent a blind spot within the article's studies. One should not infer that results from these studies are generalizable to the full population (of both reported and unreported) youth criminal court or SRL decisions.

Linguistic Readability. The MADRS formula used in this article's two studies is only capable of predicting the linguistic readability level of a text—which is to say, the likelihood that a reader will be able to understand the language of the text. The formula cannot determine with certainty whether a particular reader with a unique lived experience and set of personal circumstances will actually understand a particular text, or the extent to which that person might understand the text at deeper levels of comprehension beyond just simple linguistic comprehension. For these other types of comprehension measurements, individual user testing would likely be needed.

130 See e.g. Ryan Whalen, "Judicial Gobbledygook: The Readability of Supreme Court Writing" (2015) 125:1 Yale LJ Forum 200; Stephen M Johnson, "The Changing Discourse of the Supreme Court" (2014) 12:1 UNHL Rev 29 at 57.

131 "Investigation of Law Reporting in Canada", News Note (1980) 8:5 Intl JL Libraries 221 at 222, citing Shirley Louder, "Case Law Reporting Under Scrutiny", *National* (July 1980) 9.

132 Susannah Tredwell, "Unreported Decisions: A New Challenge" (14 January 2014), online: <slaw.ca> [perma.cc/ABN9-XH9E].

133 *Ibid.*

CONCLUSION: READABILITY DEFICITS IN UNFORTUNATE PLACES

The results from MADRS studies elsewhere have revealed certain things about the readability levels of Canadian court and tribunal decisions.¹³⁴ Most of what is reported in these studies elsewhere is not very encouraging. But there are elements of the results from other studies that illustrate what is possible—both from individual judges, and more systemically—in terms of producing readable decisions. A number of criminal court judges demonstrated how they can write individual decisions that would be easily understood by people with only some high school education. And at least one judge demonstrated that he could consistently write decisions at less than the 4.0 level on the MADRS scale in his reported decisions that were published in 2022.¹³⁵

Having seen these promising results in areas of law where we had no particular expectation for decisions to be unusually readable, my sense was that the readability results within this article ought to have been more consistently low-scoring. The only cases that featured within this article were, after all, cases involving either *YCJA* prosecutions or SRLs. In both groups of cases, there are clear and compelling justifications for why a decision ought to be readable. Furthermore, these justifications are not linked to peripheral audiences who may not ever be interested in reading the decisions; rather, they relate to primary audiences, who almost certainly have reason to read and understand the decisions in their cases, because each individual is a party to a case—someone who is directly affected by its outcome.

In the case of young persons who are prosecuted under the *YCJA*, decisions generally need to be written in simple language if they are to be understood by the accused/offender, because the young persons will rarely be old enough to have attained anything beyond a secondary school level of education. Even though these individuals are typically represented by lawyers, they will struggle to understand the decisions personally unless they are written at something close to the 3.0 level on

134 Madden, “How Understandable”, *supra* note 14; Madden, “Message Undeliverable”, *supra* note 4.

135 See Madden, “Message Undeliverable”, *supra* note 4 at 37.

the MADRS scale. The current average of 4.37 is likely too high to be understood by most subjects of the decisions.

And, in the case of SRLs, the average decision readability score is even higher: 4.83. These scores might be justified if almost everyone in Canada had something close to a completed undergraduate degree. But we know that only 26.7% of the adult population has an undergraduate degree.¹³⁶ These numbers therefore suggest that most people in Canada, if they chose to represent themselves in legal proceedings, would struggle to understand what is arguably the most important document that emerges from litigation: the decision that explains the results of the process.

These quantitative results do not allow us to quickly make individualized determinations about whether decision X or Y was written to effectively reach audience member A or B for the decision. It is theoretically possible that each decision was carefully calibrated to use just the right level of linguistic complexity for the specific parties who would read the decisions. But a macro-level view of the results highlights the improbability of this hypothesis being true. Most decisions are written at levels that most members of the audience would likely not understand—particularly in the types of cases that have been studied in this article that involve young persons and SRLs (whose readability needs are probably greater than those of adults who are represented by lawyers). The results in this article, perhaps even more than in any other readability study looking at court decisions, suggest that judges can and should do more to write readably when they are dealing with people who are not well-equipped to understand the judge's decision. If the Supreme Court of Canada's Justice Jamal is correct when he says that "[c]lear and accessible reasons concretely improve access to justice," then Canadian courts currently seem to be standing in the way of, instead of improving, access to justice.

This article does not go on to conduct cost-benefit analyses of all the different approaches that authoring judges might explore to improve the readability of their decisions. However, such analyses would undoubtedly be possible, and future research that engages such work would be

136 Statistics Canada, "Highest Level of Education", *supra* note 7.

helpful to both legal readability scholars, and authoring judges. And there is a wide range of options for improving decision readability levels.

Attendance at writing workshops represents one possibility for judges: the National Judicial Institute and Canadian Institute for the Administration of Justice run a four-day program for judges that is focused exclusively on decision writing.¹³⁷ Given how writing styles tend to change over time, this program would likely benefit any judge who has not attended it recently (even if a judge attended a similar program many years ago). I recognize that Canadian conceptions of judicial independence¹³⁸ mean that it might be difficult to pressure judges to attend such workshops, particularly if judges feel like they are already strong writers. It is well-established in psychological literature that individuals tend to over-estimate their own performance relative to their peers.¹³⁹ This phenomenon seems to apply (as predicted) to legal authors who self-assess their writing:¹⁴⁰ we tend to overestimate the quality of our own legal writing. It would therefore be easy—even expected—for any judge who learns in general terms that court decisions are likely unreadable to many key audiences to tell themselves that the results probably reflect their peers’ decisions, but not their own decisions. My hope is that the results

137 For the 2024 program see Canadian Institute for the Administration of Justice, “Mastering the Skill of Judgment Writing (2024 Edition): Joint Program with the NJI” (last visited 6 May 2026), online: <ciaj-icaj.ca> [perma.cc/8MYM-27HG].

138 For the Supreme Court of Canada’s view on the notion of judicial independence see *Reference re Remuneration of Judges of the Prov Court of PEI*, 1997 CanLII 317 (SCC). For an account of how difficult it can be to involve judges in discussions with those from outside of the judiciary in matters that pertain to the ways in which they write their decisions, see Jon Khan, “*The Life of a Reserve*”: *How Might We Improve the Structure, Content, Accessibility, Length & Timeliness of Judicial Decisions?* (LLM Thesis, University of Toronto, 2019) [unpublished] at 57–64, DOI: <1807/98120>.

139 Ethan Zell et al, “The Better-Than-Average Effect in Comparative Self-Evaluation: A Comprehensive Review and Meta-Analysis” (2020) 146:2 *Psychological Bull* 118 at 118, DOI: <10.1037/bul0000218>.

140 Elizabeth Ruiz Frost discusses the quality of legal writing—and how to improve it—as a general matter, and does not specifically refer to the readability of legal writing; however, the author makes the following general point about legal writing that could be said in equal measure about the *readability* of legal writing, specifically: “[M]ost of these new lawyers probably don’t even know that they’re not good writers. People aren’t very good at knowing what they don’t know” (see “Overcoming ‘Illusory Superiority’: Mentoring Legal Writers” (2013) 73 *Or State Bar Bulletin* 13 at 13).

contained within this article and the accompanying spreadsheets (referred to in the footnotes) that identify readability scores for individual decisions written by individual judges, will motivate the authors of these decisions to look closely at their own performances. Are they achieving the goals that they set for themselves? Would they perhaps benefit from updated workshops on writing understandable decisions?

Additionally, research in multiple other domains has shown that emulation, the use of exemplar texts to help demonstrate to writers how their own writing should look, and other critical observational learning approaches can all be successful strategies that drive change in the subject's writing.¹⁴¹ The results spreadsheets that are accessible through footnotes within this article contain links to individually scored judicial decisions involving both *YCJA* and *SRL* decisions. This means that interested judges could find and review decisions from their peers that are particularly readable (i.e., low-scoring on the *MADRS* scale), in order to learn new writing strategies through mimicry, emulation, and other types of critical observation of these decisions. Along similar lines, peer, mentor, or expert (e.g., writing coach) review of one's written work could also be used to help authoring judges improve their decision readability levels.

Finally, courts may wish to implement strategies that go beyond the texts of their decisions in order to communicate the contents of these decisions to wider audiences. The Supreme Court of Canada now issues a

141 In the context of academic writing, see e.g. Zhiwei Wu, "Understanding Students' Mimicry, Emulation and Imitation of Genre Exemplars: An Exploratory Study" (2019) 54 *English Specific Purposes* 127, DOI: <10.1016/j.esp.2019.02.002>. In the context of writing about scientific topics, including for the purpose of making the writing more readable see e.g. Tzipora Rakedzon & Ayelet Baram-Tsabari, "To Make a Long Story Short: A Rubric for Assessing Graduate Students' Academic and Popular Science Writing Skills" (2017) 32 *Assessing Writing* 28, DOI: <10.1016/j.asw.2016.12.004>. In the context of secondary school students' writing, one study found:

Results supported our assumptions about the effectiveness of observational learning. Observers were strongly engaged in metacognitive activities. They observed the models' writing, identified and conceptualized the writing strategies, evaluated the performance of the models and reflected explicitly on the observed performances. The performance of these activities suggests that observers internalized, applied, and developed criteria for effective writing (see Martine AH Braaksma et al, "What Observational Learning Entails: A Multiple Case Study" (2006) 6:1 *L1* 31 at 53, DOI: <10.17239/L1ESLL-2006.06.01.05>).

Case in Brief summary for each of the court's decisions, starting from 2018. According to the Supreme Court, "Cases in Brief are short summaries of the Court's written decisions drafted in reader-friendly language, so that anyone interested can learn about the decisions that affect their lives. They are prepared by communications staff of the Supreme Court of Canada."¹⁴² These kinds of approaches, that leverage the expertise of communications professionals (instead of expecting judges to acquire such expertise) represent another means of making decisions at least indirectly understandable to the public and the parties.

As this discussion suggests, the problem of unreadable decisions likely does not exist because of a lack of options for improving the readability of one's writing, and readability improvements would likely be made by those judges who chose to take advantage of such options. I believe that the overwhelming majority of judges would likely be concerned to learn that their decisions in *YCJA* and *SRL* cases are often not capable of being understood by the parties affected by these decisions. For these judges, this article is perhaps both disconcerting and motivating. It is disconcerting when one looks back at past performance: the language of past *SRL* and *YCJA* decisions was often too complex to achieve the goal of being understandable to the parties. Nothing can be done about this now. But the results within this article will also (ideally) motivate judges to do more, or different, work within their writing processes for future decisions, so that subsequent parties can better understand the contents of the decisions that dispose of their cases. These judges can now also assess the MADRS readability levels of any of their decisions using a free online readability calculator,¹⁴³ to help them assess whether they are making progress toward any improvement goals. This future, if it can be realized, would represent a large and meaningful step forward for access to justice in Canada—by bringing understandable case law into the hands of those who might need it, including young persons and self-represent litigants.

142 Supreme Court of Canada, "Cases in Brief" (last modified 20 December 2024), online: <scc-csc.ca> [perma.cc/4H6W-WQZ8].

143 ARTE, *supra* note 35.