

Development of Rural Crime, Bio-Security and Metal Theft Legislation

Project Overview

Residents and municipal officials from rural Manitoba have raised concerns about the need to take greater action to address rural crime. Manitoba accounts for seven per cent of the rural population in Canada, but is responsible for 12 per cent of Canada's property and violent crime. In 2017, Manitoba's rural overall crime rate was 42 per cent higher than its urban overall crime rate and the rural property crime rate was five per cent higher than its urban property crime rate.

The Manitoba government is committed to addressing these ongoing crime and public safety challenges in rural Manitoba. Relevant legislation to address rural crime has been introduced in recent years in Saskatchewan, Alberta and British Columbia. Consequently, the Manitoba departments of Justice and Agriculture and Resource Development sought the input of the public through an online and the input of key stakeholders through engagement meetings.

Feedback received from the public engagement survey and the key stakeholder engagement meetings will help inform decision-making on provincial legislation options. Topics covered include:

- Amendments to The Petty Trespasses Act (PTA)
- Amendments to The Occupiers' Liability Act (OLA)
- Amendments to The Animal Diseases Act (ADA)
- New scrap metal dealer legislation to combat metal theft, by bringing transparency and accountability to scrap metal seller transactions

This feedback will be used to evaluate the options and to enable the Minister of Justice and Attorney General to determine the best course of action in relation to PTA, OLA and scrap metal dealer legislation, and by the Minister of Agriculture and Resource Development to determine the best options for bio-security legislation.

Engagement Overview

The public was invited to provide feedback to help inform decision-making on provincial legislation options. In total, 788 people provided input through an online survey between August 31 and October 31, 2020.

Almost half (46 per cent) of respondents indicated they are a land or homeowner, or lease holder; 16 per cent are farmers and 10 per cent hunters. The remainder of participants are other business owners, ranchers, trappers, construction business owners, or law enforcement officials.

In addition to a public announcement about the survey commencement, invitations to complete the survey were sent out to key stakeholders in municipal government, agricultural stakeholders, Indigenous leaders, and business community stakeholders.

During the summer and fall of 2020, Manitoba Justice officials met with key Manitoba law enforcement representatives to hear their views on the PTA, OLA and scrap metal dealer legislation issues. During the fall of 2020, Manitoba Justice and Agriculture and Resource Development officials conducted engagement meetings with key stakeholders that accepted the government's offer of a meeting to discuss the public engagement issues. Because of COVID-19 pandemic considerations, virtual meetings were held with representatives from:

- Association of Manitoba Municipalities (AMM)
- Manitoba Keewatinowi Okimakanak Inc. (MKO)
- Manitoba Metis Federation (MMF)
- Keystone Agricultural Producers (KAP)
- Other agriculture producer organizations

What We Heard

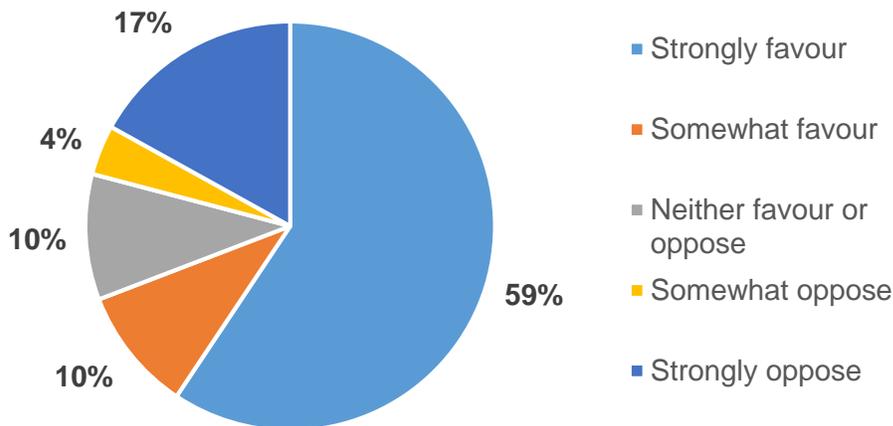
Participants provided input on four topics summarized below.

Possible Amendments to Manitoba's Petty Trespasses Act

The survey sought feedback on possible amendments to The Petty Trespasses Act (PTA) to provide more clarity about when permission to enter onto land is needed. The amendments would also avoid putting the onus on rural land owners to entirely fence off large tracts of land, or partially fence the land and personally confront apparent trespassers. The survey questions and responses are below.

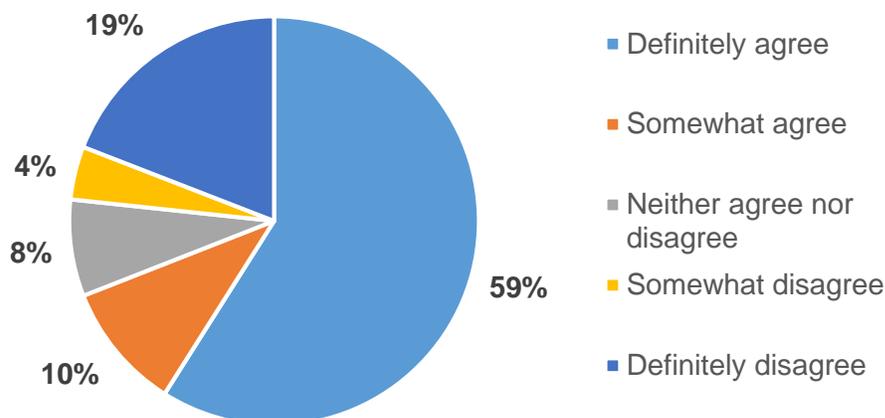
To what extent do you support possible amendments to The Petty Trespasses Act to provide more clarity about when permission to enter onto land is needed, and to avoid putting the onus on rural land owners to entirely fence off large tracts of land or partially fence and personally confront apparent trespassers?

Feedback indicated that 69 per cent of respondents were strongly or somewhat in favour of amending The Petty Trespasses Act to provide more clarity about when permission to enter onto land is needed and adopting of the approach of specifying classes of properties where entry without permission is presumed to be a trespassing offence, unless the person entering the land has a reasonable, lawful excuse for doing so.



To what extent do you agree or disagree that Manitoba should adopt Saskatchewan and Alberta's approach to trespass offences (i.e. specifying classes of properties where entry without permission is presumed to be a trespassing offence, unless the person entering the land has a reasonable, lawful excuse for doing so)?

Feedback indicated that 69 per cent of respondents definitely or somewhat agree that Manitoba should adopt Saskatchewan and Alberta's approach to trespass offences.



What types of property or property uses should be listed if Manitoba adopts the Saskatchewan and Alberta approach to trespass offences?

The table below indicates the per cent of responses of those respondents that definitely or somewhat agree that Manitoba should adopt Saskatchewan and Alberta's approach to trespass offences.

Property Type or Use	Per Cent of Responses
Yard sites	11%
Raising animals	10%
Land under cultivation	10%
Construction sites	10%
Grazing land	10%
Gardens	10%
Beekeeping	9%
Raising Birds	9%
Lawns	9%
Raising Fish	9%
Other	2%
Total	100%

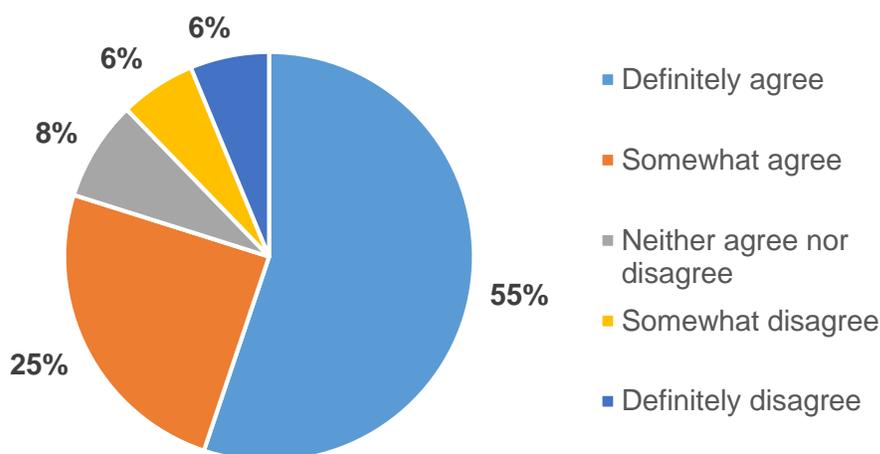
Other responses included:

- all private property or deeded land
- buildings, equipment or structures on land
- property without explicit permission
- natural bush lands and sloughs
- vacant properties (fenced or unfenced)
- private or public recreation areas including forested property with signage
- residential yards
- bodies of water
- woodlots
- commercial businesses and manufacturing facilities
- property with animals in or on it
- cottage properties
- conservation land
- land used for foraging or storing hay or straw

Manitoba's existing trespass legislation provides a defence for persons who enter land under an honest and reasonable belief that they have a right to do so.

To what extent do you agree or disagree there should also be specific exemptions for lawful entrants such as peace officers; first responders and emergency personnel; authorized public utility meter readers and service personnel; or authorized gas or electrical inspectors?

Feedback indicated that 80 per cent of respondents definitely or somewhat agree there should also be specific exemptions for lawful entrants such as peace officers; first responders and emergency personnel; authorized public utility meter readers and service personnel; or authorized gas or electrical inspectors.



During stakeholder engagement meetings, stakeholders generally supported amendments to clarify The Petty Trespasses Act and eliminate the need for property owners or occupiers to confront trespassers.

Stakeholders representing Indigenous leadership asked about whether any legislative amendments would adversely affect traditional Indigenous hunting rights. The Manitoba government confirmed that provincial law cannot override the legal rights of First Nations and other Indigenous people to exercise Indigenous hunting, trapping or fishing rights on lands where Indigenous and treaty rights can normally be exercised, which includes land not put to an incompatible use.

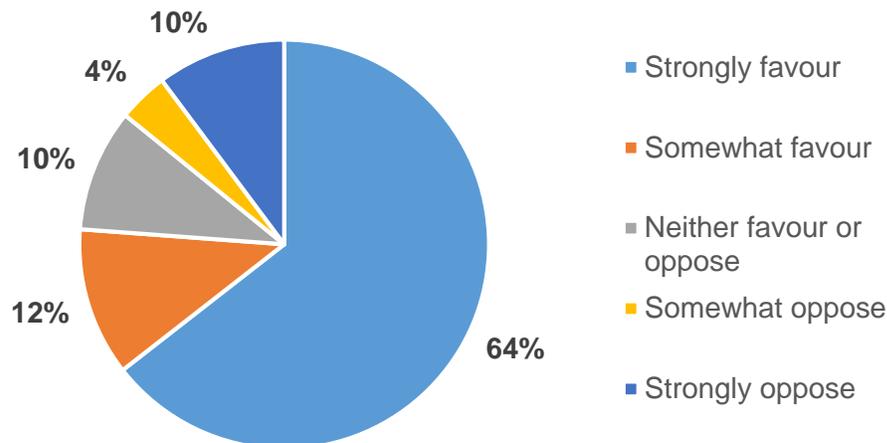
Possible Amendments to The Occupiers' Liability Act

Currently in Manitoba, for most persons, landowners and occupiers have a legal responsibility (general duty of care) to take such care as is reasonable, in all circumstances, to see that the person will be reasonably safe while on their property. However, in the case of off-road vehicle operators and persons on recreational trails, there is a lower minimum duty of care. This duty is to not create a danger with the deliberate intent of doing harm or damage to the person or their property, and to not act with reckless disregard for the safety of the person or their property.

The survey sought feedback on possible amendments to The Occupiers' Liability Act (OLA), to provide landowners and occupiers with greater protection from civil liability for death, injuries or property damage, suffered by persons who are on their property without their knowledge or consent. The survey questions and responses are below.

To what extent do you support possible amendments to The Occupiers' Liability Act to provide landowners/occupiers with greater protection from civil liability for death, injuries or property damage suffered by persons who are on their property without their knowledge or consent (i.e. trespassers)?

Feedback indicated that 76 per cent of respondents strongly or somewhat favour possible amendments to The Occupiers' Liability Act to provide landowners/occupiers with greater protection.



Minimum Duty of Care

Participants were asked to provide feedback regarding the minimum duty of care for criminal trespassers, adult non-criminal trespassers and child and youth non-criminal trespassers. It should be noted that several survey respondents and stakeholders opted to skip this section of questions or selected unsure as their response.

The majority of survey respondents were in favour of reducing the duty of care owed by landowners and occupiers to all criminal trespassers (76%) and all non-criminal trespassers (69%), including children and youth (59%), from the general duty of care to the lower minimum duty of care, on all types of property with no exceptions. Survey data is below.

In what circumstances should the reduced minimum duty of care for criminal trespassers apply?

Minimum Duty of care	Per Cent of Responses
Minimum for All (no exceptions)	76%
Minimum – Adults & Youth (not children under 12)	11%
Minimum - Adults Only	4%
Unsure	9%
Total	100%

In what circumstances should the reduced minimum duty of care for adult non-criminal trespassers apply?

Minimum Duty of Care	Per Cent of Responses
In All Circumstances (no exceptions)	69%
Only on Specified Property	19%
Unsure	13%
Total	100%

In what circumstances should the reduced minimum duty of care for child and youth non-criminal trespassers apply?

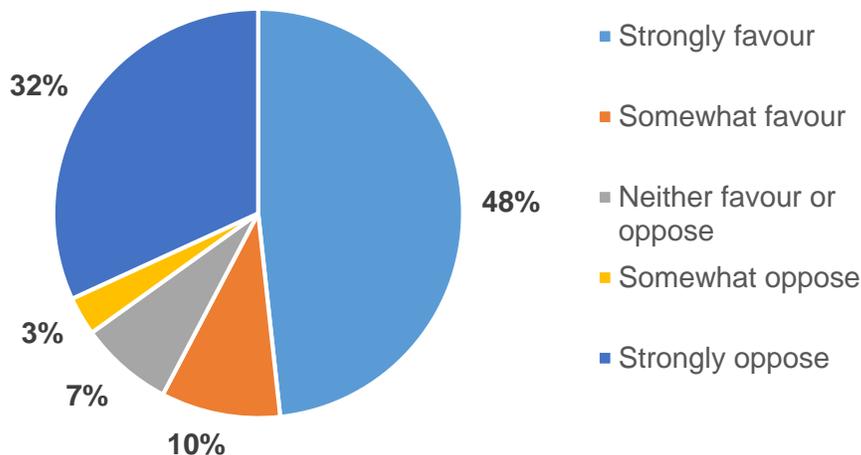
Minimum Duty of Care	Per Cent of Responses
All Children & Youth In All Circumstances (no exceptions)	59%
Youth Only (excluding children under 12)	12%
All Children and Youth, but Only on Specified Property	11%
Youth Only, but Only on Specified Property	4%
Unsure	14%
Total	100%

Possible Amendments to the Animal Diseases Act

The survey sought feedback on possible amendments to The Animal Diseases Act (ADA). These amendments would designate any livestock facility or vehicle containing livestock as biosecurity areas, or animal protection areas that can only be entered with the consent of the owner or operator. The amendments would also prohibit interfering with animals in transport. The survey questions and responses are below.

To what extent do you support possible amendments to The Animal Diseases Act to designate any livestock facility or vehicle that contains livestock as ‘biosecurity areas’ or ‘animal protection areas’ that can only be entered with the consent of the owner/operator and to prohibit interfering with animals in transport.

Feedback indicated that 58 per cent of respondents strongly or somewhat favour amending the Animal Diseases Act to designate any livestock facility or vehicle that contains livestock as ‘biosecurity areas’ or ‘animal protection areas’ and to prohibit interfering with animals in transport.



During the stakeholder engagement meetings, most participants expressed support for taking action to better protect food safety and prevent interference with livestock that are being transported, while some wanted to take additional time before taking a position on the issues.

To what extent do you agree or disagree with the following statements?

Feedback indicated that the majority of respondents definitely or somewhat agree with the biosecurity measures indicated below. Almost one-third of respondents definitely disagree.

	Definitely agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Definitely disagree
Any location containing livestock should be designated a biosecurity area that can only be entered with the consent of the owner/operator of the livestock facility.	46%	11%	5%	4%	33%
Trucks and trailers transporting livestock should be designated a biosecurity area and interfering with animals in transport should be prohibited.	48%	10%	6%	4%	32%
A location containing livestock should contain signs identifying the location as a biosecurity area where access is restricted.	31%	17%	13%	7%	32%

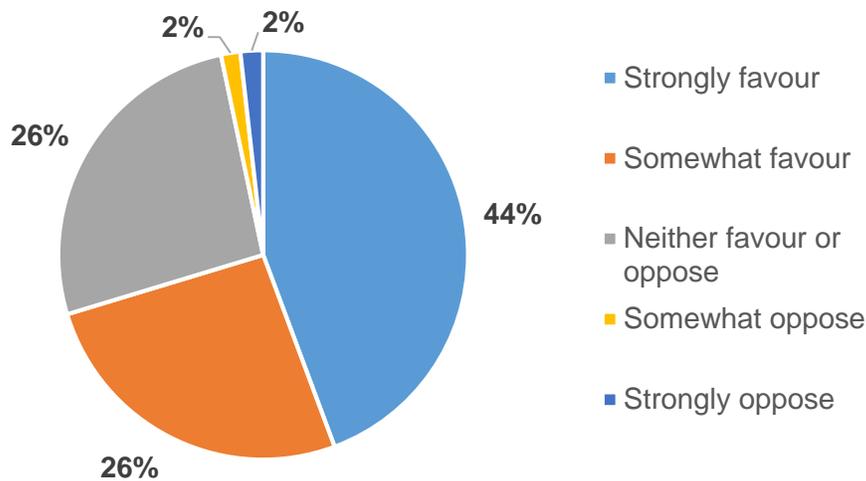
Several respondents provided additional comments in relation to Animal Disease Act amendments. Participants recognized that animal health and food safety could be compromised when food-chain biosecurity standards are breached. However, several participants expressed concerns about animal welfare and cautioned government about “ag-gag” legislation implemented in other jurisdictions in North America. These participants feel it is important to ensure that legislation retains the ability of whistleblowers to report animal welfare concerns.

Possible Metal Dealers and Recyclers Legislation

The survey sought feedback on the possible development of new scrap metal dealer legislation to combat metal theft, by bringing transparency and accountability to scrap metal sellers' transactions. The majority of survey respondents (86 per cent) said they did not have any involvement with the metal dealer and recycler industry and five per cent said they were full-time or casual metal dealers or recyclers. The survey questions and responses are below.

To what extent do you support possible development of new scrap metal dealer legislation to combat metal theft by bringing transparency and accountability to scrap metal sellers transactions?

Feedback indicated that 70 per cent of respondents strongly or somewhat favour possible development of new scrap metal dealer legislation to combat metal theft.



To what extent do you agree or disagree with the following statements:

Feedback indicated that more than half of respondents definitely or somewhat agree with the statements below.

	Definitely agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Definitely disagree
It is difficult to identify and trace stolen metal when someone brings metal items in for sale or recycling.	38%	29%	28%	4%	2%
Collecting and recording information about metal sellers and metal sales transactions could assist in identifying persons who are involved in metal theft.	46%	29%	21%	3%	2%
The Manitoba Government should adopt legislation to require metal dealers, buyers and recyclers to record and keep records of metal seller and transaction information, as other provinces have done area where access is restricted.	49%	24%	21%	3%	3%

Approach to Recording and Keeping Records of Metal Seller and Transaction Information

Alberta

Alberta has taken a basic approach of requiring metal dealers and recyclers to record seller and transaction information that can be accessed by police for the purpose of investigations, including:

- Obtaining proof of identification from seller (i.e. make a copy).
- Taking reasonable measures to ensure proof of identity is valid (i.e. it is not fake identification).
- Recording and retaining details of transactions, including the description of the metal being sold, the time and date of the transaction and the value of the transaction.
- Informing the seller that information is being collected and may be provided to law enforcement.
- Reporting purchases above a prescribed weight to a law enforcement agency within 24 hours.

- Immediately reporting the matter to a law enforcement agency, if dealers and recyclers have reasonable grounds to believe the metal is stolen property.

Do you have any issues with one or more of the elements in Alberta's basic approach? Which elements do you have issues with?

The majority of respondents (66 per cent) do not have issues with Alberta's basic approach, 25 per cent are unsure and nine per cent have an issue with one or more elements.

Of those participants that indicated they have one or more issues with Alberta's approach, 31 per cent said that they have an issue with reporting purchases above a prescribed weight to a law enforcement agency within 24 hours.

Alberta will soon be modifying its basic approach, including:

- Defining scrap metal as items made of nonferrous metals (commonly stolen metals).
- Requiring sellers to be at least 18 years of age, and to provide government issued photo identification.
- Requiring transactions details to be kept for at least two years.
- Implementing a central database to report restricted metals.
- Prohibiting cash payments above a value and requiring scrap metal dealers and recyclers to use traceable currency to purchase scrap metal.
- Requiring buyers to not sell or recycle metal if requested to by police.

If Manitoba decides to implement the basic approach, should we adopt one or more of the modifications? Which modifications should be adopted?

The majority of respondents (65 per cent) agree that we should adopt one or more of the modifications that has Alberta recently made to its metal dealer legislation. Respondents did not favour one modification to adopt over another.

British Columbia

British Columbia has taken a more elaborate approach to record and keep records of metal seller and transaction information, including:

- Metal dealers and recyclers must be registered in order to operate.
- Metal dealers and recyclers must collect and record name, address and working phone number of the metal seller and owner.
- Metal dealers and recyclers must obtain and record the paint colour, make and model, and licence plate number and province of issue of vehicles used to sell metal to them.
- Metal dealers and recyclers must file daily reports of every transaction with law enforcement.
- Payments to metal sellers of amounts over \$50 must be made by cheque.
- Metal sellers are deemed to consent to the prescribed information being provided to police.
- Provincial government employed investigators enforce the requirements.

If Manitoba decides to implement the basic approach, are there any elements from B.C.'s more elaborate approach that should be added? Which elements from B.C.'s more elaborate approach that should be added?

Feedback indicated that 44 per cent of respondents were in favour of adopting British Columbia's more elaborate metal dealer legislation, 18 per cent are not in favour and 38 per cent are unsure. Respondents did not favour one modification to adopt over another.

During the stakeholder engagement meetings, participants asked that municipal government landfill and recycling agencies be exempted from any metal dealer and recycler legislation, that provincial metal dealer and recycler legislation not be inconsistent with Winnipeg's metal dealer and recycler by-law requirements, or overwhelm police with unnecessary reports. There was also further confirmation that stakeholders did not believe it was necessary to go as far as British Columbia's more elaborate metal dealer legislation.

Key Themes from Public and Stakeholder Engagement

- The majority of survey respondents supported amending The Petty Trespasses Act to provide more clarity about when permission to enter onto land is needed by adopting the Saskatchewan and Alberta approach of specifying classes of properties where entry without permission is presumed to be a trespassing offence, unless there is a reasonable, lawful excuse for doing so.
- The majority of survey respondents supported amending The Occupiers' Liability Act to provide landowners/occupiers with greater protection from civil liability for death, injuries or property damage suffered by criminal and non-criminal trespassers by reducing the legal duty of care owed to them from the existing general "keep reasonably safe" duty of care to the lower minimum duty of care to not create a danger with the deliberate intent of doing harm and to not act with reckless disregard for their safety.
- The majority of survey respondents supported amending The Animal Diseases Act to designate any livestock facility or vehicle that contains livestock as 'biosecurity areas' or 'animal protection areas' and to prohibit interfering with animals in transport.
- The majority of survey respondents were in favour of enacting new scrap metal dealer legislation to combat metal theft and favoured the approach that has been taken by Alberta.
- The input received from stakeholder engagement meetings was, for the most part, consistent with the results of the public engagement survey.

Next Steps

The Minister of Agriculture and Resource Development and the Minister of Justice and Attorney General have each introduced the title of two Bills in the Legislature for first reading, Bill 62, The Animal Diseases Amendment Act, and Bill 63, The Petty Trespasses Amendment and Occupiers' Liability Act, with the legislation to be tabled in the near future.

The next steps in the project are to assess the possible options for provincial legislation, in light of the survey responses, and to decide the content of the legislation. Once those decisions have been made, the ministers will publicly announce the approaches they will be taking and table Bills in the Legislature.

Questions?

Questions regarding the engagement results should be submitted to the following e-mail address: RuralCrimeSurveyQuestions@gov.mb.ca.