



Office of the Auditor General of Ontario

# Annual Follow-Up on Value-for-Money Audits



*December 2021*



## Office of the Auditor General of Ontario

To the Honourable Speaker  
of the Legislative Assembly

In my capacity as the Auditor General, I am pleased to submit to you my Annual Follow-Up on Value-for-Money Audits volume of the *2021 Annual Report* of the Office of the Auditor General of Ontario to lay before the Assembly in accordance with the provisions of section 12 of the *Auditor General Act*.

A handwritten signature in black ink, reading "Bonnie Lysyk". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Bonnie Lysyk, MBA, FCPA, FCA, LPA  
Auditor General

December 2021  
Toronto, Ontario

# Table of Contents

<b>Reflections</b>	3
<b>Chapter 1 Follow-Up Reports on 2019 Annual Report Value-for-Money Audits</b>	6
Section 1.01 Acute-Care Hospital Patient Safety and Drug Administration	9
Section 1.02 Addictions Treatment Programs	31
Section 1.03 Chronic Kidney Disease Management	48
Section 1.04 Commercial Vehicle Safety and Enforcement	70
Section 1.05 Food and Nutrition in Long-Term-Care Homes	93
Section 1.06 Food Safety Inspection Programs	113
Section 1.07 Health and Safety in the Workplace	130
Section 1.08 Office of the Chief Coroner and Ontario Forensic Pathology Service	145
Section 1.09 Ontario Disability Support Program	165
Section 1.10 Ontario Financing Authority	185
Section 1.11 Oversight of Time-Limited Discretionary Grants	195
Section 1.12 Provincial Support to Sustain the Horse Racing Industry	210
Section 1.13 Technology Systems (IT) and Cybersecurity at Ontario Lottery and Gaming Corporation	223
Section 1.14 Adult Correctional Institutions	235
Section 1.15 Court Operations	258
Section 1.16 Criminal Court System	277
Section 1.17 Family Court Services	292
Section 1.18 Public Accounts of the Province	308
<b>Chapter 2 Follow-Up Reports on Special Reports</b>	
Section 2.01 Tarion Warranty Corporation	312
<b>Chapter 3 Follow-Up on Reports Issued by the Standing Committee on Public Accounts</b>	337
Section 3.01 The Fair Hydro Plan: Concerns About Fiscal Transparency, Accountability and Value for Money	340
Section 3.02 Food Safety Inspection Programs	345
Section 3.03 Metrolinx—GO Station Selection	353
Section 3.04 Metrolinx—LRT Construction and Infrastructure Planning	361
Section 3.05 Ontario Disability Support Program	373
Section 3.06 Tarion Warranty Corporation	385
<b>Chapter 4 Status on Audit Recommendations from 2014 to 2020</b>	397



**Bonnie Lysyk**  
Auditor General of Ontario

## Reflections

We make recommendations each year in our value-for-money audits after spending considerable time with these organizations reviewing how they deliver their programs and services. We look at improvements that can be made in areas such as accountability and transparency, operational efficiency and cost-effectiveness, and compliance with applicable legislation. A central focus of our work with the organizations we audit is whether the resources they use are achieving the desired outcomes, and how these organizations can better serve Ontarians.

Once we conclude our audit work, we issue value-for-money reports that contain considerable information about the subjects we audit, and a series of recommended actions addressed to senior decision-makers in ministries and the broader public sector. These recommendations are a critical part of our audit reports; we believe that implementing them is important to drive positive improvements in the delivery of programs and services for Ontarians.

In our two-year follow-up work, we have seen a decline in the implementation rates compared to last year, with many ministries citing the COVID-19 pandemic as a reason for slower than normal

implementation. However, what is encouraging is that through our continuous follow-up work, the implementation rates of recommended actions have increased from the time of our two-year follow-up to when we reviewed their implementation this year.

This year we followed up on 18 audits completed in 2019 and found that 27% of the actions had been fully implemented (compared to 42% in our *2020 Annual Report*); 30% (2020—30%) were in the process of being implemented; for 37% (2020—25%) little or no progress had been made; and 8% (2020—3%) were either no longer applicable or no longer planned to be implemented (see **Chapter 1, Figure 1**).

The ministries and agencies of the Crown that have made the most progress toward fully implementing our recommended actions from 2019 include the Ministry of the Solicitor General on our audit of the Office of the Chief Coroner and Ontario Forensic Pathology Service; and the Ontario Lottery and Gaming Corporation (OLG) on our audit of Information Technology Systems (IT) and Cybersecurity at OLG.

Our 2019 recommendations for our audit of Food and Nutrition in Long-Term-Care Home and

Addictions Treatment Programs have had the lowest implementation progress by the responsible ministries. Notably, the long-term-care home sector has made little or no progress in our 2019 recommendation to evaluate alternative staffing options to provide assistance to long-term-care residents during peak demand times such as mealtimes.

Our aim in following up this way is to see that these actions are fully implemented or, if we are told this has not been possible, to understand why and to report on the reasons to Ontarians. For instance, sometimes, a recommendation may no longer be applicable—for example, if there have been policy and program changes since our report was issued. This is reasonable and expected. At other times, some alternative actions meet the intent of our recommendation and we conclude that our recommendation has been implemented. Other recommendations may still be in the process of being implemented when we follow up after two years. This too may be reasonable if the recommended actions are complex and may take longer to put into effect.

In cases like these, our Office takes its responsibility to follow up several steps further—we ask what becomes of these recommendations that we found to be only partly implemented when we were preparing our two-year follow-up reports. Is progress still being made toward fully implementing them? The answer comes through further investigation and inquiry to verify whether the organizations we have audited are still committed to completing the work they undertook to do years earlier.

This is why five years ago we set up a team with the responsibility to follow up on our recommendations older than two years, beginning with recommendations from our *2012 Annual Report*. The team's expanded follow-ups have let us see patterns in how organizations address our recommendations. In particular, we have found the following:

- As time passes, more recommended actions are implemented, but at a slow rate. The average full implementation rate for recommended

actions issued between 2014 and 2016 is 37% after two years and 58% after five years. This indicates an average increase in full implementation of 21% between two and five years. However, our experience to date indicates that there is only minimal progress on recommended actions after the five-year mark.

- While full implementation rates slow down as time passes, work continues to be done on getting to full implementation. In 2021, organizations told us that they were in the process of implementing approximately 22% more of the recommended actions from 2014 to 2016, five to seven years later.
- For recommended actions issued in 2017, 2018, and 2019 we have seen an average two-year full implementation rate of 33%, a rate similar to that experienced for 2014 to 2016. In 2021, organizations told us that approximately 34% more of the recommended actions from those years were in the process of being implemented and that another 24% where there had still been little or no progress would nonetheless still be implemented.
- When we conduct our follow-up work, we find that some organizations misrepresent their progress in fully implementing recommended actions. This year, we accepted that only 48% of the 289 actions that organizations self-reported as being fully implemented were in fact actually fully implemented.
- There are 18 recommended actions from 2014 to 2018 that we were told will not be implemented (see **Appendix 3**). We continue to recommend their implementation.
- **Figure 7** highlights the organizations and their full and in-process implementation rates for recommended actions issued between 2014 and 2018. Some organizations—such as hospitals; psychiatric hospitals; the Ministry of Government and Consumer Services; the Ministry of Energy, Northern Development and Mines; Metrolinx; the Ontario Energy Board; Waterfront Toronto; Financial Services Regulatory

Authority of Ontario; and the Independent Electricity System Operator— have a high full implementation rate. Others—such as the Ministry of the Solicitor General; the Ministry of Health; the Ministry of Children, Community and Social Services; and the Ministry of the Environment, Conservation and Parks—have much lower full implementation rates.

- **Figure 8** highlights the full implementation rates between 2014 and 2018 by type of recommendations issued. Recommendations related to internal controls, compliance, information technology, and governance are implemented more frequently than recommendations addressing public reporting, access to care or services, effectiveness and funding allocations.

We also follow up on the implementation of the recommendations from the Standing Committee on Public Accounts. This year, we followed up on six of their reports. These reports were issued between June 2020 and April 2021. This year, we found that 69% of recommendations were either implemented or in the process of being implemented (62.4% in 2020). This year's implementation rate was negatively impacted by the low implementation rate for the recommendations in the report on Ontario Disability Support Program (ODSP), which was tabled in February 2021. The Ministry of Children, Community and Social Services has made little or no progress on implementing 26 of the 44 or 59% of the recommended actions in the Committee's report on ODSP. In our *2020 Annual Follow-up on Value-for-Money Audits*, we had a similar finding with the Ministry's progress on the Committee's report on Ontario Works (tabled in December 2019).

Our Office is committed to preparing high-quality audit reports containing well-thought-out recommendations that, when implemented, serve to improve the efficiency and cost-effectiveness of systems and processes within the public sector. The Standing Committee on Public Accounts is supportive of our recommendations and in turn makes its own recommendations to be implemented by

the organizations and ministries brought before it at hearings. I encourage those whose responsibility it is to oversee that Ontarians receive the best possible services from their government to implement the agreed-upon recommended actions in a more thorough and expedient manner.

## Acknowledgements

I would like to thank the many people in the public and broader public sectors who have assisted us with completing this year's follow-up work. The information contained in this volume of our *2021 Annual Report* is the result of the excellent work of the dedicated staff of my Office.

We look forward to continuing to serve the Members of Provincial Parliament, and through them, the citizens of Ontario by recommending program and service delivery improvements for the benefit of Ontarians.

Sincerely,



Bonnie Lysyk, MBA, FCPA, FCA  
Auditor General of Ontario

# Follow-Up Reports on *2019 Annual Report* Value-for-Money Audits

## Summary

It is our practice to make specific recommendations in our value-for-money audit reports and ask ministries, agencies of the Crown and organizations in the broader public sector to provide a written response to each recommendation, which we include in our Annual Reports. Two years after we publish the recommendations and related responses, we follow up on the status of actions taken. The ministries, agencies of the Crown and organizations in the broader public sector are responsible for implementing the recommendations made by our Office; our role is to independently express a conclusion on the progress that the audited entity made in implementing the actions contained in each recommendation.

In each of the follow-up reports in this chapter, we provide background on the value-for-money audits reported on in **Chapter 3** of our *2019 Annual Report* and assess and report on the implementation status of actions that have been taken to address our recommendations since that time.

We conduct our follow-up work and report on the results in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. Our Office complies with the Canadian Standard on Quality Control. We comply with the independence and other ethical

requirements of the Code of Professional Conduct issued by Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

Our follow-up work consists primarily of inquiries and discussions with the government, the relevant ministries or broader-public-sector entities, a review of their status reports, and a review of selected supporting documentation. The procedures performed in this work vary in nature and timing from an assurance engagement that obtains a reasonable level of assurance, such as an audit, and do not extend as far. As this is not an audit, we cannot provide a high level of assurance that the corrective actions described have been implemented effectively. The actions taken or planned may be more fully examined and reported on in future audits. Status reports will factor into our decisions on whether future audits should be conducted in these same areas.

As noted in **Figure 1**, progress had been made toward implementing 56% of our recommended actions (74% in our 2020 Annual Report), including 27% of them that have been fully implemented (42% in our 2020 Annual Report). The COVID-19 pandemic was often cited as a key reason for the delayed implementation of our recommendations. The ministries and agencies of the Crown that have made the most progress toward fully implementing our recommended actions from 2019 include the Ministry of the Solicitor

General on our audit of the Office of the Chief Coroner and Ontario Forensic Pathology Service; and Information Technology Systems (IT) and Cybersecurity at Ontario Lottery and Gaming Corporation.

However, little or no progress had been made on 37% of our recommended actions (compared to 23% in our 2020 Annual Report). For example, the long-term care sector had made little or no progress on implementing 20 or 65% of recommended actions in our audit of Food and Nutrition in Long-Term-Care Homes; the Ministry of Health has made little or no progress on implementing 22 or 59% of recommended actions in our audit of Addictions Treatment Programs; and the Ministry of the Attorney General has made little or no progress on implementing 15 or 58% of recommended actions in our audit of Family Court Services. Notable recommendations with little or no progress include:

- the Ministry of the Attorney General, to work with the judiciary and complete a review of child protection cases, and identify areas where improved court systems and processes would result in earlier resolution of cases;
- the Ministry of Long-Term Care, to evaluate alternative staffing options to provide assistance to long-term-care residents during peak demand times such as mealtimes;
- the Treasury Board Secretariat, to disclose all successful recipients of government funding, by granting program, on the Grants Ontario System;
- the Ministry of Children, Community and Social Services, to monitor and take corrective action in instances where local Ontario Disability Support Program offices and their caseworkers do not verify the accuracy and completeness of each applicant's declared income and assets; and
- the Ministry of Health, to analyze wait times for addictions treatment, in order to identify regions or programs with long wait times, and use this information to take corrective actions. The Ministry has also made no progress on developing a needs-based funding model for new and existing addictions programs.

Less than one percent (or 4.6) of our recommended actions are no longer applicable and six percent (or 34.4) of our recommended actions will not be implemented. More specific details are presented in the sections that follow **Figure 1**.

**Figure 1: Overall Status of Implementation of Recommendations from Our 2019 Annual Report**

Prepared by the Office of the Auditor General of Ontario

Report Section	# of Recs	# of Actions Recommended	Status of Actions Recommended				
			Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
1.01 Acute-Care Hospital Patient Safety and Drug Administration	22	38	11.2	10.4	12.4	1.4	2.6
1.02 Addictions Treatment Programs	13	37	5	6	22	4	0
1.03 Chronic Kidney Disease Management	14	27	7	18	2	0	0
1.04 Commercial Vehicle Safety and Enforcement	19	51	9	13	29	0	0
1.05 Food and Nutrition in Long-Term-Care Homes	19	31	3	8	20	0	0
1.06 Food Safety Inspection Programs	21	36	14	12	9	1	0
1.07 Health and Safety in the Workplace	13	27	3	14	9	1	0
1.08 Office of the Chief Coroner and Ontario Forensic Pathology Service	14	38	27.5	6.5	1	3	0
1.09 Ontario Disability Support Program	19	52	11	9	30	2	0
1.10 Ontario Financing Authority	10	20	2	9	4	3	2
1.11 Oversight of Time-Limited Discretionary Grants	13	24	6.8	5.2	11.6	0.4	0
1.12 Provincial Support to Sustain the Horse Racing Industry	9	16	3	2.5	4	6.5	0
1.13 Technology Systems (IT) and Cybersecurity at Ontario Lottery and Gaming Corporation	14	23	16	2	5	0	0
1.14 Adult Correctional Institutions	26	55	16.5	24	13.5	1	0
1.15 Court Operations	15	27	7	12	4	4	0
1.16 Criminal Court System	10	23	1	5	12	5	0
1.17 Family Court Services	17	26	2	8	15	1	0
1.18 Public Accounts of the Province	3	4	3	0	0	1	0
<b>Total</b>	<b>271</b>	<b>555</b>	<b>148.0</b>	<b>164.6</b>	<b>203.5</b>	<b>34.4</b>	<b>4.6</b>
%	—	—	<b>26.7</b>	<b>29.6</b>	<b>36.7</b>	<b>6.2</b>	<b>0.8</b>

## Chapter 1

### Section 1.01

Ministry of Health

# Acute-Care Hospital Patient Safety and Drug Administration

Follow-Up on VFM Section 3.01, 2019 Annual Report

This report contains two charts that show our recommendations that were directed to the Ministry of Health or Ontario hospitals. The Ontario hospitals we audited were Halton Healthcare, Hamilton Health Sciences, Humber River Hospital, Nipigon District Memorial Hospital, Pembroke Regional

Hospital, Thunder Bay Regional Health Sciences Centre, The Ottawa Hospital, Women's College Hospital, Chatham-Kent Health Alliance, Grand River Hospital, Northumberland Hills Hospital, Stratford General Hospital, and St. Thomas Elgin General Hospital.

#### RECOMMENDATION STATUS OVERVIEW

Recommendations Applicable to Ministry of Health	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 2	3			3		
Recommendation 4	1			1		
Recommendation 5	2	1	1			
Recommendation 7	2		2			
Recommendation 8	1		1			
Recommendation 9	2			2		
Recommendation 10	2		2			
Recommendation 11	1		1			
Recommendation 12	2		1	1		
Recommendation 14	3	1		2		
Recommendation 17	1			1		
Recommendation 22	1	1				
<b>Total</b>	<b>21</b>	<b>3</b>	<b>8</b>	<b>10</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>14</b>	<b>38</b>	<b>48</b>	<b>0</b>	<b>0</b>

## RECOMMENDATION STATUS OVERVIEW

Recommendations Applicable to Hospitals	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	0.54	0.23		0.23	
Recommendation 3	3	0.31	0.13	0.41	0.13	0.03
Recommendation 6*	2	0.14	0.04	0.32	0.21	0.29
Recommendation 13	1	0.61	0.31			0.08
Recommendation 15	3	0.85	0.15			
Recommendation 16	1	0.54	0.23	0.08	0.15	
Recommendation 18	1	0.23	0.23	0.39	0.15	
Recommendation 19	2	0.70	0.15			0.15
Recommendation 20	1	0.61	0.08	0.08	0.08	0.15
Recommendation 21	2	0.27	0.04			0.69
<b>Total</b>	<b>17</b>	<b>8.16</b>	<b>2.36</b>	<b>2.44</b>	<b>1.45</b>	<b>2.59</b>
<b>%</b>	<b>100</b>	<b>48</b>	<b>14</b>	<b>14</b>	<b>9</b>	<b>15</b>

\* Note: During the 2019 audit planning stage, we conducted walkthroughs at Trillium Health Partners (THP), which was one of the hospitals audited in our 2016 audit report of Large Hospital Operations. In the 2019 audit, we limited our audit work at THP to Human Resources.

## Overall Conclusion

The Ministry of Health and the Ontario hospitals, as of September 30, 2021, have fully implemented 14% and 48% respectively of the actions we recommended in our *2019 Annual Report*. The Ministry has made progress in implementing an additional 38% of the recommendations and the Ontario hospitals have made progress in implementing an additional 14% of the recommendations.

The Ministry has fully implemented some recommendations such as identifying the gaps in the information sharing between the College of Nurses of Ontario and health system partners, for example, nurses may have multiple employers and an ongoing investigation in connection with services provided at one health facility that may not be known at the other work location. In March 2021, the Ministry publicly released the medication safety quality standard that addresses care in all settings relevant to medication safety, including primary health care, specialist health care, long-term care, and home and community care for people of all ages who are taking one or more medications. In addition, a province-wide “command

centre” has been implemented, which collects and analyzes, in real-time, the patient bed flow of each acute-care hospital in Ontario. This “command centre” is supporting Ontario’s COVID-19 pandemic response and will continue to operate thereafter.

The Ontario hospitals we visited have fully implemented recommendations such as having medication reconciliation policies and procedures in place, having dedicated staff to do the medication reconciliation and review to ensure completeness, and providing ongoing education to nursing and pharmacy staff on completing medication reconciliation. In addition, all Ontario hospitals we visited have policies in place for medication administration processes, and more than half of the hospitals have implemented or are in the process of implementing the hospital information system (HIS) that uses bar code scanning of patients and medications by the nurse, thereby providing additional safety checks when administering medication.

However, the Ministry has made little progress on 48% of the recommendations due to the COVID-19 pandemic, including reducing the impact of never-events on patient safety and the health-care system, establishing a forum where hospitals can share their

knowledge and lessons learned from patient safety incident investigations, and exploring the means to allow hospitals and agencies to provide and receive truthful references and information to make informed nursing hiring decisions and require these organizations to disclose such information when it is requested by a prospective employer. Some Ontario hospitals we visited have made little or no progress on some of the recommendations due to the COVID-19 pandemic. In addition, some of these hospitals will not set a formal target to eliminate the occurrence of never-events and will not include this in their Quality Improvement Plans because some hospitals have noted that this is not a mandatory target established by Ontario Health and are awaiting direction from them. Due to the COVID-19 pandemic, discussions about quality improvement plan indicators have been on hold. Also, some hospitals will not implement some of our recommendations because they continue to rely on the nurses' registration and disciplinary status with the College of Nurses of Ontario and rely on nurses truthfully answering on their application on whether he or she held a nursing license or practiced in a jurisdiction other than Ontario; however, this does not address the risk that the nurse may fail to disclose complete information about their license status and disciplinary record from other jurisdictions, and the College of Nurses of Ontario would not detect this due to the lack of a single repository for Canadian nurse registration and discipline information.

The status of actions taken on each of our recommendations is described in this report.

## Background

Patient safety refers to reducing the risk of unintentional patient harm through policies and procedures that hospitals design, implement and follow. Patient safety incidents—such as hospital-acquired infections and medication errors—can be caused by poorly designed systems and processes and unsafe human acts in the delivery of hospital care.

Our audit focused on patient safety in acute-care hospitals, where patients primarily receive active short-term treatment. Under the *Public Hospitals Act, 1990*, hospitals are required to investigate patient safety incidents and to take steps to prevent similar incidents from occurring in the future. However, current laws and practices in Ontario make it difficult for hospitals to address concerns with the safety of care provided by some nurses and doctors.

Hospital data collected by the Canadian Institute for Health Information shows that each year, among the more than 1 million patient discharges from Ontario acute-care hospitals, approximately 67,000 patients were harmed during their hospital stays. Between 2014/15 and 2017/18, nearly six of every 100 patients experienced harm while in hospital.

While the majority of patients in Ontario receive safe care in hospital, and the acute-care hospitals we visited are committed to patient safety, our audit found that more could be done to improve patient safety.

Among our significant 2019 audit findings:

- Practices in Ontario put confidentiality about nurses' poor performance ahead of patient safety. Non-disclosure arrangements negotiated by unions with hospitals could result in potential new employers not being made aware of nurses' poor past performance.
- Nurses that acute-care hospitals had found to lack competence and who had been terminated or banned continued to pose a risk to patient safety. (Agency nurses found incompetent may be banned by hospitals.) We reviewed a sample of nurses who were terminated or banned for lack of competence in the previous seven years from nine hospitals that we visited. After their first termination or banning, 15 of the nurses subsequently worked at another hospital or for another agency. We noted that four of them were either subsequently terminated or banned again for lack of competence.
- Patient safety culture at different hospitals varied significantly, from excellent to poor and failing. We obtained the most recent staff survey results from all 123 acute-care hospitals in Ontario,

completed between 2014 and 2019, and found that as many as nine in 10 staff at some hospitals graded their hospital as “very good” or “excellent” with respect to patient safety. However, at other hospitals, as many as one in three staff graded their hospital as “poor” or “failing.”

- Patient safety “never-events” had occurred at most of the acute-care hospitals we visited. Health Quality Ontario and the Canadian Patient Safety Institute have identified 15 patient safety “never-events”—preventable incidents that could cause serious patient harm or death. We found that since 2015, 10 out of the 15 never-events had occurred a total of 214 times in six of the 13 hospitals that we audited.
- Acute-care hospitals did not always follow best practices for medication administration. From 2012 to 2018, hospitals in Ontario reported to the Canadian Institute for Health Information 154 critical patient safety incidents involving administration of medications. Thirty-nine of these incidents resulted in a patient’s death. We found that three of the hospitals we visited did not comply with best practices for the administration of high-risk medications.

We made 22 recommendations, consisting of 38 action items, to address our audit findings.

We received commitment from the Ministry of Health and the Ontario Hospital Association that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between July 2021 and September 2021. We obtained written representation from the Ministry of Health and the 14 Ontario hospitals that effective November 18, 2021, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago. Ontario Hospital Association was unable to assist the hospitals this year with

co-ordinating their responses to our recommendations because of the COVID-19 pandemic.

## Focus on Patient Safety Not Consistent between Hospitals

### Recommendation 1

*To further emphasize patient safety as a foundation for hospitals’ organizational culture, we recommend that hospitals explicitly incorporate the words “patient safety” in their mission, vision, and/or as one of their core values, and communicate this to their staff, ensuring that related actions demonstrate this emphasis.*

**Status:** In the process of being implemented by April 2023.

### Details

In our 2019 audit, we found that “patient safety” is not explicitly stated in the mission, vision and core values for most hospitals that we visited in a way that would foreground the phrase as the foundation for the organizational culture of these hospitals. When we reviewed the mission, vision and core values of the 13 hospitals that we audited, we found that not all of them made a clear and direct reference to patient safety and quality of care. The other hospitals mention quality, excellence and compassion—but not specifically patient safety.

In our follow-up, we found that half of the hospitals have fully implemented this recommendation and have made a clear and direct reference to patient safety and quality of care.

For the other hospitals,

- Of the hospitals that are in the process of implementing this recommendation, one hospital is still in the process of updating its mission, vision, and values and is aiming to complete this by January 2022. Although a hospital is in the process of implementing this recommendation by April 2023 during its next strategic planning process, we found that quality and safety is currently stated in its shared (internal and external stakeholders) purpose statement, however the

hospital will review it to state patient safety more explicitly.

- Three hospitals will not implement this recommendation. Although patient safety is the number one priority for all of these hospitals, one hospital's mission, vision, values and strategic plan that incorporated excellent patient care were already implemented and will be in place until 2024. The other hospitals refer to care and quality in their vision, mission statements and Patient Safety Plan.

The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that hospitals explicitly incorporate the words “patient safety” in their mission, vision, and/or as one of their core values, and communicate this to their staff, ensuring that related actions demonstrate this emphasis.

### Recommendation 2

*To determine and reduce the impact of never-events on patient safety and the health-care system, we recommend that the Ministry of Health:*

- *work with internal and external partners to leverage an existing system that can accumulate and track hospital never-event data;*
- *upon implementation and rollout completion of this system, analyze the frequency of never-events occurring at Ontario hospitals, estimating their cost to the health-care system; and*
- *partner with hospitals and best practice organizations/stakeholder groups to develop a plan to prevent them from happening.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that between the 2015/16 and 2018/19 fiscal years, 10 out of the 15 never-events (events that are preventable and should never occur in hospitals) occurred a total of 214 times in six of the 13 hospitals we visited that tracked these incidents. Data was not available or

never-events did not occur at the other seven hospitals we visited.

In our follow-up, we found that the Ministry of Health is in the initial stages of engaging Ontario Health as a key partner to support the approach on tracking hospital never-events data in the hospital sector. The Ministry, in partnership with Ontario Health, will conduct a preliminary assessment to leverage a current data collection tool that can accumulate and track hospital never-events data. As well, the Ministry told us that it plans to conduct hospital sector consultations to understand key business requirements that will help inform the stakeholder outreach plan and engagement approach in the future. This work has been paused because of the COVID-19 pandemic.

### Recommendation 3

*To minimize the occurrence of serious preventable patient safety incidents, we recommend that hospitals:*

- *enhance patient safety practices to eliminate the occurrence of never-events;*

**Status:** In the process of being implemented by June 2022.

### Details

In our 2019 audit, we noted that identifying and preventing these safety events was identified as a priority by a patient safety consortium of more than 50 Canadian health-care organizations in 2014. According to broad stakeholder consensus, “never events” are preventable and should never occur in hospitals. An organizational culture that minimizes or eliminates never-events could foster a reduction in other preventable patient harms.

In our follow-up, we found that almost all of the 13 hospitals have patient safety practices in place to eliminate the occurrence of never-events. For example, hospitals have developed quality and safety policies and procedures to reduce or eliminate occurrences of never events, including identifying and learning from these incidents in order to prevent recurrence. For the remaining hospitals, one hospital is in the process of implementing this action item by

proposing a plan for never-events to their corporate quality and patient safety committee, and the other hospital has made little or no progress because of a change in its Quality and Patient Safety Leadership, which, coupled with the COVID-19 pandemic, has delayed its efforts. All of the 13 hospitals internally report the never-events in their electronic incident reporting system for their review and to prevent recurrence.

- *set a formal target to eliminate the occurrence of never-events and include this target in their Quality Improvement Plans;*

**Status:** In the process of being implemented by December 2022.

In our 2019 audit, we found that none of the six hospitals set targets in their Quality Improvement Plans to minimize or eliminate the occurrence of never-events. Two other hospitals we visited included one of the never-events—serious pressure ulcer acquired after admission to hospital—in their Quality Improvement Plans for 2018/19. No never-events were reported at these hospitals.

In our follow-up, we found that one hospital has fully implemented this action item by including never-events as a metric with a target of zero in its Quality, Risk and Safety Scorecard. Due to COVID-19, the 2020-21 Quality Improvement Plans (QIPs) have been paused, however, once Ontario Health resumes the QIPs this hospital will include its never-events target in its QIP. Two hospitals have set formal targets to reduce the occurrence of some never-events, for example, serious pressure ulcer acquired after admission to hospital, however, this is not currently included in the hospitals' QIP, because, as indicated above, due to the COVID-19 pandemic QIPs have been paused. One hospital has set a formal target of zero for never-events and by end of 2022 will review the events to report on. Two hospitals are specifically identifying an incident as a never-event in their incident reporting system as well as planning to set a target to eliminate the occurrence of never-events and add it in their next QIP. One hospital has indicated that pressure ulcer is a key focus for the coming year

and a target will be determined once reliable baseline measures are established. One hospital has set a formal target of zero for never-events and made this public through its annual Patient Safety Plan but will not include this target in its QIPs.

Although all hospitals are tracking the occurrence of critical incidents and never-events and reporting the results internally to their senior leadership team, about half the hospitals have not progressed or will not set a formal target to eliminate the occurrence of never-events and will not include this in their QIPs because some hospitals have noted that this is not a mandatory target established by Ontario Health and are awaiting direction from it; their focus continues to be on the pandemic response; and some hospitals have internally reported zero never-events on an annual basis but some hospitals have noted that if an incident should occur the hospital would consider setting a formal target and including it in their QIP. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that hospitals set a formal target to eliminate the occurrence of never-events and include this target in their Quality Improvement Plans.

- *track and report never-events to the Ministry of Health.*

**Status:** Little or no progress.

In our 2019 audit, we found that under the *Public Hospitals Act, 1990*, and the *Excellent Care for All Act, 2010*, hospitals must establish governance and reporting structures to monitor and address patient safety concerns. Hospitals report various patient safety statistics to different organizations, both government and not-for-profit. Some of the reporting is mandatory, whereas other information is reported voluntarily. All 13 hospitals have internal reporting systems to keep track and document all patient incidents, including never-events, however there is no formal mechanism in place to facilitate the reporting of these incidents to the Ministry of Health or Ontario Health. Such information could be analyzed to determine the reasons for these events in Ontario, the cost

that these events add to the health-care system and the systemic best practices to adopt to avoid these events. We noted that hospitals in Saskatchewan and Nova Scotia are required to track and report never-events to their respective health ministries.

In our follow-up, we found that the hospitals are awaiting direction from the Ministry of Health to report these never-events to them through a reporting system. Refer to **Recommendation 2** for the implementation and rollout of this reporting system.

#### Recommendation 4

*To better enable hospitals to prevent similar patient safety incidents, including never-events from recurring at different hospitals, we recommend that the Ministry of Health work with the Ontario Hospital Association and applicable stakeholder groups to establish a forum where hospitals can share their knowledge and lessons learned from patient safety incident investigations.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that the hospitals we visited were committed to the objective of learning from incidents occurring at their own sites and improving the safety and quality of patient care. However, hospitals do not share lessons learned from investigating specific patient safety incidents. This increases the risk that a patient could experience an incident at Hospital A, and another patient could subsequently experience a similar incident at a neighbouring Hospital B. Hospital A does not share lessons learned with Hospital B in order to help prevent the same type of incident.

In our follow-up, we found that this work has been paused because of the COVID-19 pandemic, however once resumed, Ontario Health will work with applicable stakeholder groups to develop a knowledge sharing platform.

## Some Nurses Found by Hospitals to Lack Competence Pose an Ongoing Risk to Patient Safety

#### Recommendation 5

*To enable nurses' prospective employers to obtain a more complete record of nurses' employment history and performance and make well-informed hiring decisions, we recommend that the Ministry of Health have the Ontario Hospital Association work with the College of Nurses of Ontario and other regulatory stakeholders to:*

- *identify gaps in the current information available to prospective employers regarding past performance issues and terminations;*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we found that some nurses were found to lack competence and who have been terminated by hospitals have been associated with repeated incidents impacting patient safety. Hospitals that rehire them are limited in the information regarding past poor performance that they can obtain from the College of Nurses of Ontario and from past employers. We also found that when one hospital banned an agency nurse, this did not prevent the nurse from working at other hospitals, and this information was not shared by the agencies or the hospitals involved.

In our follow-up, we found that the Ministry of Health worked with the health sector to identify gaps in the information sharing between the College of Nurses of Ontario and health system partners. The gaps identified were that nurses may have multiple employers and an ongoing investigation in connection with services provided at one health facility (e.g., a hospital or a long-term-care home) where the complaint was filed at one location may not be known at the other work location; and the threshold for disclosure and the purposes for the disclosure would need to be developed so as to balance both public safety and procedural fairness.

- *take steps to address gaps identified.*

**Status:** In the process of being implemented by August 2025.

## Details

In our 2019 audit, the College of Nurses of Ontario (College) informed us that the *Regulated Health Professions Act* limits the information it is able to share with hospitals and any member of the public with respect to nurses terminated and reported by other hospitals to the College. Hospitals also informed us that if they contact the College to obtain information about a prospective nurse employee, they are usually referred to the nurse's public profile, which does not have information on ongoing investigations and may have incomplete information.

In our follow-up, we found that the Ministry of Health is working with the health sector to address gaps in information sharing between colleges and health system partners. As part of its continuing efforts to improve transparency and increase information sharing between employers and the health regulatory colleges, the College and the Ministry have worked to add information about a nurse's employers from the past three years on the College's public register so that employers have a reliable way to obtain employment information about nurses. The College has also worked to include all current employers on the public register. Since many nurses have more than one employer, this will provide a more accurate picture of a nurse's employment. During our 2019 audit, we observed that this reporting of a nurse's employers from the past three years on the College's public register was already in place.

Also, work is currently under way to link information in better ways, such as through the voluntary Employer Reference Group established by the College partnering with nurse employers. This Employer Reference Group meets on a quarterly basis to identify areas to support employers' needs relating to nursing regulation. The Employer Reference Group has been working on a number of initiatives during 2020 and 2021 to address the gaps identified above. For example, a revised reporting guide was developed outlining the steps involved when filing a professional conduct report, and new resources on harm prevention were developed and shared through videos that raised awareness about the possibility of nurses and

other health-care providers intentionally harming patients. The College has authored an article about health care serial killers that was published by the *Journal of Nursing Regulation*. The article includes findings from a comprehensive literature review and makes suggestions to detect and prevent health care serial killing. In addition, the implementation of NURSUS Canada, a national database for sharing nurse registration and discipline information across jurisdictions by August 2025 (see **Recommendation 7**), will also address the gaps identified above.

## Recommendation 6

*In order for hospitals that hire nurses to have access to the complete record of nurses' past places of employment and disciplinary history, we recommend that hospitals:*

- *use the National Council of State Boards of Nursing public database to determine whether nurses they hire and employ have faced disciplinary actions in the United States;*

**Status: In the process of being implemented by December 2021.**

## Details

In our 2019 audit, we found that five of the 200 nurses we sampled, (from the 182,000 registered in Ontario and matched the information found in the College database with the National Council of State Boards of Nursing public database and the Michigan Board of Nursing), reported that Ontario was the only place where they held a licence. However, we found that these five nurses were also licensed in other jurisdictions, such as Michigan. Another four nurses reported that they held a licence in Ontario and one US state, but we found that these four nurses also held licences in at least one additional state. The College of Nurses of Ontario's (College) public profile for these nurses therefore is incomplete. We also found that hospital and agency hiring decisions are mostly based on information found in resumés. In March 2019, the College changed the nurse profile template to show not only a nurse's current employer, but a nurse's employment history as well. However, the College left it up to each individual nurse to update their own

employment history. Despite these changes, we have noted that there are nurses in our sample whose self-reported employment history on their College profile omits hospitals where they were terminated for patient safety reasons.

In our follow-up, we found that only four hospitals have fully implemented this action item by confirming nurse applicant registration through the US public database regardless of the country the nurse is coming from, including Canada. One hospital intends to incorporate the use of the National Council of State Boards of Nursing public database into their standard screening process for new hires by December 2021. Less than half of the hospitals will consider this action item and will start looking into using the National Council of State Boards of Nursing public database; however, the hospitals are relying on information about the nurses' registration and disciplinary status with the College to ensure the nurses have no restrictions on their licences. We found that four hospitals will not be implementing this action item because these hospitals rely on the nurses' registration and disciplinary status with the College and rely on nurses truthfully answering on their application on whether he or she held a nursing licence or practiced in a jurisdiction other than Ontario. However, this does not address the risk that the nurse may fail to disclose complete information about their licence status and disciplinary record from other jurisdictions, and the College would not detect this due to the lack of a single repository for Canadian nurse registration and discipline information, since NURSUS Canada, a national database for sharing nurse registration and discipline information across jurisdictions, will not be implemented until August 2025. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that hospitals use the National Council of State Boards of Nursing public database to determine whether nurses they hire and employ have faced disciplinary actions in the United States until the College implements NURSUS Canada.

- *if the hospital uses agency nurses, require nursing agencies to confirm these nurses have been screened through this database.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that nurses who hospitals have found lack competence and who have been terminated or banned continue to pose a risk to patient safety. We reviewed a sample of nurses who were terminated for lack of competence and/or inappropriate conduct, and agency nurses that were banned, in the past seven years in nine of the 13 hospitals we visited. (Agency nurses who are found incompetent may be banned by a hospital.) After their first termination or banning, 15 of the nurses subsequently worked at another hospital or for another agency. We noted that four of them were either subsequently terminated or banned again for lack of competence. For example, one nurse who currently works as an agency nurse was, between May 2016 and March 2019, terminated from two hospitals and also banned from a third hospital for lack of competence.

In our follow-up, we found that only six hospitals use agency nurses. Four out of the six hospitals will consider this action item for nursing agencies but little or no progress has been made for a number of reasons, including their efforts have been to respond to the COVID-19 pandemic, time will be needed to advise the agency partner of the requirement and amendments to the agency contract agreement may need to be done, or the hospital is looking into privacy concerns. One hospital will not be implementing this recommendation because of its focus on the pandemic response and its inability to verify that agencies are consulting the US national database. Another hospital will not be implementing this action item because the hospital requires all agency nurses to be in good standing with the College of Nurses of Ontario (College). However, as stated above, this does not address the risk that the nurse may fail to disclose complete information about their license status and disciplinary record from other jurisdictions, and the College would not detect this due to the lack of

a single repository for Canadian nurse registration and discipline information, since NURSYS Canada, a national database for sharing nurse registration and discipline information across jurisdictions, will not be implemented until August 2025. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that if the hospital uses agency nurses, it should require nursing agencies to confirm these nurses have been screened through the National Council of State Boards of Nursing public database until the College implements NURSYS Canada.

### Recommendation 7

*To help ensure that when hospitals hire nurses they have access to their full disciplinary record, we recommend that the Ministry of Health request that the Ontario Hospital Association and the College of Nurses of Ontario work together with their provincial and territorial counterparts to:*

- *explore a national system for provincial and territorial nursing regulatory bodies to report their disciplinary actions; and*
- *put in place an effective process that will ensure that all places of past employment and disciplinary records from other jurisdictions for each nurse are in its database, including records from US nursing databases.*

**Status:** In the process of being implemented by August 2025.

### Details

In our 2019 audit, we found that in Canada, there is currently no centralized system to which all provincial nursing regulatory bodies like the College of Nurses of Ontario can report their disciplinary actions. In the United States, regulatory bodies from each state are required to report all their disciplinary actions within 30 days to the National Practitioner Data Bank, a hospital-accessible database operated by the federal government. Hospitals in the United States can check whether nurses they hire are listed in this database for disciplinary actions. There is also a second public

database operated by the National Council of State Boards of Nursing (NCSBN), which tracks disciplinary actions from every state (except Michigan) and also shows the jurisdictions where each nurse holds or has held a licence. Hospitals from around the world can check whether nurses they hire are listed in this database for disciplinary action.

In our follow-up, we found that the College of Nurses of Ontario (College) is working with other Canadian regulators to implement a national database for sharing nurse registration and discipline information across jurisdictions. NURSYS Canada is a national project under the joint leadership of the B.C. College of Nurses and Midwives (BCCNM) and the College. They have partnered with the National Council of State Boards of Nursing (NCSBN) to develop an electronic repository for Canadian nurse registration and discipline information. NURSYS Canada will enhance public protection by allowing all nurse regulators across Canada to review and exchange the relevant information needed to verify it is safe to permit a nurse to work across provincial and territorial jurisdictions. While NURSYS Canada is a Canadian system, it will be possible to more efficiently and effectively exchange information with nursing regulators in the United States, since it is based on the American system developed by the National Council of State Boards of Nursing.

### Recommendation 8

*To better inform employers in their hiring decisions and protect patients from the risk of harm, we recommend that the Ministry of Health assess for applicability in Ontario the actions taken by US states to protect hospitals and other health-care providers from liability associated with any civil action for disclosing a complete and truthful record about a current or former nurse to a prospective employer.*

**Status:** In the process of being implemented by April 2023.

### Details

In our 2019 audit, we found that the potential risk of civil legal actions could prevent hospitals from disclosing a complete employment history record of a nurse

to their potential new employer. As a result, during an employment reference check, hospitals may not freely share with potential employers a nurse's detailed work history record—for instance, that a nurse lacked competence and failed to complete a learning plan on several attempts. Only information about employment dates, hours worked and the role the employee held or holds in the hospital is usually shared with potential employers. Other important performance information remains confidential. We also found that jurisdictions in the United States, such as New Jersey, have specific legislation in place that protects hospitals and other health-care providers from liability associated with any civil legal action for disclosing a complete and truthful record about a current or former nurse to a prospective employer. Similar legislation does not exist in any Canadian jurisdiction. We have noted as well that other US states, such as Pennsylvania, North Carolina and Texas, have similar laws that extend legal protection to all employers and not just health-care providers.

In our follow-up, we found that the Ministry of Health developed a jurisdictional questionnaire and sent it to five provinces or territories (Nunavut, Nova Scotia, Alberta, Northwest Territories and Saskatchewan) to seek information to help inform it of the applicability in Ontario to protect hospitals and other health-care providers from liability associated with any civil action for disclosing a complete and truthful record about a current or former nurse to a prospective employer. To date, the Ministry has obtained the responses from all five provinces or territories, but the analysis of the scan has not been completed. The Ministry informed us that once the analysis of the scan is done, it will conduct internal consultations with Ministry program areas and engage with external stakeholders as required. Based on the scan and consultations, the Ministry told us that it estimates that by December 2021 options will be developed, barring a fourth wave of the COVID-19 pandemic. However, the Ministry's progress has been delayed because of the Ministry's and hospital sector's response to the COVID-19 pandemic.

### Recommendation 9

*In the interest of patient safety and in order for hospitals and agencies to hire nurses fully aware of their past employment and performance history, we recommend that the Ministry of Health explore means to:*

- *enable hospitals and agencies to provide and receive truthful references and information to make informed nursing hiring decisions; and*
- *require these organizations to disclose such information when it is requested by a prospective employer.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that almost all Ontario nurses are unionized, although agency nurses are not unionized. A nurse facing disciplinary action can approach his or her union for help. The union would then represent the nurse and try to negotiate with the hospital the most favourable disciplinary outcome for the nurse. For instance, the union could ask the hospital to treat the termination as a resignation or negotiate a non-disclosure arrangement; the nurse's disciplinary history would then be kept hidden in the confidential records of the hospital the nurse has departed from until the College of Nurses of Ontario (College) completes its disciplinary investigation, if the College chooses to undertake one. We found that this practice can prevent hospitals from knowing about a nurse's past performance to use in their hiring decisions in order to minimize potential harm to patients.

In our follow-up, we found that due to competing priorities and COVID-19 pandemic responses, an opportunity has not been available for the Ministry to examine the *Regulated Health Professions Act* (RHPA) in this regard. The RHPA provides a regulation that permits the government to prescribe purposes for which disclosures can be made under specific clauses from the College of Nurses of Ontario to public hospitals or other named/described persons of certain information stemming from its investigations. The Ministry will examine existing regulation-making

powers that could permit Colleges, including the College of Nurses of Ontario, to disclose relevant investigation information to hospitals.

### Recommendation 10

*So that hospitals can make optimally informed hiring and staffing decisions, we recommend that the Ministry of Health require all hospitals in Ontario to:*

- *perform criminal record checks before hiring nurses and other health-care employees; and*
- *periodically update checks for existing staff.*

Status: In the process of being implemented by April 2023.

#### Details

In our 2019 audit, we found that in most cases hospitals do not conduct periodic criminal record checks of currently employed nurses. Our 2016 audit of Large Community Hospital Operations found that some hospitals did not conduct initial and/or periodic background checks, and in our 2018 follow-up report only three hospitals that we audited as part of our 2016 Large Community Hospital Operations audit (Trillium Health Partners, Windsor Regional Hospital and Rouge Valley Health System) currently conduct, or will soon start conducting, periodic criminal record checks of their nurses. The other hospitals that we visited as part of the 2019 audit do not. We noted that the Ontario Hospital Association produced a document in July 2017 to guide hospitals when developing a criminal reference check program or enhancing an existing program.

In our follow-up, we found that the Ministry of Health developed a jurisdictional questionnaire and sent it to five provinces or territories (Nunavut, Nova Scotia, Alberta, Northwest Territories and Saskatchewan) to seek information to help inform it of the applicability in Ontario to perform criminal record checks before hiring nurses and other health-care employees, and periodically update checks for existing staff. To date, the Ministry has obtained the responses from all five provinces or territories, but the analysis of the scan has not been completed. The

Ministry informed us that once the analysis of the scan is done, it will conduct internal consultations with Ministry program areas and engage with external stakeholders as required. Based on the scan and consultations, the Ministry told us that it estimates that by December 2021 options will be developed, barring a fourth wave of the COVID-19 pandemic. However, the Ministry's progress has been delayed because of the Ministry's and hospital sector's response to the COVID-19 pandemic.

### Disciplining Physicians Is Difficult and Costly—Legal Costs Are Indirectly Subsidized by Taxpayers

#### Recommendation 11

*To enable hospitals to take timely action to improve patient safety, we recommend that the Ministry of Health explore means to make it easier and less costly for hospitals and ultimately the taxpayer to address physician human resources issues, especially in cases when doctors may have harmed patients.*

Status: In the process of being implemented by April 2023.

#### Details

In our 2019 audit, we found that hospitals still are not able to quickly and cost-effectively deal with physicians that hospitals find may have practice issues, lack competence and may pose patient safety concerns. Once a competency and/or practice issue has been identified, hospitals must work through a lengthy process to determine whether the physician's privileges can be revoked, restricted or not renewed. While the disciplinary process is ongoing, physicians can continue to work, even at multiple hospitals, unless the hospital puts an emergency stop to a physician's work due to an immediate risk to patient safety. In defending themselves, physicians mostly do not personally incur legal fees; rather, their legal costs are indirectly paid by taxpayers through a liability insurance reimbursement program. Through this program, the Ministry reimburses physicians for enrolling either in the Canadian

Medical Protective Association, a not-for-profit association that provides lawyers to represent physicians, or in any other organization they choose to purchase medical liability protection from. Disciplinary cases can take several years and cost hospitals hundreds of thousands of dollars in their own legal fees and other costs. In our 2016 audit of Large Community Hospital Operations, we reported that hospitals were not able to resolve human resources issues with physicians quickly because of the comprehensive legal process that the hospitals are required to follow under the *Public Hospitals Act*. We recommended that the Ministry evaluate this problem.

In our follow-up, we found that the Ministry of Health developed a jurisdictional questionnaire and sent it to three provinces (Alberta, British Columbia and Saskatchewan) to seek information to help inform it of the applicability in Ontario to make it easier and less costly for hospitals and ultimately the taxpayer to address physician human resources issues, especially in cases when doctors may have harmed patients. To date, the Ministry has obtained the responses from all three provinces, but the analysis of the scan has not been completed. The Ministry informed us that once the analysis of the scan is done, it will conduct internal consultations with ministry program areas and engage with external stakeholders as required. Based on the scan and consultations, the Ministry told us that it estimates that by December 2021 options will be developed, barring a fourth wave of the COVID-19 pandemic. However, the Ministry's progress has been delayed because of the Ministry's and hospital sector's response to the COVID-19 pandemic.

## Hospital Accreditation Reports Highlight Gaps in Compliance

### Recommendation 12

*To improve patient safety, we recommend that the Ministry of Health:*

- *review the Accreditation Canada hospital reports and identify areas where hospitals may*

*consistently not be meeting required patient safety practices and high-priority criteria;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that between 2014 and 2019, 18 hospitals did not comply with five or more required practices that are central to quality and patient safety. We noted that 148 practices in the six practice areas deemed central to the quality and safety of care were not complied with at 18 out of 114 hospitals. As well, we found that 13 out of the 114 hospitals did not meet between 5% and 11% of their high-priority patient safety criteria when assessed. Accreditation Canada assesses each hospital against a number of criteria that it uses to measure the hospital's compliance with standards that contribute to high-quality, safe and effectively managed care. High-priority criteria relate to safety, ethics, risk management and quality improvement, and have an impact on patient safety. These criteria weigh heavily in determining whether a hospital meets the accreditation standards. We found that as a group, the 114 hospitals did not meet 1,707 high-priority criteria relating to patient safety standards in the above two categories.

In our follow-up, we found that the Ministry of Health and Ontario Health have not collected the Accreditation Canada reports from hospitals to review and identify areas where hospitals may consistently not be meeting required patient safety practices and high-priority criteria. Since the Accreditation Canada reports are the property of each individual hospital, Ontario Health will explore the opportunity for this information sharing. The Ministry plans on working with Ontario Health to ensure that hospital patient safety practices are reviewed and assess how patient safety in hospitals is being addressed to address potential deficiencies.

- *follow up with hospitals in respect of problem areas to confirm that actions are taken to correct deficiencies.*

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we noted that Accreditation Canada conducts its visits at hospitals every four years, so it is unknown for how long prior to the visit hospitals did not have the required patient safety practices in place.

In our follow-up, we found that although the Ministry of Health and Ontario Health have not collected the Accreditation Canada reports from hospitals to review and identify areas where hospitals may consistently not be meeting required patient safety practices and high-priority criteria, the Ministry has included patient safety as a priority in the 2020-2021 and 2021-2022 Ontario Health Mandate Letters. Ontario Health's mandate includes holding health-care providers accountable for health system performance and quality by undertaking a review of the Accountability Agreements with health-service providers and working closely with the Ministry of Health to outline roles and responsibilities related to accountability and performance management because further investigation is required to outline patient safety elements of accountability. Also, Ontario Health updated its publicly reported indicators on hospital patient safety through 2020-21 on the Health Quality Ontario platform. As well, Ontario Health, via the Health Quality Ontario platform, publicly reports on medication safety. As stated above, Ontario Health will review the Accountability Agreements and the current set of publicly reported patient safety indicators and work with the Ministry of Health to implement changes in patient safety quality improvement and performance management.

## Best Practices Not Always Followed for Medication Administration

### Recommendation 13

*So that hospitals fully complete medication reconciliation to reduce the risk to discharged patients and that they have all the necessary patient information to*

*properly investigate any incidents with patients' dosages or drug interactions that might occur and trigger hospital readmission, we recommend that hospitals reinforce with staff the importance of the medication reconciliation documentation processes so that all the necessary information is consistently documented.*

**Status:** In the process of being implemented by February 2022.

### Details

In our 2019 audit, we found that hospitals that we visited informed us that medication reconciliation is a labour-intensive process and that is why sometimes they are not able to complete all the required reconciliations. Reconciling medication for patients who take a large number of medications and purchase them from several pharmacies can take more than 24 hours, as the hospital has to contact each pharmacy to compile the patient's medication history.

In our follow-up, we found that the majority of hospitals have fully implemented this recommendation by having medication reconciliation policies and procedures in place, having dedicated staff to do the work and review it to ensure completeness, provide ongoing education to nursing and pharmacy staff on completing medication reconciliation, and some hospitals audit monthly a sample of patients' charts to ensure medication reconciliation is done at admission and discharge with the results shared with staff for continuous improvement. One hospital established a medication reconciliation task force to reinforce the importance of medication reconciliation on a corporate level. Other hospitals are in the process of implementing this recommendation because resources continue to be a challenge given the shortage of pharmacy technicians and are using pharmacy students or physicians for conducting medication reconciliation. Some hospitals have noted that the upcoming implementation of their new hospital information system (HIS) will assist staff and patients with the reconciliation processes.

### Recommendation 14

*To reduce the risk of medication errors and readmissions to hospital, we recommend that the Ministry of Health:*

- *require hospitals to complete medication reconciliation for all patients;*

**Status: Fully implemented.**

### Details

In our 2019 audit, at each of the five hospitals we visited, we reviewed 10 completed medication reconciliations to assess how they are performed and documented. We found that each hospital documents the reconciliations differently, and at four of the five hospitals we found at least one reconciliation that was missing some important information. In total, 20 out of the 50 completed medication reconciliations we reviewed were missing information such as patients' medication history, medication dosage and quantity prescribed on discharge, and the time of the last dose taken. Without this information, on release from hospital patients may not be instructed to take their medication appropriately in order to prevent harm.

In our follow-up, we found that during 2020-21, Ontario Health developed a quality standard on medication safety that will support hospitals and other health-care settings in their efforts to reduce errors and risks related to medication use and administration. The medication safety quality standard was publicly released in March 2021 and addresses care for people of all ages who are taking one or more medications. It focuses on care in all settings relevant to medication safety, including primary health care, specialist health care, long-term care, and home and community care. Also, Ontario Health publicly made available a patient guide to medication safety that accompanies the quality standard on medication safety. The guide outlines the top five areas to improve care for people taking one or more medications – one area being an accurate and up-to-date list of medications is available to people taking medication (and their families and caregivers, as appropriate) and to relevant health care professionals. During Patient Safety Week in fall 2021, Ontario Health plans to present the publicly released medication safety quality standard to align with several provincial webinars. One webinar will focus on a broad healthcare audience in partnership with the Institute for Safe

Medication Practices Canada. Another webinar will focus on reaching pharmacists in partnership with the Ontario College of Pharmacists and linking this standard to their Assurance and Improvement in Medication Safety (AIMS) quality improvement program.

- *require hospitals to include medication reconciliation in their Quality Improvement Plans; and*
- *in conjunction with relevant hospitals, review their IT system needs to be able to track necessary medication reconciliation information and take action for improvement where needed.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that for 2018/19, Health Quality Ontario recommended that hospitals focus on conducting medication reconciliation for patients that they discharge and add this to their Quality Improvement Plans. This is not a mandatory requirement, and only 78 hospitals included it in their 2018/19 Quality Improvement Plans. Based on information reported by these 78 hospitals to Health Quality Ontario, on average they completed medication reconciliation for only 76 out of every 100 patients where reconciliation at discharge was required. This means that, on average, about 24 out of every 100 patients discharged from the hospital did not have a medication reconciliation completed at discharge.

We visited five hospitals to review their medication reconciliation process. We found that some important information was not recorded during the medication reconciliation process at each of the five hospitals we visited, and that some hospitals do not report their compliance rate because they have outdated computer systems that do not allow them to track the compliance rate. Three of the hospitals report their compliance rate to Health Quality Ontario and two do not. The compliance rates at discharge for the three reporting hospitals were 100%, 95% and only 20%.

In our follow-up, we found that as part of the annual Quality Improvement Plan's (QIPs) process, the Ministry of Health and Ontario Health discussed the inclusion of new QIP indicators for hospitals. Due

to the COVID-19 pandemic, the QIP program is currently paused so the discussions about QIP indicators have been put on hold. However, once resumed, the Ministry and Ontario Health will discuss the inclusion of a medication safety indicator within hospital QIPs for the 2022-23 fiscal year. The Ministry stated that the estimated completion date for the third action item, which is that, in conjunction with relevant hospitals, to review their IT system needs to be able to track necessary medication reconciliation information and take action for improvement where needed, is contingent upon the Ministry and Ontario Health completing action items one and two.

### Recommendation 15

*To improve patient safety, we recommend that hospitals reinforce with nurses necessary medication administration processes to ensure that:*

- *independent double-checks of high-risk medications are done to verify that correct medication and dosage are administered;*
- *nurses witness patients taking and swallowing high-risk medications; and*
- *nurses use two unique identifiers to confirm the identity of patients before administering medication to them.*

**Status: In the process of being implemented by September 2022.**

### Details

In our 2019 audit, we found that some hospitals do not always comply with policies and best practices for the administration of high-risk medications, such as using an independent double-check to verify medication and dosage; witnessing patients taking and swallowing medications; or confirming the identities of patients. At three hospitals, we observed nine instances where nurses did not comply with medication administration best practices in 15 situations observed. At two hospitals on five occasions, the nurses did not request another nurse to double-check the name and amount of high-risk medication given to the patients. At one hospital, in two instances, the

nurse did not wait to witness the patients actually take and swallow their medications. In one of those instances, the medication was a narcotic that could be pocketed in the mouth to be then taken out, stored and used later to overdose. At another hospital, the nurse did not confirm the identification of two patients before administering medications to them.

In our follow-up, we found that all 13 hospitals have policies in place for medication administration processes. More than half of the hospitals have implemented or are in the process of implementing the hospital information system that uses bar code scanning of patients and medications by the nurse, thereby providing additional safety checks when administering medication.

### Independent double checks and Two unique IDs:

All 13 of the hospitals provide education to nurses for the independent double-check and patient unique identification processes by providing training through online modules and during nursing medication safety orientation. One hospital monitors nurse compliance using two unique identifiers and the results are shared with staff and senior leadership to identify practice trends and areas to optimize patient safety. This hospital is in the process of establishing a process to ensure nurse compliance with independent double-checks. Another hospital is in the process of developing an audit strategy to assess and improve compliance with medication administration processes by performing regular, for example, every three months, spot audits on independent double-checks and the use of two patient unique identifiers.

### Witness patients taking medication:

More than half of the hospitals specifically state in their medication administration policy or through a statement in the hospital information system (HIS), that nurses must witness the patient swallow medication according to practice standards for medication administration. A few hospitals have indicated that they are in the process of explicitly stating this in their medication administration policy. The hospitals that do not explicitly state this in their policy, and

are not in the process of explicitly stating this in their policy, have indicated that reinforcing medication administration procedures occurs through training and other educational opportunities.

### Recommendation 16

*To minimize patient safety incidents due to missing information or miscommunication, we recommend hospitals adopt, based on patient condition, the practice of making nursing shift changes at the patients' bedside and where possible involving the patients and their families, with the consent of the patients, in the process.*

**Status:** In the process of being implemented by June 2022.

### Details

In our 2019 audit, we found that six out of the 13 hospitals we visited did not always follow patient safety best practices for nursing shift changes at the patient's bedside.

In our follow-up, we found that more than half of the hospitals have fully implemented this recommendation and do have a policy in place of making nursing shift changes at the patients' bedside and where possible involving the patients and their families, with the consent of the patients, in the process. Three hospitals are in the process of implementing this recommendation, however, some hospitals indicated that due to the COVID-19 pandemic and issues related to resources and restrictions, this implementation was delayed. Another hospital indicated that it had past experience with this approach but achieving widespread sustainability was difficult, however, once its new hospital information system (HIS) is implemented this will be an area for the hospital to re-explore.

One hospital indicated that it will not implement this recommendation because of roadblocks encountered that prohibited continuing this practice, one of which is the collective agreements related to both unions that represent their nursing staff and the lack of overlap in shifts. Additionally, the move to a bedside report meant the nurse stopped writing a shift handover report. It came to light that other

disciplines were using the written report and didn't want it to be eliminated. Doing both created a duplication in work for the nursing staff. Another hospital has also indicated that it will not implement this recommendation because discussions at the bedside of a double room leads to privacy breaches. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that hospitals adopt, based on patient condition, the practice of making nursing shift changes at the patients' bedside and where possible involving the patients and their families, with the consent of the patients, in the process.

## Hospital Systems for Dispensing Medication Vary from Fully Manual to Fully Automated

### Recommendation 17

*To improve patient safety with respect to medication administration and where a compelling business case for cost-effectiveness can be made, we recommend that the Ministry work with hospitals toward the automation of pharmacy-related tasks.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while all hospitals we visited have controls in place over this process, we noted that hospitals vary widely in the level of automation in this process. We noted that hospitals in Ontario are moving toward automating medication management but are at different stages of implementation, from fully manual to fully automated systems. One hospital we visited was facing a shortage of pharmacy technicians and its pharmacy department operated with manual processes. This hospital informed us that its pharmacy technicians were doing manual tasks that could be automated such as labelling and packaging medication and drawing medication into syringes for a single use. With pharmacy technicians occupied by these tasks, this hospital assigned medication reconciliation

to nurses, who are already busy with patient assignments. Best practice confirms that medication reconciliation can be safely and effectively performed by pharmacy technicians and pharmacists in collaboration with the prescriber. This hospital reported that in 2016, as many as 20% of all reported medication incidents in a month were due to medication reconciliation errors.

In our follow-up, we found that progress has been delayed because of the COVID-19 pandemic. The Ministry is preparing to issue a letter to Ontario hospitals encouraging them to work with their health-care sector partners to consider the cost effectiveness of moving toward the automation of pharmacy-related tasks as part of their annual capital planning process.

## Some Hospitals Have Poor Compliance with Infection Prevention Best Practices and Standards

### Recommendation 18

*To improve the accuracy of reported hand hygiene compliance, while at the same time encouraging hand hygiene, we recommend that the Ontario Hospital Association work with hospitals to evaluate and further the adoption of additional methods to assess and monitor hand hygiene, such as electronically monitored hand hygiene pumps and monitoring systems, and asking patients to observe and record the hand hygiene compliance of their health-care providers.*

**Status:** In the process of being implemented by June 2022.

### Details

In our 2019 audit, we found that since 2008, as reported by Health Quality Ontario, hospitals have reported improvement in hand hygiene compliance rates. Hand hygiene compliance before patient contact rose from 53.3% in 2008/09 to 89.7% in 2018/19. Hand hygiene compliance after patient contact rose from 69.0% to 92.8% over the same period. Although reported rates have increased over this period, some hospitals have indicated that reported hand hygiene compliance is

likely overstated, due to the method used to assess compliance.

In our follow-up, we found that one hospital does use patients to observe and record the hand hygiene compliance of their health-care providers. Some hospitals complete random “blind” audits for hand hygiene compliance and use these observational inspections of handwashing techniques to better identify training gaps, more accurately monitor compliance and provide reminders to staff about the importance of basic infection control. Another hospital has begun to utilize artificial intelligence to monitor hand hygiene in over 500 hospital rooms and is in the process of expanding this to more rooms in 2022. A hospital will explore a process to engage patients and caregivers to observe and record the hand hygiene compliance of their health-care providers to determine whether or not to proceed with such a program. Another hospital is currently considering other methods to assess and monitor hand hygiene and told us that it is a priority on the hospital’s 2021-22 quality improvement plan. Some hospitals have not progressed with this recommendation because they are awaiting guidance from the Ontario Hospital Association after the pandemic efforts subside. One hospital stated that its Intensive Care Units have been part of a research study looking at electronic measurement of hand hygiene monitoring, however, this study was compromised by the COVID-19 pandemic and without study results and funding this work will not continue. Some hospitals will not be implementing this recommendation because the main barrier is cost, so there are no current plans to implement this technology and also, having patients observe and record hand hygiene compliance is not something that will be considered at this time. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that the Ontario Hospital Association work with hospitals to evaluate and further the adoption of additional methods to assess and monitor hand hygiene, such as electronically monitored hand hygiene pumps and monitoring systems, and asking patients to observe

and record the hand hygiene compliance of their health-care providers.

## Some Hospital Pharmacies Did Not Fully Comply with Training and Cleaning Standards for Sterile-Rooms

### Recommendation 19

*So that sterile-rooms and the equipment used in the mixing and preparation of intravenous medications are cleaned according to required standards, we recommend that hospitals:*

- *provide their pharmacy and housekeeping staff with proper training on how to conduct the cleaning;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we noted that in September 2016, the Ontario College of Pharmacists mandated that by January 1, 2019, hospital pharmacies must be in full compliance with all 50 standards pertaining to the sterile preparation and mixing of intravenous medications. By January 1, 2019, hospitals were supposed to have trained all of their cleaning and disinfecting personnel on how to properly clean sterile-rooms. However, we found that two hospitals we visited had not yet conducted the required training.

In our follow-up, we found that almost all of the hospitals provide their pharmacy and housekeeping staff with training on how to conduct the cleaning, and in addition, the majority of hospitals then test their staff afterwards using theoretical and practical assessments. Another hospital participates in a Shared Service Agreement within their region that provides guidance and oversight to meet the Ontario College of Pharmacists NAPRA standards for the preparation of sterile products (hazardous and non-hazardous). In addition, staff at this hospital are tested using theoretical and practical assessments. One hospital is in the process of ensuring its staff will be recertified yearly through a third-party provider.

- *monitor the cleaning to ensure proper processes are being followed.*

**Status:** In the process of being implemented by September 2023.

### Details

In our 2019 audit, we visited five hospitals between May and July 2019 and observed that in four hospitals, pharmacy and housekeeping staff did not follow standards and best practices when cleaning sterile-rooms and the equipment used in the preparation of intravenous medications. For example, one hospital was using the wrong cleaning agent to disinfect the equipment. At another hospital, housekeeping staff did not properly gown prior to entering the sterile restricted area, and they cleaned the floors using the same mops used to clean other areas. (Mops should be for restricted use in only the sterile-room.)

In our follow-up, we found that the majority of hospitals have fully implemented this action item by having staff maintain cleaning logs based on the frequency noted in their policy documents and monitored by their certified senior staff. As well, some hospitals perform surface sampling testing to ensure cleaning standards are met. In addition, the effectiveness of the cleaning can be conducted by an external company. One hospital does maintain cleaning logs based on the frequency noted in its policy document with some areas being monitored by their certified senior staff. This hospital plans to implement a formal process of direct observation of staff performing cleaning activities when the new pharmacy department is in operation. Two hospitals are in the process of implementing a quality assurance program to assess whether the cleaning processes are followed according to their policies and procedures.

## Inspection Process for Cleaning Reusable Surgical Tools Not Optimal

### Recommendation 20

*To improve hospitals' compliance with the Canadian Standards Association's standards pertaining to the washing and sterilization of surgical tools and medical*

*equipment, we recommend that hospitals have their washing and sterilization of surgical tools and medical equipment inspected internally on an annual basis.*

**Status:** In the process of being implemented by November 2021.

### Details

In our 2019 audit, we found that washing and sterilization of reusable surgical tools and medical devices is the second-highest service area of hospitals' non-compliance with high-priority criteria for patient safety, according to Accreditation Canada. Approximately every four years, as part of its hospital visits, Accreditation Canada reviews the processes hospitals have in place to clean and sterilize reusable surgical tools and equipment. Hospitals' compliance with patient safety best practices or the Canadian Standards Association (CSA) standards in this area is not verified by any other organization. Each hospital is therefore responsible to monitor its own compliance with cleaning and sterilization standards. Some hospitals hire experts to do this work. We compared the expert reports from three hospitals with Accreditation Canada reports and found that the experts identified more instances of non-compliance with Accreditation Canada criteria. We noted that during hospital visits Accreditation Canada assesses hospitals' policies and procedures in many areas, including cleaning and sterilization, but it does not perform detailed checks for compliance with CSA standards.

In our follow-up, we found that more than half of the hospitals have implemented dedicated staff who are responsible for conducting inspections of their surgical tools and medical equipment to meet the CSA standards, in addition to the daily quality testing of the tools and equipment conducted by these hospitals, and the preventative maintenance conducted by the vendors. One hospital has an external company inspect onsite on an annual basis but is in the process of creating a monthly audit tool for internal monitoring to ensure compliance with CSA standards. One hospital that does daily quality testing of the tools and equipment, and preventative maintenance conducted

internally and by some equipment vendors, will start to explore costs and options for annual inspections by a third party and then will develop an implementation plan. One hospital that does perform daily quality testing of the tools and equipment, and has preventative maintenance conducted on a quarterly basis by their external vendor, will not implement this additional inspection process because its focus is on the COVID-19 pandemic response. The Office of the Auditor General continues to believe that this is a significant recommendation and continues to recommend that hospitals have their washing and sterilization of surgical tools and medical equipment inspected internally on an annual basis.

### Recommendation 21

*In order for contracts with private providers of sterilization services to be managed effectively by hospitals, we recommend that hospitals:*

- *include all the necessary service standards and performance indicators in these contracts; and*
- *on a regular basis, assess the private service provider's compliance with all contract terms.*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that three hospitals we visited contracted with a third-party provider, SteriPro, for sterilizing medical equipment. The three hospitals did not have processes in place to ensure the contract was managed effectively. Specifically, the lack of key performance indicators prevented the hospitals from reliably assessing the third-party provider's performance.

In our follow-up, we found that three hospitals that contracted with a third-party provider have included the necessary service standards and/or performance indicators in these contracts. One of the three hospitals monitors and reviews the performance indicators on a quarterly basis, in addition, the hospital's senior team reviews compliance on an annual basis and has annual meetings with the third-party

provider executives. One of the three hospitals' senior team meet with the third-party provider regularly to review its performance. One of the three hospitals that uses sterilization services from a third-party provider for one of its programs reports in real-time the defects from its review of products received and any recurring issues to the third-party provider. This was an informal process, however, starting September 1, 2021, this hospital started a process of tracking its product reviews.

One hospital indicated that the renewed contract with the third-party provider now includes a section related to key performance indicators (KPI) and reporting expectations. A KPI dashboard was implemented by September 30, 2021. The KPI dashboard will be reviewed quarterly and revised as required based on feedback and performance. In addition, this hospital indicated that an audit tool is being developed to include a review of contract deliverables such as delivery of service. This audit will be performed annually by the hospital and reviewed with the third-party provider at the annual executive meetings.

## Hospital Overcrowding Limits Availability of Beds to Critically Ill Patients

### Recommendation 22

*So that patients with a life- or limb-threatening condition receive timely care from the closest hospital, we recommend that the Ministry of Health leverage learned lessons from hospitals that utilize “command centres” and work with CritiCall toward the development of a provincial bed command centre.*

**Status:** Fully implemented.

### Details

In our 2019 audit, according to CritiCall, from April 2016 to the end of March 2019, 784 life-or-limb patients were denied inter-facility transfer to the closest hospital that could provide the appropriate level of care, because the hospital had no bed available to receive the patient. Some of these

patients were denied inter-facility transfer more than once. Ten of these patients died while CritiCall was trying to facilitate inter-facility transfer to another hospital that could provide appropriate care, after at least one hospital had denied the patient's transfer because no beds were available. We found that in the same period about 5,356 non-critically ill patients were denied inter-facility transfers due to a lack of available beds (some multiple times). In August 2019, CritiCall issued a proposal for a province-wide “command centre” initiative, which would collect and analyze, in real-time, the patient bed flow of each acute-care hospital in Ontario.

In our follow-up, we found that the Provincial Hospital Resource System (PHRS), housed at CritiCall Ontario, provides up-to-date hospital level information on acute bed occupancy and resource availability in Ontario's acute-care hospitals. The PHRS Repatriation Tool, an electronic tool used by hospitals to initiate and track requests for patient transfer, supports efficient and timely repatriation back to the home hospital. CritiCall is beginning Admission/Discharge/Transfer (ADT) automation of acute-care bed boards and occupancy information from hospitals directly into the PHRS. This near real-time information will further support timely patient transfers by allowing speedy and accurate identification of available beds across the province. The Provincial Hospital Resource System (PHRS), combined with ADT feed automation, provides the same information that would be available in a provincial bed command centre. CritiCall Ontario's core services, supported by the PHRS and ADT automation, ensure that patients requiring urgent, emergent and critical care, including those with a life-or-limb-threatened condition, receive timely care from the nearest appropriate facility. With the information available from the PHRS, CritiCall Ontario can accurately identify the closest appropriate hospitals with available beds and, hence, direct patient transfers to these hospitals accordingly. Out of 166 hospital sites currently reporting to the PHRS, 100 are ADT-enabled hospitals. The remaining 66 hospitals reporting to the PHRS are not ADT-enabled. Non-ADT-enabled hospitals are those that

do not have their ADT feed set up for the Critical Care Information System (CCIS) (because they do not have Adult, Maternal Neonatal or Pediatric ICU beds) and will continue to enter all of their bed data manually. These sites are smaller hospitals in the province that would normally not have the throughput that larger sites have.

In 2020, CritiCall Ontario also launched a business intelligence tool, CORD-BI, which generates dashboards based on data reported by hospitals to the PHRS. The CORD-BI dashboards are an effective performance monitoring tool, helping hospitals identify, among other items, potential gaps in their communication or processes (for example, when physicians reported no bed and the appropriate bed type occupancy showed occupancy on the PHRS), as well as capacity issues at the hospital for patients by bed type.

To support Ontario's COVID-19 pandemic response, CritiCall Ontario became the single point of contact for all Incident Management System (IMS) transfers in Ontario, working closely with Ontario Health, the Ontario COVID-19 Critical Care Command Centre, regional IMS tables and hospital partners. CritiCall Ontario developed the Ontario Patient Transfer System, which combines data from the PHRS Repatriation Tool with data from ORNGE and Ontario's Central Ambulance Communications Centres, to enable all partners involved in IMS patient transfers to co-ordinate and track planning efforts and patient movement in near real-time.

## Chapter 1

### Section 1.02

Ministry of Health

# Addictions Treatment Programs

Follow-Up on VFM Section 3.02, 2019 Annual Report

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2		1	1		
Recommendation 2	5			4	1	
Recommendation 3	3			3		
Recommendation 4	2			2		
Recommendation 5	1			1		
Recommendation 6	4		1	3		
Recommendation 7	3	1		1	1	
Recommendation 8	3			2	1	
Recommendation 9	4	1	1	1	1	
Recommendation 10	2			2		
Recommendation 11	2		1	1		
Recommendation 12	2		2			
Recommendation 13	4	3		1		
<b>Total</b>	<b>37</b>	<b>5</b>	<b>6</b>	<b>22</b>	<b>4</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>14</b>	<b>16</b>	<b>60</b>	<b>10</b>	<b>0</b>

## Overall Conclusion

The Ministry of Health (Ministry), as of October 25, 2021, has fully implemented 14% of actions we recommended in our 2019 Annual Report. This includes implementing additional controls in its health information system to generate an error message if an opioid prescription is attempted to be entered by a prescriber whose licence is inactive or invalid, and investigating cases of vaping-related illness to

determine whether there is a need to strengthen the monitoring and applicable regulation.

The Ministry made little progress in implementing 60% of the recommendations, including analyzing wait times for addictions treatment to identify regions or programs with long wait times and working with those service providers to take corrective actions, implementing a needs-based funding model for existing and new programs, using information collected to work with the service providers, stakeholders and clinical experts to implement standards

for the programs, and collecting information on the need for opioid addiction treatment across the province, and modifying the funding and/or initiatives of the Opioid Strategy based on the needs information.

However, the Ministry has made progress in implementing 16% of the recommendations, including working with addictions treatment service providers, police and paramedic services to develop protocols for taking individuals directly to service providers versus emergency departments in appropriate circumstances, collecting detailed information from all participating pharmacies about their naloxone distribution, analyzing data from the existing Consumption and Treatment Services sites and working with service providers to identify appropriate locations for the sites and what each site's capacity or size should be, and working with the existing Consumption and Treatment Services sites to develop standard policies and procedures for operations.

The Ministry will not implement 10% of the recommendations, including working with stakeholders and peer deputy ministers of health from other provinces in Canada to identify ways of providing parents with a voice to guide addictions treatment for their children and youth, formally reassessing the costs and benefits of transferring the responsibility of health care for those in correctional institutions from the Ministry of the Solicitor General to the Ministry of Health, directing the Opioid Emergency Task Force to meet and report regularly to the Ministry of Health, and reviewing unusual or suspicious cases of opioid prescriptions dispensed that we identified. We continue to believe that these recommendations should be implemented.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Ministry of Health (Ministry) is the primary funder and overseer of addictions services in Ontario. In 2020/21, about \$217 million (\$212 million

in 2018/19) was spent by about 200 addictions treatment service providers to treat over 61,000 clients (76,700 clients in 2018/19), largely through three main types of programs: non-residential, residential and withdrawal management or detox.

Between 2016/17 and 2020/21, spending on addictions treatment programs grew almost 21% from \$180 million to \$217 million (25% between 2014/15 and 2018/19, from \$170 million to \$212 million). Between August 2017 and March 2019, an additional \$134 million was spent on the Ministry's Opioid Strategy.

Despite less clients being treated and increased spending, we found that wait times for addictions treatment, repeat emergency department visits for substance-use conditions, as well as opioid-related emergency department visits, hospitalizations and deaths continued to increase.

As Ontario has committed to investing \$3.8 billion over 10 years (from 2017/18 to 2026/27) for mental health and addictions services, it is important that going forward, funding for addictions services is allocated appropriately to meet the needs of Ontarians.

Our significant observations included:

- Between 2014/15 and 2018/19, wait times for all addictions treatment programs increased. Service providers informed us that they were aware of their clients dropping off wait lists for treatment programs because they were hospitalized or incarcerated, had attempted suicide or even died while waiting for treatment.
- Insufficient community-based addictions services caused more people to seek treatment from emergency departments. Between 2014/15 and 2018/19, visits to emergency departments for substance-use conditions increased by almost 40% and repeat unscheduled visits to emergency departments within 30 days for substance-use conditions increased almost 50%.
- The Ministry funded addictions treatment service providers without evaluating the effectiveness of their programs. The Ministry only required that service providers submit information on their spending and service activity, but had not

collected any information on their performance to assess their programs' effectiveness.

- The Ministry required service providers to follow standards that only apply to withdrawal management programs but not to other types of non-residential and residential programs. This resulted in significant differences among service providers for the same types of programs.
- The impact of emerging issues, including cannabis legalization and vaping, needed further monitoring to identify whether additional addictions prevention and treatment services would be necessary. In September 2019, three incidents of vaping related severe lung disease were under review in Ontario.

Another set of significant findings related to the Ministry's Opioid Strategy (Strategy) launched in August 2017 were as follows:

- Despite spending about \$134 million on the Strategy, between 2016 and 2018, opioid-related deaths rose 70%, opioid-related emergency department visits more than doubled and opioid-related hospitalizations grew over 10%.
- Most of the Strategy's funding for treating opioid addictions was not allocated to the regions with the highest need. Of the over \$58 million the Ministry allocated to Local Health Integration Networks (LHINs) for opioid addictions treatment, only one-third was allocated based on factors that reflect regional needs such as population size, opioid-related deaths, emergency department visits and hospitalizations. The remainder was equally distributed among the LHINs.
- Ontario did not provide all health-care providers who can prescribe opioids with access to a provincial system containing the history of opioid prescriptions dispensed to patients. Therefore, prescribers may have had to rely on information self-disclosed by their patients. This can lead to inappropriate or excessive opioid prescriptions because prescribers are unable to verify whether their patients have already received opioids prescribed and dispensed by others.
- Information on unusual or suspicious instances where opioids were dispensed—such as high

dosages or when the licence of the prescribing physician or dentist is inactive—was not proactively shared with regulatory colleges on a regular basis for investigation.

- The Ministry had neither determined whether the number or capacity of Consumption Treatment Services sites aligned with regional needs nor ensured each site operated consistently.

We made 13 recommendations, consisting of 37 action items, to address our audit findings.

We received commitment from the Ministry of Health that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 1, 2021, and August 13, 2021. We obtained written representation from the Ministry of Health (Ministry) that effective October 25, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Increased Spending on Addictions Treatment Services Has Not Reduced Wait Times and Emergency Department Visits

### Recommendation 1

*To reduce wait times for addictions treatment and repeat emergency department visits for substance-use conditions, we recommend that the Ministry of Health:*

- *analyze wait times for addictions treatment to identify regions or programs with long wait times and work with those service providers to take corrective actions;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the average wait times reported for all addictions programs increased in 11 of the 14 Local Health Integration Networks between 2014/15 and 2018/19.

In our follow-up, we found that in January 2021, the Ministry drafted a minimum data set for information that will be collected from each addictions treatment services provider, including a consistent method for reporting program wait times. Although no such data has yet been collected, this minimum data set is expected to be published as a provincial standard by March 31, 2022. The Ministry and Ontario Health will work with providers to begin reporting against the provincial standard.

- *further analyze frequent and repeat emergency department visits for substance use across the province to determine what addictions services need to be expanded to reduce the number of these visits.*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we noted that the Ministry had not performed any analysis to determine what addictions services need to be expanded to reduce emergency department visits. Emergency department visits for substance-use conditions increased almost 40% between 2014/15 and 2018/19 while all other types of emergency department visits grew about 6% over the same time period.

In our follow-up, we found that the Ministry partnered with the Institute of Clinical Evaluative Sciences to work on a Mental Health and Addiction System Performance in Ontario: 2021 Scorecard, which was released in February 2021. This included data on the change in emergency department visits for mental health and addictions care between 2009 and 2017. The Ministry also participated in the Canadian Institute for Health Information's data collection and reporting process, which reports on how many people frequently (at least four times a year) visit an emergency department for help with

mental health and/or addictions. This data is publicly reported up to 2019/20.

The Ministry is currently engaging clinical experts (to identify short, medium and long-term initiatives to support access to high-quality addictions care and better system oversight. Data on frequent and repeat emergency department visits for substance use will be used to help identify the actions that need to be taken. This advice is expected to be received by December 2021.

## Funding for Addictions Treatment Programs Not Tied to Clients' Needs and Programs' Effectiveness

### Recommendation 2

*To better meet clients' needs by providing them with timely access to appropriate and effective addictions treatment services, we recommend that the Ministry of Health:*

- *implement a needs-based funding model for existing and new programs;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we noted that the Ministry did not know which specific addictions treatment programs and resources were needed across the province, even though there was already a method that could be used to estimate these needs. The Ministry did not allocate new funding to service providers and programs based on where needs were highest.

In our follow-up, we found that starting in November 2019, a National Advisory Committee for Needs-Based Planning was funded by Health Canada to help develop a national needs-based planning model to estimate the required capacity of a substance use treatment system. However, this work is expected to be completed in 2022/23, at which time the Ministry will begin to work to more formally integrate the model into its planning and funding decisions.

- *develop a standard approach to collect information (such as client outcomes) from service providers to assess the effectiveness of their treatment programs and take this into consideration when making future funding decisions;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry had not collected any information from addictions treatment service providers about their operations to assess the effectiveness of their programs. Without this information, the Ministry continued to fund service providers without considering and determining whether their programs met clients' needs effectively and contributed to a reduction in addictions

As previously mentioned in **Recommendation 1**, we found that in January 2021, the Ministry drafted a minimum data set for information that will be collected from each addictions treatment services provider. However, this data set does not include data on client outcomes from service providers about their treatment programs. The Ministry informed us that clinical outcome data is expected to be included in the next version of the data standard, after which addictions treatment service providers will be expected to collect and report on the clinical outcome data in a consistent way to enable the Ministry to assess the effectiveness of their treatment programs and take this into consideration when making future funding decisions. The next version of the data standard is expected to be fully defined by March 31, 2022, with implementation of the standard to start in 2022/23.

- *monitor the needs of children and youth as well as Indigenous peoples for addictions services to determine whether additional investment is necessary;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while certain population groups, such as children and youth, as well as Indigenous people, had additional or special needs for

addictions treatment services, the services available and the Ministry's funding did not appear to be sufficient to meet their needs.

As noted above, we found that in January 2021, the Ministry drafted a minimum data set for information that will be collected from each addictions treatment services provider. This included the ability to identify the use of addictions service by ethnic and cultural origin, race and regional and spiritual affiliation. However, this data set collects information that is related to the adult sector only. Data related to children and youth is expected to be included in the next version of the data standard, after which addictions treatment service providers will be expected to collect and report on data related to children and youth in a consistent way to allow the Ministry to monitor the needs of children and youth for addictions services and determine whether additional investment is necessary. The next version of the data standard is expected to be fully defined by March 31, 2022, with implementation of the standard to start in 2022/23.

- *work with stakeholders and peer deputy ministers of health from other provinces in Canada to discuss and identify ways of providing parents with a voice to positively guide addictions treatment for their children and youth;*

**Status:** Will not be implemented. Although the Ministry of Health has no plan to work with stakeholders and peer deputy ministers of health from other provinces to identify ways of providing parents with a voice to guide addictions treatment for their children and youth, the Office of the Auditor General of Ontario continues to believe that this would still be beneficial to do going forward.

### Details

In our 2019 audit, we found that one of the barriers to providing addictions treatment for children and youth was that consent was required from children and youth themselves for the majority of addictions services in Ontario, as well as across Canada. This differed from other regions, such as parts of the United States, where medical consent began at age 18, meaning that a parent or guardian could consent to addictions treatment on behalf of a child.

In our follow-up, we found that in March 2020, the Ministry announced its plan called “Roadmap to Wellness: A Plan to Build Ontario’s Mental Health and Addictions System.” As part of this plan, the Ministry is working to better integrate youth addiction services with other services across the continuum of mental health and addictions services. Currently, the Ministry prioritizes and focuses on issues related to adult population. The Ministry has no plans to work with stakeholders and peer deputy ministers in other provinces to discuss and find ways to provide parents ways to positively guide addictions treatment for their children and youth at this time.

- *develop a process to communicate one-time and ongoing funding decisions sooner to addictions treatment service providers to enable them to properly plan and use funding effectively for treatment services.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that addictions treatment service providers directly spent on average about 12% less annually on their addictions programs than the amount of funding they received. While the Ministry informed us that the difference could be attributed to administration costs incurred by the service providers that they would not report as spending on addictions treatment programs, we found that this was also a result of service providers receiving funding late into the fiscal year. As such, service providers were unable to use all funding effectively within the designated fiscal year because they received funding late and did not have time to plan for its use.

In our follow-up, we found that the Ministry has not begun any work to address this recommended action item. The explanation provided was due to the transfer of the Local Health Integration Networks (LHINs) into Ontario Health. On April 1, 2020, non-patient care functions (such as communications and funding decisions related to addiction services) were transferred from the LHINs to Ontario Health. As a

result of this transition, the Ministry indicated that it has not developed processes to communicate one-time and ongoing funding decisions sooner to service providers, but informed us that it will later work closely with Ontario Health on an ongoing basis to improve the processes to ensure timely communication of funding decisions.

## Lack of Provincial Standards Can Contribute to Variability in Addictions Treatment Services across the Province

### Recommendation 3

*To provide people with consistent and evidence-based addictions treatment services, we recommend that the Ministry of Health:*

- *collect information on addictions treatment service provider programs (withdrawal management, non-residential and residential) to understand differences in their operations and service delivery (such as program length and duration, client-to-staff ratio and staff qualifications);*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that addictions treatment program service providers were responsible for determining how to structure and deliver their programs, resulting in significant differences between service providers for the same type of program.

In our follow-up, we found that the Ministry is developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. While the Ministry is still determining exactly what will be collected for each profile, it expects that the profile will include

information about variations in service delivery across addictions treatment service providers.

- *review the hours of operation of non-residential service providers to determine whether services are being offered at times to meet the needs of those requiring addictions treatment counselling and case management services;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found variability in addictions treatment program service providers' service availability on weeknights and weekends.

As noted above, we found that the Ministry is still developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. While the Ministry is still determining exactly what will be collected for each profile, it expects that the profile will include information about how and when clients access services from addictions treatment service providers.

- *use the information collected and work with the service providers, stakeholders and clinical experts to implement standards for the programs.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that there were limited provincial standards in place for addictions treatment programs to follow. Therefore, service providers are responsible for determining how to structure and deliver their programs, resulting in significant differences between service providers for the same type of program.

As noted above, we found that the Ministry is still developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards

or additional investment needed for that service.

The initial set of core service profiles is expected to be completed by 2022/23. The Ministry is currently scoping what will be included in the core services profiles, which will allow for data to be collected and analyzed to determine what standards are needed and what they should include.

### Recommendation 4

*To allow people across the province to easily identify addictions treatment services that will meet their needs, we recommend that the Ministry of Health:*

- *develop and implement a centralized access centre model for addictions services that minimizes variations in accessibility across the province;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that while some regions of the province had set up centralized access centres where individuals could obtain assessments and referrals to the appropriate service provider from one source, the services offered by these centralized access centres varied.

In our follow-up, we found that the Ministry is currently exploring a model that would help streamline access to mental health and addictions services by building a co-ordinated access and navigation system, which would include a single phone number and website (with texting and chat capability) as well as regional nodes that will administer screening tools and refer people to appropriate services to minimize variations in accessibility across the province. This access system would provide online programs/supports, as well as general mental health and addictions information. This system will also provide screening and referral services using common mental health and addictions screening tools to refer people to the appropriate type of service and level of care, enabling better navigation and increased consistency in access across the province. The Ministry estimates that it will launch a single phone number and website to access mental health and addiction services by

March 31, 2022 and that it will start establishing connectivity between the provincial access system and regional co-ordinated access points starting in 2022/23.

- *evaluate the costs and benefits of consolidating the existing addictions treatment service providers to identify potential efficiencies by integrating their operations and programs.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that there were about 200 addictions treatment service providers who received funding by the Ministry for addictions services. There were differences between addictions treatment service providers' operations and programs, because service providers were responsible for determining how to structure and deliver their programs.

In our follow-up, we found that the Ministry has not begun any work to address this recommended action item. Again, the explanation provided was due to the transfer of the Local Health Integration Networks (LHINs) to Ontario Health. As of April 1, 2020, non-patient care functions (such as communications and funding decisions related to addiction services) were transferred from the LHINs to Ontario Health. As a result of this transition, the Ministry has not evaluated the costs and benefits of consolidating the existing addictions treatment service providers to identify potential efficiencies, but informed us that it expects Ontario Health will be in a better position going forward to assess the costs and benefits of any potential integrations.

### Recommendation 5

*To provide Ontarians with treatment for behaviour addictions in a consistent manner, we recommend that the Ministry of Health develop reporting standards for behavioural addictions and require addictions treatment service providers to report the types of behavioural addictions they actually treat separately from problematic substance use and gambling.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the Ministry had not established a consistent provincial approach for treating and reporting behavioural addictions. This resulted in differences between addictions treatment service providers, both in terms of how they treated clients with behavioural addictions and in the way they reported such services to the Ministry.

In our follow-up, we found that the Ministry has not taken any action to address this recommended action item. The Ministry informed us that it accepts that the implementation of a minimum data set for all addictions treatment service providers (as discussed in **Recommendation 1**) will allow it to collect better information on behavioural addictions. The ability to eventually collect such information in the future will enable the Ministry to develop reporting standards for behavioural addictions and require addictions treatment service providers to report the types of behavioural addictions they actually treat separately from problematic substance use and gambling.

## Programs or Practices to Reduce the Number and Frequency of Emergency Department Visits for Addictions Services Are Not Widely Adopted

### Recommendation 6

*To provide Ontarians with more effective addictions treatment, we recommend that the Ministry of Health:*

- *evaluate the effectiveness of the existing Rapid Access Addiction Medicine clinics (clinics) to determine the costs and benefits of expanding the clinic hours or establishing additional clinics;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the Ministry had not conducted any review of the overall cost-effectiveness of Rapid Access Addiction Medicine clinics to identify if the operating hours and days of the existing ones should be expanded or if additional clinics should be opened to meet people's needs.

In our follow-up, the Ministry informed us that it was awaiting the results of an environmental scan of clinics. The results would allow the Ministry to develop a better sense of how these programs operate and serve communities across Ontario. An evaluation of the clinics was also expected to be performed, with the results available in October 2021.

As previously mentioned in **Recommendation 3**, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for those services. The initial set of core service profiles is expected to be completed by 2022/23. This initiative will assist the Ministry in evaluating the effectiveness of the existing Rapid Access Addiction Medicine clinics and identifying if any changes are needed to the availability and accessibility of the clinics across the province.

- *evaluate the costs and benefits of expanding the case management program to regions where emergency departments have a large number of frequent visitors;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that an addictions treatment service provider in Toronto had operated a case management program that focused on supporting clients who frequently visited emergency departments. If this same case management program had been implemented by other service providers province-wide, it could have potentially reduced almost 22,000 emergency department visits during the fiscal year.

As noted above, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for

that service. The initial set of core service profile is expected to be completed by 2022/23. This initiative will also assist the Ministry in evaluating the costs and benefits of expanding the case management program to regions where emergency departments have a large number of frequent visitors and identifying if there is a need to expand this type of program anywhere across the province.

- *identify withdrawal management programs with no nursing staff and evaluate the costs and benefits of adding nursing staff to these programs;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that nursing care on-site for withdrawal management programs can help to reduce the need for emergency department visits by people with addictions. However, we noted that withdrawal management programs are primarily delivered by non-medical staff, including addictions counsellors.

As noted above, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. This initiative will also assist the Ministry in identifying withdrawal management programs with no nursing staff and evaluating the costs and benefits of adding nursing staff to these programs across the province.

- *work with addictions treatment service providers, police and paramedic services to develop protocols for taking individuals directly to service providers versus emergency departments in appropriate circumstances.*

**Status: In the process of being implemented by October 2021.**

## Details

In our 2019 audit, we found that Thunder Bay was the only region with a protocol for police and paramedic services to bring people experiencing the effects of problematic substance use directly to a local withdrawal management program.

In our follow-up, we found that the Ministry released Patient Care Model Standards under the *Ambulance Act* that came into force as of June 8, 2020. Under these standards, Certified Ambulance Service Operators can submit proposals to the Ministry that would allow them to transfer eligible patients to non-hospital destinations where the patient can receive appropriate treatment.

In April 2021, the Ministry announced that 33 municipalities in Ontario had been approved to implement various proposals for these new models of care. Two of these proposals are for mental health and addictions patients including the London-Middlesex project, which is intended to support the needs of eligible patients with addictions (e.g., hallucinations, delusions, depression, suicidal, anxiety, bizarre behavior which may be caused by substance abuse) and mental health. Patients in this project will have the option to be transported to the London Crisis Centre operated by the Canadian Mental Health Association (CMHA) - Middlesex instead of visiting the emergency department. The other mental health and addictions-related initiative is the Guelph-Wellington project, under which eligible mental health and addictions patients have the option to be transported to the Welcome In Drop-In Centre, which is a community organization that provides services such as shelter, food and basic necessities to individuals who are homeless or at risk of homelessness, instead of visiting the emergency department.

The Ministry reviewed the list of designated services under the *Liquor Licence Act* (Act) that identifies where a police officer can take an intoxicated person who contravenes the Act. A revised list of designated services was posted for public comment on June 18, 2021, with comments from the public due by July 19, 2021. The listing of designated services include certain entities (hospitals) that

provide withdrawal management services. Based on the comments from the public, the Ministry of Health was planning to work with the Ministry of the Attorney General in order to update the Act by October 31, 2021.

## Integration and Co-ordination is Lacking Among Ministries that Provide Addictions Services

### Recommendation 7

*To better integrate and co-ordinate the addictions services provided by different ministries and agencies in an efficient and effective manner, we recommend that the Ministry of Health:*

- *work with the Ministry of the Solicitor General to develop procedures to improve access to addictions treatment services for individuals in correctional institutions and after being discharged;*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we found that the Ministry of the Solicitor General was overseeing health care, including mental health and addictions, for individuals in provincial correctional institutions. In 2018, an expert advisory committee prepared a report for the Ministry of the Solicitor General and the Ministry of Health. The committee identified that when compared to the general population, Ontario's correctional population was two to three times more likely to have mental health conditions or experience problematic substance use. The committee also raised a number of concerns, including lack of integrated and consistent correctional health care across the province.

In our follow-up, the Ministry of Health informed us that the committee's report, which was an artefact of the previous government, was never formally adopted by the current government. Under the current government, the Ministry of the Solicitor General has created a dedicated Corporate Health Care and Wellness Branch in the Operational Support

Division to provide strategic oversight and direction to health-care services in institutions, as well as occupational health and employee wellness supports.

We also found that the Ministry of Health was meeting bi-weekly with the Solicitor General's Mental Health and Addictions group to discuss priority initiatives related to the Ministry of the Solicitor General's Mental Health and Addictions Strategy for Corrections (Strategy). This Strategy included providing corrections staff with additional addictions training, hiring more addictions counsellors (26 full-time equivalents in 2020/21 and 31 full-time equivalents in 2021/22) for correctional facilities and establishing partnerships with addictions treatment service providers for community-based offenders. The Ministry of Health was consulted on the development and implementation of this Strategy.

- *formally reassess the costs and benefits of transferring the responsibility of health care for those in correctional institutions from the Ministry of the Solicitor General to the Ministry of Health;*

**Status:** Will not be implemented. Although the decision was made to not transfer the responsibility of health care for those in correctional institutions from the Ministry of the Solicitor General to the Ministry of Health, the Office of the Auditor General of Ontario continues to believe that the Ministry of Health should still assess the costs and benefits of this option.

### Details

In our 2019 audit, we found that an expert advisory committee prepared a report that recommended transferring the responsibility of health care for those in correctional institutions from the Ministry of the Solicitor General to the Ministry of Health. The Ministry of Health and the Ministry of the Solicitor General informed us that they did not have plans to implement this recommendation.

In our follow-up, we found that there were no plans for additional assessment on the transfer of health care for those in correctional facilities from the Ministry of the Solicitor General to the Ministry of Health. The Ministry of the Solicitor General was planning to continue to implement its Correctional Health Care Strategy and its Mental Health and Addictions Strategy for Corrections.

- *evaluate the need for additional co-ordination of mental health and addictions treatment services for youth, and assess whether the existing service providers have the capacity and skill set to meet their needs or whether new service providers are needed.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while the Ministry of Health had been responsible for both mental health and addictions treatment services for children and youth, it had not co-ordinated the two services effectively, even though a significant portion of children and youth with addictions issues also had mental health conditions.

In our follow-up, we found that in 2021, Ontario announced four new Youth Wellness Hubs across Ontario in Guelph, Renfrew, Timmins and Windsor to offer walk-in access to primary care and address their needs related to mental health, substance use, primary care, education, employment, training, housing and other community and social services.

Additionally, members of the Centre for Addictions and Mental Health will be working with Ontario Health's Mental Health and Addictions Centre of Excellence to develop evidence-based, developmentally appropriate services for youth addictions and concurrent disorders that will fill a major gap in the provincial care continuum and that can be scaled across Ontario and used by agencies independent of the youth wellness hub model.

As previously mentioned in **Recommendation 3**, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. The Ministry expects this work will result in additional interventions specific to youth to better meet their needs.

## Opioid Strategy Needs Improvements to Address Ontario's Opioid Crisis

### Recommendation 8

To implement the Opioid Strategy (Strategy) cost-effectively and address the opioid crisis in Ontario more effectively, we recommend that the Ministry of Health:

- establish targets for the Strategy's performance indicators to achieve, measure achieved results against the targets on a regular (such as quarterly) basis and take corrective action where targets are not met;

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that when the Opioid Strategy was developed in 2017, the Ministry did not establish any specific measurable goals and targets to determine if its funding for the Strategy was sufficient and allocated appropriately to various initiatives.

In our follow-up, we found that the Ministry is monitoring each opioid crisis response initiative at least quarterly, however targets for performance have not been set. The Ministry will continue to consider whether targets should be developed for each performance measure, however no such decision has been confirmed at this time.

- direct the Opioid Emergency Task Force to meet and report regularly;  
**Status:** Will not be implemented. Although the Ministry of Health has no plan to reconvene the Opioid Emergency Task Force, the Office of the Auditor General of Ontario continues to believe that a task force of similar nature would still be beneficial to provide advice to the government going forward.

### Details

In our 2019 audit, we found that the Ministry has not met with the Opioid Emergency Task Force (Task Force) since August 2018 and, at the time of our audit, had no plans to do so even though the Strategy is still under way and the opioid crisis continues.

In our follow-up, we found that the Ministry does not currently have plans to reconvene the Task Force. The Ministry informed us that the Task Force was only

convened on a time-limited basis to provide advice on Strategy development. The Ministry plans to continue to maintain contact with sector programs and stakeholders and take any feedback received under consideration as part of its ongoing work to address the opioid crisis.

- collect information on the need for opioid addiction treatment across the province and modify the funding and/or initiatives of the Strategy based on the needs information.

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that there were a number of instances where the Ministry had not targeted its Strategy's funding at treatment or at areas with the highest need.

As previously mentioned in **Recommendation 3**, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. The Ministry expects this work will also include details on opioid addiction treatment across the province. Such details will then enable the Ministry to modify the funding and/or initiatives of the Strategy.

## Measurement and Reporting of Program Performance Needs Improvement

### Recommendation 9

To better prevent and deter inappropriate prescribing and dispensing of opioids, we recommend that the Ministry of Health:

- provide access to data on patients' history of dispensed opioids to all health-care providers who can prescribe opioids;

**Status:** In the process of being implemented by March 2023.

### Details

In our 2019 audit, we found that the Ministry had not provided all health-care providers who can prescribe opioids, including physicians and dentists, with access to information on the history of opioids dispensed to their patients, even though this information was readily available from an existing system.

In our follow-up, we found that the Ministry, in collaboration with Ontario Health, has expanded access to drug and pharmacy services information through the broader deployment and adoption of clinical viewers in a variety of clinical settings, including to family health teams, family physicians and other primary care group practices. As of June 2021, 153,190 health-care workers are authorized to use clinical information sharing solutions and Ontario Health has set a target to reach 156,000 by the end of 2021/22. As of July 2021, the Ministry estimates that there were approximately 300,000 active regulated health professionals in Ontario; however not all of them provide direct patient care. As such, they do not all require access to data on patients' history of dispensed opioids.

- *implement additional controls in its health information system to validate the prescriber's licensing status before allowing pharmacists to dispense;*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we found that there were unusual or suspicious cases where opioids might have been prescribed or dispensed inappropriately. The Ministry investigated some of these instances and informed us that they were due to data entry errors, such as entering the wrong prescriber licence number or attributing a licence to the wrong regulatory college.

In our follow-up, we found that the Ministry has implemented new additional controls to ensure details of opioid prescriptions dispensed are accurate. For example, as of October 25, 2020, the Ministry's information system has started generating an error message if the pharmacist identification number is associated with a license that is suspended, or if the pharmacists enter a prescriber identification number

that relates to a prescriber who is retired, deceased or whose license is suspended.

- *review the unusual or suspicious cases we identified and share appropriate information with the regulatory colleges as necessary;*  
**Status: Will not be implemented. Although the Ministry of Health has no plan to review all instances of unusual or suspicious cases we identified, the Office of the Auditor General of Ontario continues to believe that a review of all cases where opioids were dispensed that were associated with inactive licenses should still be investigated.**

### Details

In our 2019 audit, we found instances where large dosages of opioids were prescribed and dispensed; and instances where pharmacists dispensed opioids that were associated with physicians and dentists with inactive licences.

In our follow-up, we found that in October 2019, the Ministry had a meeting with the College of Nurses of Ontario, the College of Physicians and Surgeons of Ontario, the Ontario College of Pharmacists, and the Royal College of Dental Surgeons of Ontario to discuss unusual or suspicious instances of dispensed opioid prescriptions. As the appropriateness of prescriptions cannot be determined without reviewing the patient's clinical information at the practice level for all health-care providers involved and the details of the patient's prescriptions, the Ministry indicated that it would be the responsibility of regulatory colleges who oversee the professional practice of its members to perform such a practice-level assessment.

The Ministry investigated about 13,000 (or about 15%) instances that we had identified at the time of our audit where opioids were dispensed that were associated with inactive licenses. The Ministry identified that these instances were primarily due to data entry errors. Regulatory colleges were informed of the errors, which led to the development of the additional system controls discussed in the prior action item.

Since the investigation results indicated that the majority of these instances were due to data entry errors, the Ministry informed us that it has no plans

to review the approximately 75,000 other instances of opioid dispensed that were associated with inactive licenses that we had identified at the time of our audit.

- *work with the regulatory colleges to provide them with direct or real-time access to information contained in the Narcotics Monitoring System or regular reports on unusual and/or suspicious prescribers and dispensers.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that while regulatory colleges were responsible for investigating inappropriate practices by their members and for taking corrective actions, they did not have real-time or regular access to information on the opioids prescribed and dispensed by their members on which to base their investigations.

In our follow-up, we found that since mid-March 2020, the Ministry and regulatory colleges have prioritized resources to address the provincial response to COVID-19 and to support continued service delivery during this unprecedented time. The Ministry informed us that they are committed to later re-engaging the regulatory colleges to address this recommendation and explore opportunities to provide more timely access to Narcotic Monitoring System data once the COVID-19 environment has stabilized.

### Recommendation 10

*To provide appropriate and effective treatment based on guidelines for people addicted to opioids, we recommend that the Ministry of Health work with addictions treatment service providers to:*

- *develop a process that allows individuals on opioid agonist therapy to be admitted to treatment programs;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that while a guideline for caring for people (aged 16 and over) with opioid addiction existed that identifies that people entering an inpatient facility such as a residential addictions treatment program be allowed to continue the opioid agonist therapy they were receiving without disruption, many addictions treatment service providers did not admit people who were taking methadone or buprenorphine-naloxone as part of opioid agonist therapy.

As previously mentioned in **Recommendation 3**, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. Changes to standards for use of opioid agonist therapy in residential addictions treatment will also be considered as part of this work.

- *incorporate other addictions treatment services (such as counselling services) into the opioid agonist therapy.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that while the guideline for caring for people (aged 16 and over) with opioid addiction recommended that people receiving opioid agonist therapy should also have their other health needs (including addiction treatment needs) addressed, not all service providers ensured that people on opioid agonist therapy also received other addictions treatment services.

As noted above, we found that the Ministry is currently developing core services profiles to better understand the quality of addictions treatment services being provided provincially and to identify needed interventions, including the development of new standards or additional investment needed for that service. The initial set of core service profiles is expected to be completed by 2022/23. Changes to

standards for use of opioid agonist therapy, such as the incorporation of other addictions treatment services alongside this therapy, will be considered as part of this work.

### Recommendation 11

*To achieve savings and assess the effectiveness of its naloxone distribution through pharmacies as part of the Opioid Strategy, we recommend that the Ministry of Health:*

- *evaluate the costs and benefits of bulk buying injectable naloxone kits for pharmacies and implement bulk buying if it results in cost savings;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the Ministry could have achieved potential cost savings of up to about \$7 million if it had administered its naloxone distribution initiative through pharmacies.

In our follow-up, we found that in late 2020, the Ministry completed an internal review of its naloxone programs. Bulk buying of naloxone was considered, however a decision regarding implementation of the review's recommendations has been delayed as a result of the Ministry and provincial government's COVID-19 response. The Ministry informed us that it will revise the review results and consider implementing the proposed recommendations at a later date (still to be determined) once the COVID-19 environment has stabilized.

- *collect detailed information from all participating pharmacies about their naloxone distribution, such as how many people are trained to use naloxone kits to assess the effectiveness of this initiative in order to identify whether any changes are needed.*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we found that the Ministry had collected limited information to assess the effectiveness of the naloxone program.

In our follow-up, we found that the Ministry updated its report back form that pharmacies participating in the Ontario Naloxone Program for Pharmacies are required to submit to the Ministry on a quarterly basis. The form includes collecting information from all participating pharmacies about their naloxone distribution, such as the number of people who obtained naloxone kits, any knowledge of overdoses where the kits were used, and any instances where 911 was called following administration of a kit.

The Ministry was in the process of reviewing the submissions from the updated forms to inform whether additional changes were needed to the program or not. The Ministry expected to complete this review by December 2021.

### Recommendation 12

*To provide people addicted to opioids with sufficient and consistent services at Consumption and Treatment Services sites (sites), we recommend that the Ministry of Health:*

- *analyze data from the existing sites and work with service providers (such as public health units and community health centres) to identify appropriate locations for the sites and what each site's capacity or size should be;*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we found that the Ministry assessed the regions showing the greatest need for sites and identified that of the 10 regions with the highest need for a site, eight had sites in place.

In our follow-up, we found that the Ministry completed a more current data analysis in fall 2020 to identify communities in greatest need of Consumption and Treatment Services sites (sites). The Ministry was working on a capacity analysis by using the updated data analysis on communities in greatest need of sites, as well as two years of program data from existing sites, to better identify the appropriate capacity for each site. This analysis is expected to be

completed in the fall or winter 2021/22, with a final report by March 2022.

- *work with the existing sites to develop standard policies and procedures for operations (such as the type of health-care provider on site and when to contact paramedic services).*

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we found that the Ministry had not established provincial standards for how services should be provided at the Consumption and Treatment Services sites (sites) to ensure that they operated as effectively and efficiently as possible and in a consistent way.

In our follow-up, we found that the Ministry has begun assessing the policies and procedures required by the Consumption and Treatment Services funding program, as well as those required by Health Canada for the Supervised Consumption Service exemption. The Ministry was developing a consultation strategy for outreach to sites regarding potential standardization of some policies/procedures with consideration of the need for site-specific operational flexibility and local conditions. This strategy is expected to be completed by March 2022.

## Recent Changes and Emerging Trends Relating to Addictions Need To Be Monitored

### Recommendation 13

*To address emerging addictions issues related to recent government initiatives and consumer habits, we recommend that the Ministry of Health:*

- *monitor the use of cannabis by Ontarians of different age groups to determine whether there is a need for additional prevention and addictions treatment services;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that the legalization of cannabis may increase cannabis use in Ontario.

In our follow-up, we found that the Ministry has been monitoring data to determine addictions issues related to cannabis use. Sources of this information include the Canadian Cannabis Survey and Centre for Addiction and Mental Health Ontario Student Drug Use and Mental Health Survey:

- The 2020 Canadian Cannabis Survey identified that nationally, 27% of people surveyed reported having used cannabis in the past 12 months, compared to 25% from the previous year's survey.
- The 2019 Centre for Addiction and Mental Health Ontario Student Drug Use and Mental Health Survey identified that 22% of grade seven-to-twelve students reported using cannabis in the past year, compared to 19% of students during the last survey performed in 2017.

No additional prevention and addiction treatment services have been provided to date. However, the Ministry will continue to monitor this information so as to assess and determine the need for additional prevention initiatives.

- *monitor the use of electronic cigarettes (or vaping products) by Ontarians of different age groups to determine whether there is a need for additional prevention and addictions treatment services;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that the usage of electronic cigarettes (also known as e-cigarettes or vaping) increased, especially among youth.

In our follow-up, we found that the Ministry has been monitoring electronic cigarette and vaping product usage by Ontarians. Based on this, the Ministry was considering additional non-regulatory measures for the use of these products, including enhancing mental health and addiction services and resources to include vaping and nicotine addiction and establishing a Youth Advisory Committee to provide advice on vaping. However, the Ministry was

waiting until after the COVID-19 pandemic to determine timelines for their implementation.

No additional prevention and addiction treatment services have been provided to date. However, the Ministry will continue to monitor this information so as to assess and determine the need for additional prevention initiatives.

- *study the long-term health effects associated with vaping and investigate cases of vaping-related illness to determine whether there is a need to strengthen the monitoring and applicable regulation on the manufacture, labelling, sale and promotion of vaping products;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the use of electronic cigarettes resulted in cases of severe lung illnesses.

In our follow-up, we found that the provincial government modified the *Smoke-Free Ontario Act, 2017* (Act) to address the issue of youth vaping based on its review of the impacts of vaping to health. As of January 1, 2020, the Act prohibits the promotion of vapour products in retail establishments that are not Specialty Vape Stores or Cannabis Retail Stores. Specialty Vape Stores and Cannabis Retail Stores are only open to people aged 19 years and over.

Effective July 1, 2020, the Act prohibits the sale of flavoured vapour products in retail establishments that are not Specialty Vape Stores or Cannabis Retail Stores, except for menthol, mint and tobacco flavours. The sale of high nicotine concentrations (greater than 20 milligrams/millilitres) is also prohibited in retail establishments that are not Specialty Vape Stores. Specialty Vape Stores are also required to ensure that indoor displays or promotions of vapour product are not visible from outside their places of business at any time of day.

The Ministry will have ongoing collaboration with the federal government on issues within their legislative requirements, including manufacturing and labelling.

- *perform an assessment on the impacts of increased alcohol availability to the health system (including impact on emergency department visits and need for addictions treatment services) and use this assessment as part of future addictions treatment funding decisions.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the provincial government's policy decisions would increase the availability of alcohol across Ontario. These decisions could lead to increased alcohol consumption as well as acute and chronic health harm.

In our follow-up, we found that the Ministry has not yet begun any work to address this recommended action item due to its prioritization of other initiatives, including work on the provincial response to COVID-19 and to support continued service delivery during this unprecedented time. However, the Ministry informed us that it will later revisit and address this recommendation once the COVID-19 environment has stabilized.

## Chapter 1

### Section 1.03

Ministry of Health

# Chronic Kidney Disease Management

Follow-Up on VFM Section 3.03 *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2		1	1		
Recommendation 2	2		2			
Recommendation 3	1	1				
Recommendation 4	2		1	1		
Recommendation 5	1		1			
Recommendation 6	3	1	2			
Recommendation 7	2		2			
Recommendation 8	2	1	1			
Recommendation 9	2	1	1			
Recommendation 10	2		2			
Recommendation 11	2	1	1			
Recommendation 12	2	1	1			
Recommendation 13	2		2			
Recommendation 14	2	1	1			
<b>Total</b>	<b>27</b>	<b>7</b>	<b>18</b>	<b>2</b>		
<b>%</b>	<b>100</b>	<b>26</b>	<b>67</b>	<b>7</b>		

### Overall Conclusion

The Ministry of Health (Ministry) and Ontario Health (Renal Network and Trillium Network), as of October 22, 2021, have fully implemented 26% of actions we recommended in our *2019 Annual Report*, including conducting a province-wide and cross-jurisdictional analysis to identify best practices

for increasing home dialysis usage rates across the province, reviewing the Program for Reimbursing Expenses of Living Organ Donors to determine if the reimbursement rate is reasonable and if any adjustment is needed; studying living-donor transplant policies and initiatives in other jurisdictions to identify best practices that would help increase the rate of living-donor transplants in Ontario; collecting renal expenditures from Regional Renal Programs

on an annual basis and use the information to inform changes in future funding allocation; and reviewing the oversight and funding of dialysis services provided at the Independent Health Facilities (Facilities) to identify opportunities to improve the co-ordination between the Facilities and the Regional Renal Programs.

The Ministry and Ontario Health (Renal Network) made progress in implementing 67% of the recommendations, such as working with the Regional Renal Programs to investigate cases where patients are not being referred to see nephrologists on a timely basis; collecting information on the composition and staffing level of the multidisciplinary team at each Multi-Care Kidney Clinic from the Regional Renal Programs on an annual basis to identify teams that do not meet best practices and make changes accordingly; collecting further information and feedback regarding the revised eligibility criteria for Multi-Care Kidney Clinics from health-care providers at the Regional Renal Programs as well as experts in the field of renal care; conducting a province-wide capacity analysis to realign the supply of in-centre dialysis spots to the demand in each Regional Renal Program; assessing and addressing the challenges (such as staffing and resources issues) of increasing the home dialysis usage rate; studying transplant policies and initiatives in other jurisdictions to identify best practices that would help increase organ donations and shorten wait times in Ontario; reviewing the funding for renal service to determine if the amount is reasonable and adjust if needed based on costing information from the Regional Renal Programs and best practices; reviewing the current funding rates for both deceased-donor and living-donor transplants to confirm what adjustments are needed; collecting cost information on peritoneal dialysis equipment and supplies from the Regional Renal Programs; and developing and improving performance measures related to post-transplant activities (such as transplant failure rate and frequency of follow-up visits).

The Ministry and Ontario Health (Renal Network) made little or no progress in implementing 7% of the recommendations, which included sharing lab data

from the Ontario Laboratories Information System (OLIS) with the Regional Renal Programs to help them identify and follow up on patients who are eligible for referral to a nephrologist; and updating the revised eligibility criteria for Multi-Care Kidney Clinics if needed, based on information and feedback, which is underway.

The status of actions taken on each of our recommendations is described in this report.

## Background

The prevalence of chronic kidney disease is on the rise in Ontario, leading to a higher need for dialysis treatment and a greater demand for kidney transplants. Over the last decade, the number of Ontarians with end-stage renal (kidney) disease has grown over 32% between 2010 and 2019, from about 15,800 people to about 20,850 people.

At the time of our 2019 audit, the Ontario Renal Network (Renal Network) was a division of Cancer Care Ontario (CCO). As of December 2, 2019, CCO and the Renal Network were transferred to become part of Ontario Health. As of April 1, 2020, Trillium Gift of Life Network (Trillium Network) was also transferred to become part of Ontario Health. The Renal Network is responsible for advising the Ministry of Health (Ministry) on chronic kidney disease management, determining funding to each of the 27 Regional Renal Programs in Ontario, and leading the organization of chronic kidney disease services (excluding transplants, which fall under the responsibility of the Ministry, Trillium Network and six adult kidney transplant centres).

In 2020/21, the Renal Network's expenditures on chronic kidney disease services were approximately \$692 million (\$662 million in 2018/19), and the Ministry provided approximately \$20 million (\$20 million in 2018/19) to transplant centres for funding approximately 730 kidney transplants.

As at the time of our audit the Ontario government was planning to integrate the Renal Network within

CCO and the Trillium Network into Ontario Health, we noted the importance of better co-ordination of renal services to meet the needs of Ontarians.

The following were some of our significant findings.

- In 2017/18, over 40% (or about 8,700) of patients in Ontario who met the Renal Network's referral criteria were not referred by their primary-care providers to a nephrologist (a physician specializing in kidney care) even though these patients' lab test results indicated that they would benefit from a nephrology visit.
- Before starting dialysis, patients should receive at least 12 months of multidisciplinary care in Multi-Care Kidney Clinics, which help patients manage chronic kidney disease and educate patients on the treatment options available. However, of the approximately 3,350 patients who started dialysis in 2018/19, about 25% received less than 12 months of care in a clinic while 33% did not receive any clinic care prior to starting dialysis.
- Capacity for in-centre dialysis in a hospital or clinic did not align with regional needs. Twenty-seven Regional Renal Programs had a total of 94 in-centre dialysis locations across Ontario with a capacity to serve about 10,200 patients. While the occupancy rate of all locations was about 80% on average, it ranged from 26% to 128% depending on location.
- Promoting the use of home dialysis has been part of the Renal Network's strategic direction since 2012, but the home dialysis usage rate still had not met the Renal Network's target. The rate varied significantly (16% to 41%) among the 27 Regional Renal Programs, and only six met the current target of 28%.
- Wait list and wait times for deceased-donor kidney transplants remained long. In each of the preceding five years, approximately 1,200 patients on average were waiting for a deceased-donor kidney transplant and the average wait time was approximately four years. Patients had to undergo dialysis as well as continuous testing and evaluation to stay on the wait list, creating mental and physical

burdens on patients and resulting in significant costs to the health-care system.

- Apart from the 27 Regional Renal Programs funded and overseen by the Renal Network, the Ministry also funded and provided oversight for seven Independent Health Facilities (Facilities) that provided dialysis. With no complete oversight of and information on dialysis across the province, it was difficult for the Renal Network to effectively plan and measure renal care in Ontario.
- While the Trillium Network and the Renal Network established a data-sharing agreement in September 2017 to capture patients' complete transplant journeys, inaccurate and incomplete transplant data caused difficulty in measuring and reporting transplant activities.
- The Renal Network had not reviewed its funding amounts for most chronic kidney disease services since implementing them between 2012/13 and 2014/15, even though they were meant to be a starting point. Through our review of expenditures of the five Regional Renal Programs we visited, we found possible surpluses of \$37 million over the previous five years.
- Base funding for kidney transplants was unchanged since 1988 and did not align with the actual cost. The current funding rate per kidney transplant was approximately \$25,000, with a top-up amount of \$5,800. However, the average cost reported for a deceased-donor kidney transplant, including pre-transplant and pre-operative care provided by transplant centres, was \$40,000, ranging from about \$32,000 at one centre to \$57,000 at another.

We made 14 recommendations, consisting of 27 action items, to address our audit findings.

We received commitment from the Ministry of Health, Ontario Health (Renal Network) [formerly Ontario Renal Network] and Ontario Health (Trillium Gift of Life Network) [formerly Trillium Gift of Life Network] that they would take necessary actions to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 1, 2021, and August 13, 2021. We obtained written representation from the Ministry of Health that effective October 22, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Patients Do Not Always Receive Sufficient and Consistent Specialty and Multidisciplinary Care on a Timely Basis

#### Recommendation 1

*To help patients receive timely referrals to a nephrologist and slow down the progression of their chronic kidney disease, we recommend that the Ontario Renal Network:*

- *work with the Ministry of Health to share lab data from the Ontario Laboratories Information System with the Regional Renal Programs to help them identify and follow up on patients who are eligible for referral to a nephrologist;*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that the Ontario Renal Network (Renal Network) used data from the Ontario Laboratories Information System (OLIS) and other sources to measure the percentage of patients who visited a nephrologist within 12 months of meeting the referral criteria. Our review of 2017/18 results of this measure noted that over 40% of patients (or about 8,700) had not been referred to a nephrologist even though they met the referral criteria.

In our follow-up, Ontario Health (Renal Network) informed us that it has taken the following actions to increase the rate of patient referral. For example,

- It initiated preliminary discussions with the Ministry regarding the use of OLIS data for

the purpose of identifying and following up on patients who are eligible for referral to a nephrologist. The latest meeting took place on April 13, 2021, discussing the permission of using OLIS data for the purpose of an early chronic kidney disease case finding program and/or physician-level reporting, the legal and privacy requirements for using this data for these options, and the existing data and reporting structures to share information with the Regional Renal Programs.

- It collaborated with the Kidney, Dialysis and Transplantation Research Program at the Institute for Clinical Evaluative Sciences (KDT-ICES) on a research study to understand the feasibility and potential model of connecting patients to nephrologists for a kidney health check. One of the objectives of the study is to determine the feasibility of using OLIS data to identify patients for whom a referral to a nephrologist is indicated to promote early detection of chronic kidney disease. The study will launch by June 2022 and the interim results of the study will be summarized in a report by December 2023.
- It conducted an in-depth analysis of the patient characteristics, including demographics, socio-economic status, and health status, of those patients who are eligible for referral, but have not seen a nephrologist. The results from the analysis, which were shared with Regional Renal Programs, indicate that referral rates decrease as the distance between the patient and the Regional Renal Program increases, which suggests that access to virtual care may improve referral rates.

Ontario Health (Renal Network) will finalize the design for an early detection program based on the results of the feasibility study in collaboration with the KDT-ICES. It will also conduct further statistical analysis to identify targeted populations for the program. Concurrently, it will continue to engage partners to explore other mechanisms and determine the feasibility of identifying eligible patients for referral to nephrologists through other means, which include performance measures for primary care providers and prompts in laboratory results.

- *work with the Regional Renal Programs to investigate cases where patients are not being referred to see nephrologists on a timely basis to ensure these patients are referred for assessment.*

**Status: In the process of being implemented by June 2022.**

### Details

In our 2019 audit, we found that about 2,200 patients who initially met referral criteria in 2015/16 and continued to meet the criteria in subsequent years were never referred to a nephrologist. However, the Ontario Renal Network had not followed up on these cases.

In our follow-up, we found that the Ontario Health (Renal Network) has been working with the Regional Renal Programs to ensure eligible patients are referred to see nephrologists on a timely basis.

Specifically,

- Ontario Health (Renal Network) has reported to the Regional Renal Programs on the early chronic kidney disease (CKD) referral rate to nephrology on an annual basis. This early CKD indicator measures the proportion of patients who are eligible for referral from primary care to nephrology based on the KidneyWise Clinical Toolkit criteria and have had at least one outpatient nephrology visit. The indicator was revised in 2020 to better support the Regional Renal Programs in targeting patients and primary care providers within their communities. The revised methodology was based on input from the Early CKD Priority Panel and Ontario Health (Renal Network)'s Provincial Leadership Table. The refinements improve alignment of the indicator with the KidneyWise Clinical Toolkit criteria for referral and focuses on patients who would benefit the most from timely and appropriate referrals to nephrology.
- To further support the Regional Renal Programs so they can better understand trends and opportunities for improved referrals, Ontario Health (Renal Network) shared the results of an analysis of the referral to nephrology indicator in February 2021. The analysis will provide the Regional

Renal Programs with a better understanding of the indicator's performance at a provincial and regional level. The analysis will also help support the Regional Renal Programs to investigate local opportunities for improvement to ensure patients receive timely referral to nephrology.

Insights from the analysis were reviewed with the Regional Renal Programs during the quarterly performance review meetings. Discussion focused on how Regional Renal Programs have used or plan to use the information from the analysis for engagement initiatives with primary care and on actions to improve referral rates of patients. These meetings also provided an opportunity for the Regional Renal Programs to suggest additional analyses in the future.

Based on discussions at the quarterly performance reviews, Ontario Health (Renal Network) will explore the need for further refinements to the early indicator of chronic kidney disease and continue to share the results with the Regional Renal Programs on an annual basis to support investigation and improvement of the referral rate.

### Recommendation 2

*To help patients with advanced stages of chronic kidney disease obtain access to equitable and consistent services across the province, we recommend that the Ontario Renal Network:*

- *collect information on the composition and staffing level of the multidisciplinary team at each Multi-Care Kidney Clinic from the Regional Renal Programs on an annual basis to identify teams that do not meet best practices and make changes accordingly;*

**Status: In the process of being implemented by June 2022.**

### Details

In our 2019 audit, we noted that in January 2019, the Ontario Renal Network released a document that outlines best practices for the Multi-Care Kidney Clinics (Clinics). One of the best practices was related to the composition and responsibilities of the multidisciplinary team. Despite the Renal Network's best

practices, through our survey we found that staffing levels varied widely from one Clinic to another. For example, one Regional Renal Program with approximately 500 Clinic patients had access to two full-time pharmacists, while another with a similar patient volume only had access to one part-time pharmacist.

In our follow-up, we found that Ontario Health (Renal Network) has started collecting information on the composition and staffing level of the multidisciplinary team from the Regional Renal Programs and prepared further analysis. Specifically,

- The Regional Renal Programs submitted their staffing composition and levels by discipline to Ontario Health (Renal Network) in October 2020. Ontario Health (Renal Network) has summarized and reviewed the findings. The report will be submitted annually by the Regional Renal Programs so that changes can be monitored over time. Ontario Health (Renal Network) will collect an updated annual report from all Regional Renal Programs in October 2021.
- Ontario Health (Renal Network) has conducted virtual quality-focused assessments with three Regional Renal Programs in 2021. Following the assessment, Ontario Health (Renal Network) will be providing a formal report back to each Regional Renal Program's leadership team with recommendation on actions that should be taken to ensure adherence to the best practices, including adequate resourcing of the multidisciplinary team. All three reports have been drafted and are in the process of being shared with the Regional Renal Programs. Ontario Health (Renal Network) will conduct a minimum of five additional quality-focused assessments with the Regional Renal Programs by March 2022.

Based on results from the annual report of the Regional Renal Programs and the virtual quality-focused assessments, Ontario Health (Renal Network) will release a provincial summary report in June 2022 to share practices and learnings among Regional Renal Programs.

- *review the composition and practices of each multidisciplinary team to identify whether to implement minimum patient-to-staff ratios.*

**Status: In the process of being implemented by June 2022.**

### Details

In our 2019 audit, we found that approximately 50% of Regional Renal Programs that responded to our survey indicated having gaps in their Clinic as a result of either not having a specific staff discipline (for example, a pharmacist) or not having enough access to a specific discipline. Therefore, patients' access to care at the Clinics varied depending on which Regional Renal Program they were connected to, creating an inequity in the availability of services across the province.

As mentioned in the previous recommended action, the Regional Renal Programs submitted their staffing composition and levels by discipline to Ontario Health (Renal Network) in October 2020. Ontario Health (Renal Network) is in the process of summarizing and reviewing the findings. The report will be submitted annually by the Regional Renal Programs so that changes can be monitored over time. Ontario Health (Renal Network) will collect an updated annual report from all Regional Renal Programs in October 2021, including information on composition and practices of each multidisciplinary team.

Ontario Health (Renal Network) will engage with experts in December 2021 to review the summary of findings from the annual report to inform the decision on whether to implement minimum patient-to-staff ratios. Ontario Health (Renal Network) will also release a provincial summary report in June 2022 to share practices and learnings among Regional Renal Programs.

### Recommendation 3

*To provide enough multidisciplinary care to patients with advanced stages of chronic kidney disease, we recommend that the Ontario Renal Network work with the Regional Renal Programs to fully investigate the reasons for late referrals to the Multi-Care Kidney Clinics and implement practices to allow for timely referral.*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that the Ontario Renal Network and Regional Renal Programs indicated that patients should receive at least 12 months of multidisciplinary care in the Multi-Care Kidney Clinic (Clinic) before starting dialysis to slow down the progression of the disease, delay dialysis starts and educate patients on the treatment options available. However, we found that almost 60% of patients did not receive at least 12 months of multidisciplinary care in the Clinics. Of the approximately 3,350 patients who started dialysis in 2018/19, about 25% received less than 12 months of care in a Clinic while 33% did not receive any care in a Clinic prior to starting dialysis.

In our follow-up, we found that Ontario Health (Renal Network) has partnered with the Kidney Dialysis and Transplantation Research Program at the Institute for Clinical Evaluative Sciences (KDT-ICES) to fully investigate the reasons for late referral and has begun implementing practices to support timelier referral to the Clinics. KDT-ICES submitted a final report to Ontario Health (Renal Network) in March 2021.

The investigation found that more than half of patients spent limited or no time in the Clinic prior to initiating dialysis. This could be attributed to various reasons, for example:

- Patients experienced a significant change in their health condition that triggered a kidney-related disease or acute kidney injury, and then survived to transition into chronic dialysis care.
- Primary care providers did not refer patients to a nephrologist on a timely basis.

- Patients did not receive appropriate testing by a primary care provider on a timely basis.
- Nephrologists did not refer patients to the Clinic in a timely basis.

Based on the study results, Ontario Health (Renal Network) has implemented the following initiatives to address the reasons for late or no referral to the Clinic:

- Ontario Health (Renal Network) has reviewed the performance of the Regional Renal Programs on a quarterly basis, including indicators that measure the proportion of the Clinic referrals and time spent in the Clinics prior to dialysis initiation.
- In January 2020, Ontario Health (Renal Network) established a provincial target for the time spent in a Clinic prior to dialysis. Meetings with all Regional Renal Programs were held in January and February 2020 to discuss performance and improvement practices.
- In March 2021, Ontario Health (Renal Network) launched technical and methodology refinements for the Multi-Care Kidney Clinic Referral indicator. A provincial target has been approved and launched in the regional scorecard in June 2021.
- The development of a Multi-Care Kidney Clinic Insights report is underway to support the Regional Renal Programs with supplementary data related to referral and clinic utilization that will enable local improvement initiatives. The report was piloted with select Regional Renal Programs beginning in March 2021. The report will be fully completed and released to all Regional Renal Programs in November 2021, providing them with supplementary data to further investigate the reasons for late referrals to the Clinics.

#### Recommendation 4

To help the Multi-Care Kidney Clinics (Clinics) admit the right patients who would benefit from multidisciplinary care at the right time, we recommend that the Ontario Renal Network:

- collect further information and feedback regarding the revised eligibility criteria for Clinics from health-care providers at the Regional Renal Programs as well as experts in the field of renal care;
- Status: In the process of being implemented by March 2022.**

#### Details

In our 2019 audit, we found that in 2016, the Ontario Renal Network revised the eligibility criteria for admission to the Multi-Care Kidney Clinics (Clinics) because the original criteria (established in 2013) had resulted in many patients with a lower risk of kidney failure being referred to the Clinics unnecessarily. Subsequent to the criteria changes, the number of patients admitted to the Clinics fell about 39% between 2015/16 and 2018/19, which resulted in cost savings of about \$8 million per year for the Renal Network to use for other initiatives.

In our follow-up, we found that Ontario Health (Renal Network) has taken actions to collect further information and feedback. For example:

- In May 2021, Ontario Health (Renal Network) initiated a refreshed literature review to inform updates required to the Multi-Care Kidney Clinic best practices. The review is expected to be completed in September 2021.
- In June 2021, a multidisciplinary task group was convened with experts from the Regional Renal Programs to review the literature and determine updates required on the best practices and revised eligibility criteria.

Additionally, Ontario Health (Renal Network) informed us that a plan has been developed to complete the update and refresh of the Multi-Care Kidney Clinic best practices. The timeline of the plan is as follows:

- Seek feedback from the Regional Renal Programs, health-care providers and experts in the field of

renal care on the recommended changes (December 2021); and

- Launch an updated Multi-Care Kidney Clinic Best Practice document, including revised eligibility criteria if needed. (March 2022).

Ontario Health (Renal Network) informed us that the COVID-19 pandemic impacted the ability to engage with the Regional Renal Programs and resulted in the redeployment of staff to pandemic-specific provincial initiatives. As a result, the refresh of the Multi-Care Kidney Clinic Best Practices has been postponed and is planned for completion by March 2022.

- update the revised eligibility criteria if needed, based on information and feedback.

**Status: Little or no progress.**

#### Details

In our 2019 audit, we found that in 2016/17 and 2017/18, the Ontario Renal Network evaluated the impact of revised eligibility criteria and found no negative impact on patient outcomes. However, it received mixed feedback from a survey it conducted during the first year of implementing the criteria. We also noted that 73% of Regional Renal Programs that responded to our Office's 2019 survey indicated they provided Clinic care to patients using other sources of funding even though these patients did not meet the new eligibility criteria. The survey result aligns with what we found during our site visits.

As mentioned in the previous recommended action, Ontario Health (Renal Network) has taken actions to collect further information and feedback. Ontario Health (Renal Network) informed us that it will launch an updated Multi-Care Kidney Clinic Best Practice document, including revised eligibility criteria if needed, by March 2022.

## Dialysis Services Do Not Fully Meet People's Needs or Provincial Target

### Recommendation 5

*To better align the capacity for in-centre dialysis with regional needs, we recommend that the Ontario Renal Network conduct a province-wide capacity analysis and realign the supply of in-centre dialysis spots to alleviate high-demand situations in some Regional Renal Programs and reduce the amount of under-used capacity at others.*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that capacity for in-centre dialysis in a hospital or clinic setting did not align with regional needs. Twenty-seven Regional Renal Programs have a total of 94 in-centre dialysis locations across Ontario with a capacity to serve about 10,200 patients. While the occupancy rate of all locations is about 80% on average, it ranges from 26% to 128% depending on location. About 35% of these locations have an occupancy rate of at least 90%, with some at or near full occupancy. Meanwhile, about 18% of these locations have an occupancy rate below 70%, meaning their dialysis stations are not being used to their maximum capacities. We found that the mismatch between dialysis capacity and regional need could be the result of patients not always receiving dialysis at the locations closest to them. For example, a Regional Renal Program with an occupancy rate of approximately 90% at most of its locations has about 22% of its patients coming from outside of its catchment area.

In our follow-up, we found that Ontario Health (Renal Network) has started taking the following actions to analyze province-wide capacity and realign the supply of in-centre dialysis spots.

- Ontario Health (Renal Network) has updated its projections of the future demand for dialysis across the province over the next 10 years. Regional analyses comparing these projections to available dialysis capacity have been distributed to

all 27 Regional Renal Programs through the 2019-2029 Regional Dialysis Capacity Assessments. Ontario Health (Renal Network) has met with all Regional Renal Programs to review, discuss, and validate the data in these assessments. Ontario Health (Renal Network) will continue to update these assessments every two years.

- As part of its funding agreement with each Regional Renal Program hospital, Ontario Health (Renal Network) has required the submission of a Strategic Dialysis Capacity Plan from all Regional Renal Programs outlining their short, medium, and long-term strategies to address their capacity needs, leveraging the data provided in the 2019-2029 Regional Dialysis Capacity Assessments. Regional Renal Programs will be required to update their Strategic Dialysis Capacity Plans every two years based on the updated Regional Dialysis Capacity Assessments.
- To assist in this work and promote collaborative capacity planning across Regional Renal Programs, Ontario Health (Renal Network) hosted a Greater Toronto Area Capacity Planning Forum in Spring 2020 attended by renal program leaders from the 10 Regional Renal Programs located within the Greater Toronto Area. At this forum, Ontario Health (Renal Network) presented the current and future projected demands for in-centre dialysis and the gap between demand and available supply of capacity across this region, and facilitated working sessions exploring collaborative capacity planning strategies.
- All 27 Regional Renal Programs have submitted their first Strategic Dialysis Capacity Plans to Ontario Health (Renal Network). Ontario Health (Renal Network) has reviewed each Strategic Dialysis Capacity Plan and is assessing the potential effectiveness of each in appropriately addressing each Regional Renal Program's projected dialysis demands as well as working with Regional Renal Programs to make adjustments where necessary.
- To further support the Regional Renal Programs in their capacity management and planning efforts,

Ontario Health (Renal Network) has developed an In-Centre Dialysis Occupancy indicator. This indicator is reported quarterly and measures the proportion of each Regional Renal Program's capacity to provide in-centre dialysis that is occupied and the capacity that remains available.

The above actions are expected to be fully implemented and completed by December 2021. Specifically, Ontario Health (Renal Network) will:

- Complete the assessments of each Regional Renal Program's Strategic Dialysis Capacity Plan and their effectiveness in appropriately addressing each Regional Renal Program's projected dialysis demands;
- Obtain updated Strategic Dialysis Capacity Plans from Regional Renal Programs where adjustments are found to be necessary to meet future dialysis demand; and
- Complete and release the multi-year Provincial Dialysis Capacity and Capital Planning Strategy to inform the prioritization, location, size and timing of investments required to create additional capacity where necessary, and to optimize the utilization of existing resources.

### Recommendation 6

*To further increase the rate of home dialysis in Ontario and meet the target, we recommend that the Ontario Renal Network work with the Ministry of Health to:*

- *assess and address the challenges (such as staffing and resources issues) of increasing the home dialysis usage rate and take corrective action;*

**Status: In the process of being implemented by June 2022.**

### Details

In our 2019 audit, we found that the home dialysis usage rate in Ontario still had not met the Ontario Renal Network's then target of 28% (measuring the percentage of patients on home dialysis out of all patients on dialysis), which has subsequently changed to 27% based on consensus to reflect the impact of transplantation on the home dialysis rate. Our analysis of home dialysis usage rates in 2018/19 at each of the 27 Regional Renal Programs found that the rate

across the province was 26% on average, but it varied significantly, ranging from approximately 16% at one Regional Renal Program to about 41% at another; and only six (or 22%) of the 27 Regional Renal Programs met the then home dialysis target of 28%. We noted that increasing and maintaining home dialysis usage rates was challenging for many reasons, mainly related to patients' choices or medical conditions and staffing or resource issues.

In our follow-up, we found that Ontario Health (Renal Network) has started taking the following actions to assess and address the challenges of increasing the home dialysis usage rate.

- Ontario Health (Renal Network) has assessed home dialysis province-wide through various forums and methods (e.g., quarterly reviews of program performance, mentorship, and site visits as needed). Quarterly Performance Review meetings were completed with all 27 Regional Renal Programs in September 2020. The focus of the discussions was on supporting an increase in home dialysis, particularly during the COVID-19 pandemic when home dialysis has additional safety benefits for patients.
- Ontario Health (Renal Network) has released a Home Dialysis Insights report to each Regional Renal Program on an annual basis to provide support with identification of local gaps and opportunities to improve home dialysis. The latest report was released in August 2020.
- In January 2020, a home dialysis mentorship pilot project was launched to support the sharing of best practices among Regional Renal Programs. The pilot was paused in March 2020 due to the COVID-19 pandemic, but restarted in August 2020. The pilot was completed in March 2021. Based on the pilot project, Ontario Health (Renal Network) launched a provincial home dialysis mentorship program to all Regional Renal Programs in June 2021.
- Ontario Health (Renal Network) has completed an implementation evaluation and produced a report for the Integrated Dialysis Care (IDC) model for assisted-peritoneal dialysis (a type of dialysis that is primarily delivered at home). The report was

disseminated to Regional Renal Programs in September 2020. Five early adopter Regional Renal Programs continue to provide assisted-peritoneal dialysis through the IDC model. Ontario Health (Renal Network) will launch the IDC model to other Regional Renal Programs by June 2022.

- *collect information on home dialysis training from the Regional Renal Programs to determine the appropriate funding for training and adjust the current funding allocation if needed;*

**Status: In the process of being implemented by April 2023.**

### Details

In our 2019 audit, we found that the Ontario Renal Network funded the Regional Renal Programs to provide 21 days of training to patients choosing home hemodialysis. Some Regional Renal Programs informed us that 21 days of training for home hemodialysis was often not enough to ensure that a patient is adequately trained. This meant that patients may have to go back to in-centre dialysis.

In our follow-up, we found that Ontario Health (Renal Network) has developed a multi-year plan for the phased refresh of the Chronic Kidney Disease Quality-Based Procedure (see **Recommendation 9**), including training for home dialysis modalities. This will include a comprehensive review of the current funding models and reimbursement methodologies to address noted gaps and opportunities. The plan includes data collection and expert consultation to define and cost the standard of care for home training. The refresh will pursue equitable, transparent, and evidence-based funding and reimbursement methodologies. Ontario Health (Renal Network) will collect and review additional home training information as part of the refresh of the Chronic Kidney Disease Quality-Based Procedure. To support the refresh, it has been collecting information on the number of days spent for home dialysis training through the Ontario Renal Reporting System.

Ontario Health (Renal Network) indicated that home dialysis training is expected to be investigated within the 2022/23 fiscal year.

- *conduct a province-wide and cross-jurisdictional analysis to identify best practices for increasing home dialysis usage rates and implement those practices across the province.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the home dialysis usage rate in Ontario remained steady (around 25% to 26% in recent years), but was lower than some provinces and other countries. The rate in Canada was about 25%, which was about the same as Ontario's current average rate of 26%. According to the most recent (2017) data from the Canadian Institute for Health Information, Ontario's home dialysis usage rate was about 25%, the same as the rate in Canada, but lower than the rates in Alberta (29%) and British Columbia (30%). According to the 2018 United States Renal Data System Annual Data Report, home dialysis rates varied worldwide, ranging from less than 5% in some countries (such as Japan) to over 40% and 70% in New Zealand and Hong Kong, respectively.

In our follow-up, we found that Ontario Health (Renal Network) has conducted a jurisdictional scan, with a focus on home hemodialysis. Based on the jurisdictional scan, Ontario Health (Renal Network) summarized the findings on innovative models of care that may increase home dialysis usage rates and provided recommendations for implementation across the province.

Ontario Health (Renal Network) has also held Quarterly Performance Review meetings with all 27 Regional Renal Programs in September 2020. The focus of the discussions was on supporting home dialysis, particularly during the COVID-19 pandemic.

As well, Ontario Health (Renal Network) has hosted weekly COVID-19 calls with all Regional Renal Program. The impact of COVID-19 on home dialysis was frequently discussed on these calls and practices were shared between Regional Renal Programs across the province.

## Wait Times for Kidney Transplants Remain Long

### Recommendation 7

*To provide eligible patients with timely access to kidney transplants in Ontario and appropriate pre-transplant care, we recommend that the Trillium Gift of Life Network, in collaboration with the Ministry of Health and the Ontario Renal Network:*

- *study transplant policies and initiatives in other jurisdictions to identify best practices that would help increase organ donations and shorten wait times in Ontario;*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we found that wait lists and wait times for deceased-donor kidney transplants remained long. In each of the last five years, approximately 1,200 patients on average were waiting for a deceased-donor kidney transplant and the average wait time was approximately four years, resulting in some patients becoming too ill for a transplant or dying before receiving a transplant. Patients waiting for a kidney transplant had to undergo dialysis as well as continuous testing and evaluation to stay on the wait list, creating mental and physical burdens on patients and resulting in significant costs to the health-care system.

In our follow-up, we found that Ontario Health (Renal Network) and Ontario Health (Trillium Gift of Life Network) have taken the following actions to identify best practices that would help increase organ donations and shorten wait times in Ontario.

- In January 2020, Ontario Health (Renal Network) participated in the Canadian Blood Services (CBS) Advancing Living Kidney Donation Forum, which reviewed leading practices in other jurisdictions.
- Ontario Health (Trillium Gift of Life Network) has partnered with CBS to improve organ utilization and is a member of the national Optimizing Utilization of Deceased Donor Kidneys Steering Committee. Ontario Health (Trillium Gift of Life

Network) has completed a preliminary analysis of kidney utilization data in Ontario to present at a national forum. Due to the COVID-19 pandemic, the national forum was delayed until late 2021. A summary report was released in April 2021. A jurisdictional scan of national and international policies and initiatives intended to increase kidney transplants from organ donors will be completed by October 2021. A summary of preliminary recommendations on increasing kidney utilization will be presented to the Ontario Health (Trillium Gift of Life Network) Kidney Pancreas Working Group (KPWG) by December 2021.

- Ontario Health (Renal Network) and Ontario Health (Trillium Gift of Life Network) are continuing their partnership to implement the Access to Kidney Transplant and Living Donation (AKT) Strategy, which was developed based on leading practices in other jurisdictions. The AKT Strategy will identify evidence that will drive policies and initiatives to increase living-donor kidney transplants. A process evaluation was initiated in winter 2020/21 with final results expected by December 2021. In January 2022, the AKT Strategy will expand to all 27 Regional Renal Programs. Quantitative evaluation results are expected in June 2023.

- *work with kidney transplant centres and Regional Renal Programs to review the transplant eligibility and annual pre-transplant assessment or work-up process in order to identify efficiencies and cost savings.*

**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we found that the annual pre-transplant work-up not only created a burden on patients, but also results in significant costs to the health-care system. A 2019 study conducted by the European Renal Association—European Dialysis and Transplant Association also identified considerable agreement among experts that the work-up for a kidney transplant for low-risk patients should only

include a limited number of tests. Yet, the existing work-up process for a kidney transplant in Ontario aimed to cover all patients and circumstances, even though complicating factors (such as age and presence of other health conditions) could vary significantly between kidney transplant candidates.

In our follow-up, we found that Ontario Health (Renal Network) has conducted consultations with Regional Renal Programs and patients and family advisors to understand current state challenges and identify local processes, tools and models of care that have or could be implemented to improve the timeliness and efficiency of work-up processes. Ontario Health (Renal Network) has also conducted a jurisdictional scan to identify efficient and person-centred pre-transplant work-up processes.

Based on consultation with Regional Renal Programs and patient and family advisors, and the jurisdictional scan, a summary report was completed in June 2021 to identify challenges and opportunities for improving the pre-transplant work-up process.

Ontario Health (Trillium Gift of Life Network) has supported a referral triage program being piloted by the University Health Network (UHN) by providing recurring quarterly reports on wait time data. Ontario Health (Trillium Gift of Life Network) will evaluate the UHN's referral triage program pilot and consider provincial roll out. In addition, Ontario Health (Trillium Gift of Life Network) has begun the process of reviewing transplant referral and listing, including consultation with transplant programs and Ontario Health (Renal Network). Ontario Health (Trillium Gift of Life Network) has also begun the process of reviewing annual assessment requirements as part of its review of the Clinical Handbook for Kidney Transplantation.

## Recommendation 8

*To improve patient access to living-donor transplants in Ontario, we recommend that the Trillium Gift of Life Network, in collaboration with the Ministry of Health and the Ontario Renal Network:*

- *conduct a review of the Program for Reimbursing Expenses of Living Organ Donors to determine if the reimbursement rate is reasonable and if any adjustment is needed;*

**Status: Fully implemented.**

## Details

In our 2019 audit, we found that while Ontario had a program called Program for Reimbursing Expenses of Living Organ Donors (PRELOD) to reimburse living organ donors for eligible expenses (including travel, parking, accommodation, meals and loss of income up to a maximum of \$5,500), the reimbursement rate had not been changed since April 2008 when PRELOD was first introduced.

In our follow-up, we found that Ontario Health (Trillium Gift of Life Network) completed a review of PRELOD and submitted recommendations to the Ministry of Health (Ministry) in July 2020.

The review assessed gaps and limitations of PRELOD. Same as the findings in our 2019 audit, the review completed by Ontario Health (Trillium Gift of Life Network) in July 2020 also found significant deficiencies with PRELOD that undermine the potential of living organ donation in Ontario. As well as highlighting frustrations with the application process, it is evident from the review that reimbursement rates remain insufficient to cover the costs of living donation for many donors. Examples of the limitations identified through the review included the following:

- The maximum reimbursement allowances are insufficient to cover the costs incurred through living donation.
- The current eligibility criteria exclude applicants from claiming certain expenses based on the distance they live from the hospital.
- All living donors are required to return to the hospital after surgery to monitor and prevent adverse

outcomes. However, follow-up expenses incurred after a patient returns home are not eligible for reimbursement.

- Applicants indicated confusion and frustration with the application process as the eligibility criteria are unclear, forms are overly complicated, and reimbursement policies are inflexible.

As part of the review, Ontario Health (Trillium Gift of Life Network) completed a jurisdictional scan of Canadian and international living-donor reimbursement programs to help inform the recommendations to improve PRELOD. Ontario Health (Trillium Gift of Life Network) also consulted with BC Transplant and Transplant Quebec to discuss and understand how and what other provinces have done to improve their donor reimbursement programs.

Based on its review of PRELOD and consultations with other Canadian jurisdictions, Ontario Health (Trillium Gift of Life Network) recommended a number of changes to PRELOD. For example, Ontario Health (Trillium Gift of Life Network) was proposing to increase the maximum allowance for eligible expenses, eliminate distance restrictions for mileage and meal reimbursement, include reimbursement for post-surgery follow-up, broaden eligibility criteria and simplify the application process. These changes are expected to ensure equitable access to living-donor transplants and to minimize the financial barriers affecting access to living-donor transplantation in Ontario.

On February 25, 2021, the Ministry approved the recommendations contained in the review for implementation in 2021/22.

- *study living-donor transplant policies and initiatives in other jurisdictions to identify best practices that would help increase the rate of living-donor transplants in Ontario.*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that the overall number of kidney transplants increased in Ontario, but this growth was due to an increase in deceased-donor

transplants while living-donor transplants remained almost unchanged since 2008. Specifically, living-donor transplants accounted for about 45% of all kidney transplants in 2008, but dropped to 30% in 2017. This was much lower than the world average, as a 2018 study published by the American Society of Nephrology noted that approximately 40% of the kidneys for transplant worldwide come from living donors. In comparison with other provinces, the rate per million population for a living-donor kidney transplant in Ontario (13.5) was lower than Alberta (13.7), British Columbia (17.5) and Manitoba (20.9).

In our follow-up, we found that Ontario Health (Renal Network) and Ontario Health (Trillium Gift of Life Network) have taken the following actions to identify best practices that would help increase the rate of living-donor transplants in Ontario.

- A number of the initiatives that have been introduced in Ontario as part of the Access to Kidney Transplant and Living Donation (AKT) Strategy were based on studies completed in other jurisdictions. The AKT Strategy has focused on improving access to living kidney donation through education, quality improvement, peer support and data. The AKT Strategy process evaluation results are expected by December 2021. In January 2022, the AKT Strategy will expand to all 27 Regional Renal Programs. (see **Recommendation 7**).
- Ontario Health (Renal Network) participated in the Canadian Blood Services (CBS) Advancing Living Kidney Donation Forum in January 2020, which reviewed leading practices in other jurisdictions. (see **Recommendation 7**).
- Ontario Health (Trillium Gift of Life Network) held workshops in May and July 2021 to discuss variations in practice among living-donor programs and develop a clinical pathway and service bundles with standard frequencies of required tests, assessments and consultations for living donors in Ontario.
- Ontario Health (Trillium Gift of Life Network) has worked with Ornge to develop a process to facilitate shipping of living-donor kidneys for Kidney

Paired Donation (KPD) imports to avoid unnecessary travel for living donors during COVID-19 restrictions. Ontario Health (Trillium Gift of Life Network) has facilitated several transfers to date.

- Ontario Health (Renal Network) and Ontario Health (Trillium Gift of Life Network) completed a jurisdictional and evidence scan of best practices to increase the rate of living-donor transplants. A summary report was completed in July 2021.
- Ontario Health (Trillium Gift of Life Network) is collaborating with transplant programs and Ontario Health (Renal Network) to develop a living-donor clinical handbook to help standardize practices across the province.

In addition, to help transplant programs manage the anticipated increase in living-donor referrals, Ontario Health (Trillium Gift of Life Network) will also review the living-donor transplant funding rate (see **Recommendation 10**).

## Funding Needs to Be Reviewed to Match Actual Costs and Identify Potential Savings

### Recommendation 9

*To better reflect the volume and costs of services actually provided to patients in the funding amounts that are set based on the Quality-Based Procedure (QBP) method, we recommend that the Ontario Renal Network:*

- *conduct a review of the QBP funding per service to determine if the amount is reasonable and adjust if needed based on costing information from the Regional Renal Programs and best practices;*  
**Status: In the process of being implemented by July 2023.**

### Details

In our 2019 audit, we found that Ontario Renal Network has not reviewed its funding amounts for most chronic kidney disease services since implementing them between 2012/13 and 2014/15, even though they were meant to be a starting point given

the limited evidence available at the time. We also noted that it did not collect actual expenditures incurred by the Regional Renal Programs to ensure that funding allocated to each of them aligned with the costs of providing renal care. Through our review of expenditures of the five Regional Renal Programs we visited, we found possible surpluses of \$37 million over the last five years.

In our follow-up, we found that Ontario Health (Renal Network) has started taking the following actions, which are expected to be implemented by July 2023.

- Ontario Health (Renal Network) conducted a consultation on the approach to the multi-year plan for the work to refresh the Chronic Kidney Disease (CKD) Quality-Based Procedure (QBP) funding model, including the sequencing and timing of patient cohorts for phased development. The plan has been endorsed by the Steering Committee.
- Ontario Health (Renal Network) has begun work to refresh the CKD QBP funding model. This includes a comprehensive review of the current funding models and reimbursement methodologies to address gaps and opportunities. Detailed costing data from Regional Renal Programs and relevant best practices will be used to cost the standard of care in the respective patient pathways, in terms of type, duration and frequency of services, and required cost inputs. The CKD QBP refresh will be conducted so that funded models of care are clearly defined, and future changes to costs or best practices can be readily incorporated into the funding models.
- The CKD QBP refresh will be completed in phases, to ensure due diligence in data collection, expert consultation, and Regional Renal Program engagement. The current planned schedule for the refresh includes the review of in-centre hemodialysis and acute dialysis treatments, followed by home dialysis (including training and assistance), and finally, multi-care kidney clinics and other services. The sequencing of the clinical elements of the refresh is subject to change. Given the Ministry of Health's requirement of six months' advance

notice for funding model changes, implementation of updated funding rates may not occur until April 1st of the fiscal year following the finalization of each set of rates.

- Ontario Health (Renal Network) has collected data from select Regional Renal Programs for in-centre hemodialysis to understand care practices and related cost inputs. Follow-up engagement to review the data and define the care standard was put on hold for a number of months due to the COVID-19 pandemic, which impacted the ability to engage Regional Renal Programs and staffing available to work on the project. A working group has so far built consensus on recommendations for key inputs including: staffing, supplies, labs and drug requirements. Discussions about access co-ordination and number of treatments in the in-centre hemodialysis are ongoing. All recommendations will be modelled and iterated as required, and will be brought forward through the governance for this project.
- Ontario Health (Renal Network) has, through consultation, developed a detailed template to collect data from select Regional Renal Programs for acute treatment events to understand the care activities, supply costs, and treatment duration of the standard of care for each event type. The template has been endorsed by stakeholders and released to participant Regional Renal Programs. Preliminary analysis and follow-up with the Regional Renal Programs has begun based on data that has been submitted. Similar to the in-centre hemodialysis work, a working group will be established to recommend inputs to inform the standard of practice for acute dialysis.
- Ontario Health (Renal Network) has also begun identifying available key measures to help inform costing of assisted dialysis home-care models. For this patient cohort, the refresh will consider care utilization data currently being submitted by Home and Community Care Support Services through the Home Care Database, and also by select Regional Renal Programs through the Integrated Dialysis Care template.

- *collect renal expenditures from Regional Renal Programs on an annual basis and use the information to inform changes in future funding allocation.*

**Status: Fully implemented.**

### Details

In our 2019 audit, our review of the Regional Renal Programs' budget submissions and their annual reporting to the Ontario Renal Network found that their budget submissions were based on the Quality-Based procedures (QBP) funding model, but their report back to the Renal Network did not include the actual expenditures they incurred to provide services. Therefore, the Renal Network did not know if the allocated funding to Regional Renal Programs reflects the cost of providing renal services.

In our follow-up, we found that Ontario Health (Renal Network) worked with Regional Renal Programs to develop a reporting methodology to capture all appropriate expenses as accurately as possible, recognizing that the CKD QBP funding model is complex and includes patient-care services provided within the dialysis unit as well as those provided by other hospital departments. Specifically:

- Ontario Health (Renal Network) conducted a pilot expense collection project with Regional Renal Programs to assess the feasibility and comparability of data submitted. The results of this pilot indicated wide differences in methodology and approaches to expense monitoring from Regional Renal Programs, suggesting it be replaced with a standardized approach to collecting expenses.
- Ontario Health (Renal Network) has developed a methodology for estimating expenses using data from hospital trial balance submissions and the Ontario Costing Distribution Model (OCDM). Consultation with the Regional Renal Programs regarding this approach was completed in March 2021. Ontario Health (Renal Network) has finalized the expense calculation methodology and applied it to all Regional Renal Programs. Based on this methodology, Ontario Health (Renal Network) estimated that the net provincial

surplus based on 2019/20 results is approximately \$1 million (or 0.2%) of the associated provincial QBP funding. Ontario Health (Renal Network) will continue to monitor expenses based on this methodology on an annual basis.

### Recommendation 10

*To better reflect the actual costs incurred by the transplant centres for kidney transplants, we recommend that the Trillium Gift of Life Network, in collaboration with the Ministry of Health:*

- *continue to collect and review cost information from the transplant centres;*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we found that base funding for kidney transplants was unchanged since 1988 and did not align with the actual cost. Our review of information at the transplant centres we visited showed that the cost of a kidney transplant varied and that the funding rate (approximately \$25,000, with a top-up amount of \$5,800) did not align with the actual cost incurred by the centres. For example, the average cost reported for a deceased-donor kidney transplant, including pre-transplant and pre-operative care provided by the transplant centre, was \$40,000, ranging from about \$32,000 at one centre to \$57,000 at another.

In our follow-up, we found that Ontario Health (Trillium Gift of Life Network) submitted its report on kidney transplant costing and funding for deceased-donor recipients to the Ministry in November 2020. The Ministry of Health has reviewed the submission and is working with Ontario Health (Trillium Gift of Life Network) to launch a Transplant Funding Advisory Committee in late 2021 to plan for implementation of a new funding model.

- *conduct a review of the current funding rates for both deceased-donor and living-donor transplants to confirm what adjustments are needed.*

**Status: In the process of being implemented by April 2023.**

### Details

In our 2019 audit, we found that the time and resources involved in managing patients waiting for transplants were significant given the ongoing testing and evaluation required. The funding rate of \$25,000 only covered the cost of the transplant procedure during the surgical phase. Therefore, if the patient died while waiting for a transplant, the transplant centres did not receive any funding for providing pre-transplant care to the patient and maintaining the patient on the wait list. As well, the top-up of \$5,800 for each living-donor transplant was not enough to cover the additional costs of evaluating donors, as multiple donors typically had to be evaluated for suitability in each kidney transplant case.

In our follow-up, we found that Ontario Health (Trillium Gift of Life Network) has sent a template to living-kidney donor programs to collect information on donor intervention and frequencies. After collecting the information, it will finalize the costing and funding model, including pre-transplant, transplant and post-transplant related activities. Based on the information collected and funding model, it will review the living-donor transplant funding rate as part of the overall funding evaluation for transplantation, which is expected to be completed by April 2023.

### Recommendation 11

*To help identify and achieve potential savings from the procurement of peritoneal dialysis equipment and supplies, we recommend that the Ontario Renal Network:*

- *collect cost information on peritoneal dialysis equipment and supplies from the Regional Renal Programs;*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we reviewed a sample of invoices for peritoneal dialysis supplies across the Regional Renal Programs and found price differences ranging from 8% to 20%, indicating opportunities for cost savings.

In our follow-up, we found that Ontario Health (Renal Network) has started taking the following actions, which are expected to be implemented by December 2021.

- Ontario Health (Renal Network) has been proceeding with its Peritoneal Dialysis Procurement initiative. The Clinical Advisory Council for the initiative was established and held its first meeting in November 2020.
- Consensus has been reached on a data collection approach and endorsed by the Clinical Advisory Council. Ontario Health (Renal Network) has been working with the Regional Renal Programs, group purchasing organizations, and peritoneal dialysis supply vendors to collect cost information on peritoneal dialysis equipment and supplies. Ontario Health (Renal Network) completed its work on the data collection strategy in June 2021.

As of the end of June 2021, Ontario Health (Renal Network) was able to collect 12 months of anonymized data on patient orders of peritoneal dialysis supplies directly from the two vendors with market share in Ontario. The data collected represents 17 of 27 Regional Renal Programs and 75% of the current peritoneal dialysis patient population. The data collection is expected to be completed December 2021.

- *analyze whether a provincial procurement initiative (similar to the fixed-price agreements for hemodialysis equipment and supplies) would provide additional savings.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Ontario Renal Network reviewed the cost of hemodialysis equipment and supplies and achieved a savings of approximately \$30 million through a provincial procurement initiative. While the Renal Network did not establish a similar initiative for peritoneal dialysis supplies, it began reviewing the pricing of peritoneal dialysis supplies at the time of our audit to determine if additional savings were available.

In our follow-up, we found that Ontario Health (Renal Network) presented the business case for the Provincial Peritoneal Dialysis Procurement to the Ontario Health Board and subsequently reviewed and approved by the Ontario Treasury Board/Management Board of Cabinet. As of June 2021, Ontario Health (Renal Network) conducted analyses of potential savings based on data collected from Regional Renal Programs and peritoneal dialysis supply vendors. Through these analyses, Ontario Health (Renal Network) identified that pricing of peritoneal dialysis supplies varies significantly across the province and represents an opportunity for savings if purchased through a centralized provincial agreement.

## Lack of Co-ordination Creates Challenges for Planning and Managing Renal Care

### Recommendation 12

*To provide patients with equal access to quality dialysis services across the province, we recommend that the Ontario Renal Network (Renal Network) work with the Ministry of Health (Ministry) to:*

- *conduct a review of the oversight and funding of dialysis services provided at the Independent Health Facilities (Facilities) to identify opportunities to improve the co-ordination between the Facilities and the Regional Renal Programs and evaluate the benefits of transferring the Ministry's responsibility for the Facilities to the Renal Network;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that apart from the 27 Regional Renal Programs funded and overseen by Ontario Renal Network, the Ministry also funded and oversaw seven Independent Health Facilities (Facilities) that provided dialysis to patients. Unlike the Regional Renal Programs that also provided dialysis, these Facilities were not required to report the

same data to the Renal Network. Because of this, the Renal Network did not have complete oversight of and information on dialysis across the province. This made it difficult for the Renal Network to effectively plan and measure renal care in Ontario.

In our follow-up, we found that Ontario Health (Renal Network) has worked with the Ministry of Health to identify opportunities for improved co-ordination between the Regional Renal Programs and Independent Health Facilities that provide dialysis services. This has included a review of the benefits and legislative considerations of transferring the responsibility for funding, quality improvement, as well as performance measurement and management, of these Independent Health Facilities from the Ministry of Health to Ontario Health (Renal Network). Based on this review, the Ministry of Health developed a business case recommending the transfer of responsibility for dialysis Independent Health Facilities from the Ministry of Health to Ontario Health (Renal Network).

- *begin collecting information from the Facilities that is consistent with the information collected from Regional Renal Programs so that the data on all dialysis patients is complete for planning and performance measurement purposes.*

**Status:** In the process of being implemented by April 2022.

### Details

In our 2019 audit, we found that while both Facilities and Regional Renal Programs provided dialysis to patients, the performance measures used by the Ministry to evaluate the performance of the Facilities were different from the measures used by the Renal Network to evaluate the Regional Renal Programs. For example, the Renal Network could not assess the results of patient-reported experience measures at the Facilities as it did for Regional Renal Programs because the Ministry did not collect this information. Since the Facilities were not subject to the same reporting requirements and performance measures as the Regional Renal Programs, the Renal Network cannot assess whether the dialysis services

provided by the Facilities were effective, efficient and consistent with the Regional Renal Programs and whether the operations of the Facilities aligned with the goals outlined in the Renal Network's strategic plans.

In our follow-up, we found that in anticipation of supporting data collection and to better co-ordinate surveillance on the impact of COVID-19 on the in-facility dialysis population across Regional Renal Programs and Independent Health Facilities, Ontario Health entered into Master Data Sharing Agreements with the Independent Health Facilities in July 2020.

Ontario Health (Renal Network) will work with the Ministry of Health to evaluate options for collecting data from these Independent Health Facilities to further align with the information collected from Regional Renal Programs, where the data is appropriate and applicable, based on the services provided to patients at these facilities. This work will begin once the comprehensive review of the Ontario Renal Reporting System data elements is completed, which is expected by April 2022 (see **Recommendation 14**).

### Recommendation 13

*To collect accurate and complete transplant data for performance measurement and reporting purposes, we recommend that the Trillium Gift of Life Network, in collaboration with the Ontario Renal Network:*

- *continue to work with kidney transplant centres and Regional Renal Programs to identify and address the data issues, understand the underlying data flow, and explore potential options to support the data-validation process;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that Ontario Renal Network had no oversight of kidney transplants, which fell under Trillium Network's responsibility. While Trillium Network and the Renal Network established a data-sharing agreement in September 2017 to capture patients' complete transplant journeys, concerns about the data's accuracy and completeness

made it difficult for the Renal Network to determine whether the Regional Renal Programs referred patients who were eligible for a transplant to a transplant centre on a timely basis. As well, there was limited co-ordination between the Renal Network and Trillium Network in terms of tracking the performance of transplant activities (such as post-transplant care) and patient outcomes.

In our follow-up, we found that Ontario Health (Trillium Gift of Life Network) has started taking the following actions, which are expected to be implemented by December 2021.

- Ontario Health (Trillium Gift of Life Network) has worked with Ontario Health (Renal Network), Regional Renal Programs and transplant programs to enhance data quality for performance measurement and reporting purposes. In July 2020, Ontario Health (Trillium Gift of Life Network) implemented a new pre-listing data quality report for transplant programs, a patient outcome data quality report, and in collaboration with Ontario Health (Renal Network), improvements to the living-donor data submission processes.
- Ontario Health (Trillium Gift of Life Network) has been working on the implementation of a new IT system called Organ Allocation and Transplantation System (OATS), which is currently undergoing user acceptance testing. The new system will support data validation and accuracy.
- An amended data-sharing agreement between Ontario Health (Renal Network) and Ontario Health (Trillium Gift of Life Network) has been finalized (effective February 10, 2021), which allows Ontario Health (Renal Network) to share the improved/revised living-donor candidate data with Ontario Health (Trillium Gift of Life Network).
- In July 2021, Ontario Health established a single leadership structure for the Renal Network and Trillium Gift of Life Network which is intended to further enable co-ordination and integration of kidney transplant activities. In collaboration with Ontario Health (Renal Network), Ontario Health (Trillium Gift of Life Network) completed

a project in July 2021 to identify issues and propose solutions that could be addressed through OATS to improve data flow to the Regional Renal Programs.

- *continue to develop and improve performance measures related to post-transplant activities (such as transplant failure rate and frequency of follow-up visits).*

**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we found that while patients on dialysis may eventually receive a transplant and patients with failed transplants would go back on dialysis, there was limited co-ordination between the Renal Network and Trillium Network in terms of tracking the performance of transplant activities (such as post-transplant care) and patient outcomes.

In our follow-up, we found that Ontario Health (Trillium Gift of Life Network)'s Kidney Transplant Performance Measurement and Evaluation Executive Committee (TPEC) has approved an initial list of quality indicators. This is in alignment with the national Data System Working Group aimed at aligning transplant data collection strategies across the country.

The Kidney TPEC will develop methodology for the approved quality indicators; identify data sources and define data collection and validation processes; and establish a reporting framework for the dissemination of indicator reports to stakeholders. The Kidney TPEC will further develop and improve kidney performance measures, including post-transplant performance measures, to support system monitoring and quality improvement.

In addition, the Kidney TPEC will review and assess the recommendations by the national Data System Working Group for post-transplant care to support quality and performance improvement in alignment with identified measures. This review and assessment are expected to be completed by December 2022.

## Information on the Performance of Chronic Kidney Disease Services Is Incomplete and Not Fully Reported to the Public

### Recommendation 14

*To better oversee and report on chronic kidney disease services across Ontario, we recommend that the Ontario Renal Network:*

- *conduct a comprehensive review of all data fields and determine what data must be reported by the Regional Renal Programs to effectively plan and measure the delivery of renal care;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that although Ontario Renal Network's Ontario Renal Reporting System (ORRS) allowed the Regional Renal Programs to submit additional information on patients (such as primary nephrologist's name and home dialysis eligibility), the submission of this information was voluntary. Even though this information was helpful for the Renal Network to plan and oversee chronic kidney disease services, we found that many Regional Renal Programs did not typically report such optional information. For example, of the almost 8,600 patients that spent time in the Multi-Care Kidney Clinics and began dialysis between 2015/16 and 2018/19, more than 2,850 (33%) were missing data in ORRS that indicated their eligibility for home dialysis.

In our follow-up, we found that Ontario Health (Renal Network) has reviewed all 365 mandatory and optional data elements in the ORRS and documented usage levels where applicable. A data availability review was also conducted to determine if all data with an identified use could be sourced from other internal or external databases. All data elements were reviewed for continuation of reporting or for decommissioning, in consultation with Regional Renal Programs.

A portion of data collected in the ORRS is used solely for the purpose of submitting to the Canadian Institute for Health Information's (CIHI's) Canadian Organ Replacement Register. A review, in collaboration with the CIHI, was completed to understand the use of each data element and whether this data could be sourced from other databases or decommissioned.

Ontario Health (Renal Network) completed its review of the data elements in the Ontario Renal Reporting System, including those used by CIHI, in June 2021. A total of 86 data elements (24% of the ORRS dataset) have been approved for decommissioning. These were communicated to Regional Renal Programs in July 2021.

- *publish the results of all performance measures related to the goals outlined in its strategic plans regularly (such as quarterly or annually).*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, our review of all performance measures (39 in total) established by the Renal Network over the last two strategic plans covering 2012 to 2019, found that Ontario Renal Network only publicly released the results of eight of these measures, including the proportion of dialysis patients receiving home dialysis. However, we noted that the results of other important measures that specifically involve educating patients and assisting patients in decision-making were not made public.

In our follow-up, we found that Ontario Health (Renal Network) is in the process of developing an online provincial renal performance report, which will be made publicly available on the Ontario Health (Renal Network) website and will describe the continuum of renal care in Ontario. This will be the first report developed by Ontario Health (Renal Network) that comprehensively describes chronic kidney disease and the overall patient journey. All of Ontario Health (Renal Network)'s renal performance measures will be included to illustrate how the province is performing on these measures. For each indicator, a description of the indicator, the latest results, and

any steps taken by Ontario Health (Renal Network) to improve performance will be provided. The report will be updated at least annually.

The content for the performance report has been drafted and is currently undergoing review with key stakeholders, including provincial renal clinical and administrative leadership and Ontario Health (Renal Network)'s Patient and Family Advisory Council.

Ontario Health (Renal Network) will complete content review of the performance report and design it for public release. Ontario Health (Renal Network) plans to publish the renal performance report by December 2021, subject to Ministry approval.

## Chapter 1

### Section 1.04

Ministry of Transportation

# Commercial Vehicle Safety and Enforcement

Follow-Up on VFM Section 3.04, 2019 Annual Report

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	5	1	2	2		
Recommendation 2	3		1	2		
Recommendation 3	2			2		
Recommendation 4	2			2		
Recommendation 5	3	3				
Recommendation 6	3	3				
Recommendation 7	2		2			
Recommendation 8	3	1		2		
Recommendation 9	3		2	1		
Recommendation 10	2	1	1			
Recommendation 11	4		2	2		
Recommendation 12	2			2		
Recommendation 13	3		1	2		
Recommendation 14	3		2	1		
Recommendation 15	2			2		
Recommendation 16	3			3		
Recommendation 17	2			2		
Recommendation 18	2			2		
Recommendation 19	2			2		
<b>Total</b>	<b>51</b>	<b>9</b>	<b>13</b>	<b>29</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>18</b>	<b>25</b>	<b>57</b>	<b>0</b>	<b>0</b>

## Overall Conclusion

The Ministry of Transportation (Ministry), as of August 9, 2021, has fully implemented only 18% of the actions we recommended in our 2019 Annual

Report. The Ministry has also made progress in implementing an additional 25% of the recommendations in our report.

The Ministry has fully implemented or made progress in implementing recommendations such as significantly reducing its bus inspection backlog while

focusing on high-risk bus terminals. The Ministry also implemented a process to identify potentially unreasonable kilometric travel reported by commercial vehicle carriers in Ontario and has begun following up on such instances. As well, the Ministry has implemented processes to recalculate the safety ratings of carriers who have not been subject to a roadside inspection. In these instances, a carrier is assigned an inspection score of zero, whereas previously, carriers who had not been subject to a roadside inspection were assigned a perfect inspection score.

To improve consistency during roadside inspections, the Ministry was also working to develop a digital checklist to be completed by enforcement officers when conducting roadside inspections so that it is documented that all components and steps of an inspection have been completed. The Ministry expects to complete its work on this checklist and have all enforcement officers utilizing it by January 2022.

The Ministry was also in the process of addressing our recommendations related to determining and setting a target for the optimal number of annual roadside inspections needed to address commercial vehicle safety, studying the causes for the increased collision risk associated with municipalities, reviewing the effectiveness of the Mandatory Entry-Level Training (MELT) program in improving the safety of drivers who complete it, and studying the potential road safety benefits of mandatory pre-employment and random drug and alcohol testing for commercial vehicle drivers.

However, the Ministry has made little progress on 57% of the recommendations in the report, including taking action to improve enforcement officer recruitment, evaluating why differences exist between districts related to the laying of charges during roadside inspections, and analyzing whether enforcement officers are laying charges in accordance with the Ministry's guidelines.

While the Ministry has taken steps to begin addressing our recommendations related to Motor Vehicle Inspection Stations (MVIS), the Ministry's plans to modernize its MVIS program and address our recommendations are in their early stages. The

Ministry does not expect to fully address them until November 2023 when it plans to implement its modernized MVIS program.

The Ministry has also yet to take steps to determine if MELT, which is only required for those obtaining a Class A driver's licence, should be extended to other commercial vehicle class licences. In addition, the Ministry has yet to develop commercial vehicle safety-specific performance indicators and associated targets, even though it collects a great deal of carrier and collision-related statistics.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Ministry of Transportation (Ministry) has estimated that Ontario's truck traffic increased 10% from 2009 to 2018. Truck traffic is daily truck volumes on Ontario roads, including trucks not registered in Ontario. Collisions involving commercial vehicles have a higher risk of injury and death due to the size of the vehicles involved.

Although Ontario compares favourably to Canada as a whole and the United States for overall road safety, Ontario had a higher fatality and injury rate than Canada as a whole and the United States in the majority of years between 2008 and 2017 when evaluating only commercial vehicles.

According to the Ministry, the direct social cost of large truck collisions in Ontario from 2011 to 2015 (the most recent data available) was \$2 billion. This includes costs related to property damage, health care, police, courts, fire and ambulance services, tow trucks and traffic delays.

From 2016/17 to 2020/21, the Ministry spent over \$189 million (over \$200 million from 2014/15 to 2018/19) on commercial vehicle enforcement.

Some of our significant findings included the following:

- The number of roadside inspections of commercial vehicles the Ministry conducted decreased from over 113,000 in 2014 to fewer than 89,000 in 2018.

If the Ministry had continued to conduct as many inspections between 2015 and 2018 as it did in 2014, it could have removed as many as 10,000 additional unsafe commercial vehicles or drivers from Ontario's roads.

- Although the Ministry introduced a framework in 2015 to increase the consistency of the decisions its enforcement officers make, we found significant differences across the province in the rate at which officers laid charges and removed unsafe vehicles from the road. For example, in 2018, one district laid charges in over 30% of roadside inspections, while another laid charges in fewer than 8% despite finding violations in over 40% of inspections.
- The majority of carriers (operators of commercial vehicles) had not had a vehicle inspection in the past two years, including carriers with poor collision histories. The Ministry had not inspected any of the commercial vehicles of 56% of Ontario's 60,000 carriers in the last two years. This included many carriers at the highest risk of future collision.
- Most roadside inspections were performed on provincial highways, allowing "local haulers" to avoid inspection. Over 90% of roadside inspections were conducted by Ministry enforcement officers, usually at truck inspection stations on provincial highways. This indicates that drivers and carriers could purposely avoid roadside inspection by driving on municipal roads.
- All drivers must complete Mandatory Entry-Level Training before they can apply for a Class A licence, required to drive a tractor-trailer, but the Ministry had not extended this requirement to other licence classes. We found that drivers of large trucks that do not require a Class A licence—for example, a dump truck—were involved in more collisions and injuries per registered truck than drivers of tractor-trailers.
- The Ministry approves colleges, government organizations, safety organizations and private businesses, including carriers, to train and test drivers for commercial drivers' licences under the

Driver Certification Program. We analyzed carriers that test their own drivers and found that drivers who took their road test with carriers between 2014/15 and 2018/19 had a pass rate of 95% compared with just 69% at DriveTest centres. We found that 25% of the 106 carriers testing their own drivers under the program ranked among the worst 1% of all carriers for at-fault collision performance.

- At the time of our audit, in Ontario, commercial vehicle drivers were not subject to mandatory drug and alcohol testing either before or during their employment. In addition, Ontario drivers who hold a prescription for medical marijuana may operate a commercial vehicle with marijuana present in their system as long as they are not legally impaired, unlike those who use it recreationally.
- Many Motor Vehicle Inspection Station garages were ordering excessive quantities of inspection certificates without investigation by the Ministry. Excessive ordering creates the risk that garages could be distributing or selling inspection certificates they order but do not need, or are issuing certificates without actually inspecting vehicles. We made 19 recommendations, consisting of 51 action items, to address our audit findings. We received commitment from the Ministry of Transportation that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry that effective November 8, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Roadside and Bus Terminal Inspections

### Recommendation 1

To increase the effectiveness of roadside inspections in preventing future collisions and improving commercial vehicle safety, we recommend that the Ministry of Transportation:

- study and determine the optimal number of total annual roadside inspections needed to address commercial vehicle safety in Ontario and establish a target;

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that the Ministry had not established a formal target for the total annual number of roadside inspections needed to address commercial vehicle safety in Ontario. Although the Ministry did establish productivity targets in 2012 for the number and type of roadside inspections it expects its enforcement officers to individually conduct each year, we found that most enforcement officers did not meet these targets for the five years preceding our audit.

In our follow-up, we found that the Ministry completed an analysis to determine the targeted number of roadside inspections needed to address the prevalence of out-of-service issues present in commercial vehicles (defects and drivers who have committed violations that pose an immediate safety risk) throughout Ontario. Based on this analysis, the Ministry determined that approximately 160,000 annual roadside inspections are needed to enhance its enforcement model. The Ministry informed us that it planned to engage enforcement partners by summer 2021 in order to better define the role of enforcement officers and the role of police in relation to commercial vehicle safety. The Ministry plans to use this information to set the targeted number of inspections it will complete and to determine the

staffing complement needed to complete these inspections by December 2021.

- create a province-wide staffing plan for enforcement officers based on a target sample size of commercial vehicle traffic to be inspected;

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the Ministry had produced a draft internal report in 2012 that it presented to its senior management that highlighted that the Ministry had an insufficient number of enforcement officers. Based on 2011 traffic data, the Ministry calculated in this report that 264 enforcement officers were required full-time to strictly perform roadside and bus terminal inspections, and Motor Vehicle Inspection Station (MVIS) audits. We compared this target with the actual number of enforcement officers who were assigned to those duties between 2014 and 2018 and found that the number of such enforcement officers actually decreased. For 2018, we found that the Ministry employed approximately 34% fewer enforcement officers (175) than the target in the Ministry's 2012 report (264).

In our follow-up, we found that the Ministry had not made progress toward implementing this recommendation. The Ministry informed us that it plans to develop a draft provincial staffing plan for enforcement officers based on the annual target it will set for inspections by December 2021.

- evaluate options and implement actions to improve enforcement officer recruitment;

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that there had been an unplanned reduction of 19% in the total number of enforcement officers from 287 in 2014 to 233 in 2018, due to vacancies not being filled. We also found that the Ministry had produced a draft internal report in 2012, that highlighted that the Ministry had an insufficient number of enforcement

officers to deliver roadside inspections, MVIS garage investigations, facility audits and bus terminal inspections. The Ministry informed us that despite efforts to hire additional officers in 2015, 2017 and 2018, it had been unsuccessful in filling enough positions to offset retirements and officers leaving for other opportunities. In the fall of 2018, the Ministry also identified that an additional 21 enforcement officers would be reaching their retirement date by March 2020. However, we found that the Ministry did not have a long-term strategic plan to identify and hire the number of enforcement officers that may be needed to conduct a sufficient number of roadside inspections.

In our follow-up, we found that the Ministry had made little progress in implementing the recommendation. We noted that the Ministry created a new presentation that it presented at career fairs, events and educational institutions, to assist with the recruitment of enforcement officers. The Ministry also completed work on its Transportation Enforcement Officer Diversity Recruitment strategy, which includes targeted outreach and relationship building with specific communities to be representative of the drivers and the Ontarians they serve. As part of this work, the Ministry also implemented a Diverse Interview Panel Program in March 2021, which focuses on hiring staff who are representative of the diversity of the public they serve.

- *regularly review whether enforcement officers are meeting productivity targets for roadside inspections and take corrective action when they are not;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we noted that in 2012, the Ministry set targets for enforcement officers who perform roadside inspections to complete at least 600 inspections per year. However, we found that most enforcement officers had not met these targets between 2014 and 2018, with productivity particularly low in 2018, when only 36% of enforcement

officers achieved the 600-inspection target. While the Ministry told us that failing to meet targets is considered during an officer's annual performance evaluation, the Ministry had not analyzed the impact that missing its targets had on the safety of commercial vehicles and Ontario's road users. It also had not identified the specific steps needed to meet its overall inspection targets.

In our follow-up, we found that effective July 2020, the Ministry implemented a formal process to monitor the productivity of its enforcement officers as part of their annual performance evaluation. As part of an enforcement officer's annual performance evaluation, enforcement managers are now required to include a discussion of whether the officer met their inspection targets, and to provide support to do so where targets have been missed. To implement this coaching model and improve productivity, the Ministry held leadership training for managers and supervisors five times between March and September 2020. The Ministry is currently reviewing the impact of these one-on-one evaluations on its performance evaluation process to address concerns identified. This is expected to be completed and communicated to staff by December 2021.

- *implement the recommendations of its truck safety oversight study by formally encouraging enforcement officers to lay charges during inspections where possible and warranted.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that even though enforcement officers continued to find a significant number of violations in the inspections they performed from 2014 to 2018, the proportion of instances where they laid charges decreased from 46% in 2014 to 41% in 2018. The Ministry's draft truck safety oversight study concluded that the collision prevention associated with laying charges during a roadside inspection is substantial, preventing a minimum of 25%, and possibly up to half the collisions that inspected carriers would otherwise be involved

in. The study stated that the Ministry should consider encouraging officers to lay charges during inspection wherever warranted.

In our follow-up, we found that the Ministry had fully implemented this recommendation. In July 2021, the Ministry formally encouraged its enforcement officers to lay charges during inspections when violations are found, in order to prevent future collisions.

## Recommendation 2

*To ensure that roadside inspections are consistent throughout the province, we recommend that the Ministry of Transportation:*

- *develop a checklist for all key steps to be undertaken during each inspection and require enforcement officers to complete it;*

**Status:** In the process of being implemented by January 2022.

### Details

In our 2019 audit, we noted that the performance of roadside inspections is largely at the discretion of each individual enforcement officer who conducts them. Although enforcement officers are to conduct inspections in accordance with North American Commercial Vehicle Safety Alliance (CVSA) standards, enforcement officers do not complete a checklist during an inspection that indicates they examined all of the required vehicle and driver components. In addition, which vehicles are inspected, the level of inspection and enforcement action taken is up to the judgment of each enforcement officer.

In our follow-up, the Ministry advised us that it intends to implement a digital checklist for roadside inspections so that inspectors have to indicate that they completed all components and steps of an inspection. The Ministry intends to include this checklist in its new Roadside Data Capture (RDC) system, which will be used to document inspections and ensure each part of an inspection is completed. Enforcement officers will be required to check off and verify whether their inspection has been completed in accordance with CVSA procedures for each inspection completed.

The Ministry expects to roll out the RDC system for use, including the new digital inspection checklist, by January 2022.

- *evaluate why enforcement action differs among districts and take corrective action where such differences are not reasonable; and*
- *analyze whether enforcement officers are laying charges, placing vehicles out-of-service and impounding vehicles in accordance with the Ministry's informed judgment matrix guidelines.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found significant differences across the province in the rate at which enforcement officers lay charges and place vehicles out-of-service during roadside inspections. For example, in 2018, one district laid charges in over 30% of roadside inspections they conducted, while another laid charges in fewer than 8%. We also found that the districts that laid the fewest charges had many opportunities to lay more charges. Officers in the five districts with the lowest percentage of inspections where a charge was laid identified violations in 43% of their inspections, near the average for all districts of 46%. However, these five districts collectively laid charges in just 12% of roadside inspections. The Ministry had not performed an analysis of why different regions seem to lay fewer charges given similar opportunities, and to determine whether corrective action is needed.

We noted in our 2019 audit, that for greater consistency in roadside inspections, the Ministry developed an Informed Judgment Matrix framework in 2015 that provides guidance for when officers should lay charges based on criteria such as the type of violation and history of the carrier and driver. However, we found that the rates at which districts lay charges have become no more consistent since the matrix was developed. For example, in 2014, the difference between the districts with the lowest and highest percentage of inspections with charges laid was 22%, ranging from 14% to 36%. By 2018, the

difference had actually risen slightly to 23%, ranging from 8% to 31%.

In our follow-up, we noted that the Ministry had not made progress in addressing these recommendations. Nevertheless, the Ministry indicated that it plans to establish the scope for an analysis to evaluate why enforcement action differs amongst districts, as well as the scope for an analysis of whether enforcement officers are laying charges, placing vehicles out-of-service and impounding vehicles in accordance with the Ministry's Informed Judgment Matrix guidelines. The Ministry expects to have established the scope that will allow for these analyses to be undertaken on an ongoing basis by the end of December 2021.

### Recommendation 3

*To maximize the effectiveness of its inspection resources and move toward risk-based inspections, we recommend the Ministry of Transportation:*

- *perform a cost-benefit analysis on making the Drivewyze program mandatory for all carriers;*

**Status: Little or no progress.**

#### Details

In our 2019 audit, we found that the Ministry implemented two technology systems—Drivewyze and pre-screening—to enable officers working at inspection stations to concentrate on high-risk carriers, trucks and drivers. Drivewyze is a voluntary GPS-based program that determines if a vehicle is eligible to bypass an inspection station using risk-based rules designed by the Ministry. Because Drivewyze is voluntary, as of September 2019, only 71 carriers had enrolled. The Ministry had not set targets for enrolment and had not evaluated the possibility of making Drivewyze mandatory, but did indicate the program would be evaluated at a time that had yet to be determined.

In our follow-up, we found that the Ministry had completed a jurisdictional scan of Canada and the United States and found that no other jurisdictions have mandated Drivewyze. In February 2021, the Ministry developed an outline for performing

a cost-benefit analysis on making the Drivewyze program mandatory for all carriers in Ontario, but work on this has not yet commenced. The Ministry plans to complete this cost-benefit analysis and to determine if Drivewyze should be made mandatory by December 2021.

- *evaluate the results of inspections at the four stations piloting pre-screening technology after one year, and compare results to other stations.*

**Status: Little or no progress.**

#### Details

In our 2019 audit, we noted that in 2018, the Ministry selected four inspection stations based on traffic volume to pilot pre-screening technology. This pre-screening technology is activated once a truck pulls into a station and automatically examines safety elements such as tires, brakes and weight. For example, the technology uses thermal imaging to scan the vehicle for hot spots associated with unsafe and defective equipment such as inoperative brakes, failed bearings and underinflated or damaged tires. The technology also scans the licence plate of the vehicle and retrieves safety record information, such as previous inspections, from the Commercial Vehicle Operator Registration system. The Ministry indicated a formal plan to evaluate the pilot and to consider any expansion would be developed in 2020.

In our follow-up, we found that the Ministry had developed an approach to analyzing and evaluating the results of inspections at the four stations piloting pre-screening technology. However, we found that it had only begun analyzing data at one of the four stations. The Ministry plans to undertake and complete analysis at all four pre-screening station locations. The Ministry expects to complete this work and prepare a recommendation on whether or not to expand pre-screening technology to other stations by the second quarter of 2022.

### Recommendation 4

*To increase the effectiveness of roadside inspections in preventing collisions and improving commercial*

vehicle safety, we recommend that the Ministry of Transportation:

- *analyze carriers that avoid roadside inspection, whether purposely or inadvertently, and develop a strategy for targeting these carriers for inspection;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while most commercial vehicle collisions occur on municipal roads, the vast majority of roadside inspections are conducted on provincial highways. We noted that from 2014 to 2018, approximately 68% of collisions involving trucks belonging to Ontario registered carriers occurred on municipal roads. However, over 90% of roadside inspections were conducted by Ministry enforcement officers, usually at truck inspection stations, on provincial highways, indicating that “local haulers” who operate primarily on municipal and urban roads, are unlikely to be subject to roadside inspection, and that drivers and carriers could purposely avoid roadside inspection by operating on municipal roads.

In our follow-up, we found that the Ministry had made limited progress toward implementing the recommendation. The Ministry identified that it enhanced its IT systems to be able to create a quarterly report that will extract a list of carriers that have not been subject to an inspection in the previous 24 months. The report includes each carrier’s collisions and convictions performance. The Ministry plans to use these reports to develop a strategy with its enforcement team and partners to target these carriers for inspections. The Ministry anticipates that this will be completed by December 2021.

- *work with police services to develop a co-ordinated area patrol strategy that covers municipal and urban roads with high commercial vehicle traffic.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while most commercial vehicle collisions occur on municipal roads, the

Ministry’s enforcement officers and the Ontario Provincial Police primarily conduct roadside inspections on provincial highways. The small portion of roadside inspections on municipal roads were primarily conducted by the various municipal police services with North American Commercial Vehicle Safety Alliance (CVSA)-trained officers. We found that the Ministry did not regularly co-ordinate or have a strategy with police services to inspect commercial vehicles that operate on high-traffic municipal and urban roads. We also found that the number of CVSA-trained officers and roadside inspections conducted by each police service varied significantly. For example, while Hamilton and Windsor police services had no CVSA-trained officers to conduct roadside inspections, the Halton Regional Police had five CVSA-trained officers and conducted over 1,400 roadside inspections in 2018.

In our follow-up, we found that the Ministry had not yet worked with police services to develop a co-ordinated area patrol strategy that covers municipal and urban roads with high commercial vehicle traffic. The Ministry indicated that it expects to develop a co-ordinated area patrol strategy with other police services to target municipal and urban roads with high commercial vehicle traffic by December 2021, and that the strategy will include consideration of carriers that have not been subject to a roadside inspection.

### Recommendation 5

*To reduce the risk to road safety posed by the backlog in Ministry of Transportation (Ministry) bus terminal inspections, and to ensure buses and bus terminals are inspected at least annually as required, we recommend that the Ministry:*

- *prioritize high-risk bus operators when clearing the inspection backlog, such as those with a history of collisions and those that have never been inspected;*

**Status:** Fully implemented.

## Details

In our 2019 audit, we found that 21% of the 1,863 bus terminals in the province were overdue for an inspection by the Ministry. On average, these terminals were 86 days overdue, with some terminals being over one year overdue, including two bus operators that had never been inspected. We also noted that 30 of these overdue bus operators had been in at-fault collisions in the last five years. The Ministry uses its Bus Information Tracking System to automatically track buses registered in the province, as well as bus terminals. Bus terminals are to be inspected at least once per year. The Ministry explained that the backlog was due to a large increase in the number of terminals and buses added to the Bus Information Tracking System once it was updated in 2018, resulting in the addition of over 14,000 buses and hundreds of bus terminals.

In our follow-up, the Ministry advised us that it had established a process to assess bus terminals on a quarterly basis to prioritize bus operators with the highest safety risk—those who have not been subject to an inspection and those who have been involved in collisions. Although the Ministry suspended bus terminal inspections following the onset of the COVID-19 pandemic, it issued a directive in March 2021 resuming inspections, focusing on high-risk bus terminal operators. Since March 2021, the Ministry has significantly reduced the number of overdue bus inspections, with only 65 of 1,158, or 6% of terminals overdue at the end of July 2021, by on average 60 days. Of these, only two terminals were identified as having a high-risk rating—aligned with the Ministry’s policy which states that no more than 10% of overdue inspections can be terminals with a high-risk rating.

- *implement controls to prevent the alteration of bus inspection terminal due dates; and*
- *ensure employees only change bus terminal inspection due dates for legitimate reasons.*

**Status: Fully implemented.**

## Details

In our 2019 audit, we found that the bus terminal inspection backlog was longer than Ministry backlog

reports indicated because in some cases Ministry employees were manually changing inspection due dates in the Ministry’s Bus Information Tracking System. According to the Ministry’s bus tracking system manual, due dates are only to be changed if the due date does not match the seasonal operating schedule of a bus operator. However, since the system update in 2018, we found that 55 terminal inspections had been changed without proper justification, including 41 inspections where the date was changed after the inspection was already overdue.

In our follow-up, we found that in February 2020 the Ministry revised its policies so that inspection dates can only be changed when appropriate by limiting the authority to change dates to a district appointed administrator or the District Manager. In addition, the Ministry informed us it has implemented an audit function to monitor due date changes. This includes a quarterly review process to identify and address any inappropriate changes. The first of these reviews took place in July 2021, which examined due dates that were changed in the 2021 calendar year. The Ministry review found that all due date changes between January and July 2021 were documented appropriately and in line with the Ministry’s policy.

## Carrier Oversight and Monitoring

### Recommendation 6

*To improve the accuracy of carrier violation rates and the effectiveness of Ministry of Transportation (Ministry) enforcement efforts, we recommend that the Ministry:*

- *implement controls that identify potentially unreasonable kilometres travelled for follow up;*

**Status: Fully implemented.**

## Details

In our 2019 audit, we found that the Ministry did not have a process in place to ensure kilometres reported by carriers are reasonable. As a result, the accuracy of the Ministry’s carrier safety ratings, which are affected by kilometres travelled, are subject to

error. It also creates the opportunity for carriers to over-report kilometres travelled to avoid reaching violation thresholds that would trigger Ministry enforcement action, such as a facility audit of the carrier's premises, or sanctions. The Ministry advised us that a carrier's reporting annual travel in excess of 250,000 kilometres per vehicle in its fleet was likely to be unreasonable. We examined a sample of 30 carriers that reported over 250,000 kilometres per vehicle and shared our results with Ministry staff who confirmed that 70% had reported unreasonably high kilometres.

In our follow-up, the Ministry informed us that it redesigned the carrier reporting process in April 2020 so that reported kilometric travel that exceeds an expected range will prompt the carrier with a pop-up window requesting the carrier review and correct the data as necessary. The Ministry also advised us that it updated its systems so that a system-generated email sends an automatically generated weekly report to the Ministry's Carrier Sanctions and Investigations Office that identifies carriers that exceed a predetermined threshold of 12,500 kilometres per vehicle per month, or 150,000 kilometres per vehicle per year. According to the Ministry's new policy, starting in October of 2020, Ministry staff are to follow up on the carriers in this weekly report and obtain evidence to support the reported number of kilometres.

- *explore options to validate carrier-reported kilometres in cases where kilometres travelled do not appear reasonable;*

**Status: Fully implemented.**

### Details

During our audit in 2019, we found 767 instances of carriers reporting annual travel in excess of 250,000 kilometres per vehicle from 2014 to 2018. In addition, a 2013 report to the Ministry by an external consultant identified over 380 carriers that appeared to have reported kilometres per truck that were in excess of what was possible and made recommendations to the Ministry to validate kilometres travelled. However, we found that the Ministry could not demonstrate that it had taken specific actions

to address these recommendations. We also noted that the Ministry could work with Service Ontario to verify and record information from annual inspection certificates when carriers renew commercial vehicle licence plates. Inspection certificates include odometer readings that are recorded by the mechanic who performed the inspection.

In our follow-up, the Ministry advised us that in October 2020, it implemented a new process which generates a weekly report that identifies instances where a carrier's vehicle travelled over 150,000 kilometres per year. Ministry staff are expected to follow up with these carriers for documentation to support any unreasonable kilometric travel, which typically involves requesting annual inspection certificates, which list odometer readings, for two or more years, and calculating the mileage travelled between inspections.

- *review and revise how it calculates carrier violation rates when a carrier has not been subject to a roadside inspection.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that there was a risk that more than half of carrier violation rates could be inaccurate. The Ministry's formula for calculating carrier violation rates uses Commercial Vehicle Operator Registration data on collisions, convictions and results of roadside inspections. Violations discovered during roadside inspections account for 20% of the carrier's overall violation rate. However, we found that rather than omitting carrier inspection results from the calculation when there have been no inspections, the formula assigns the carrier a perfect score for results from roadside inspections. We recalculated violation rates at the time of our audit for all carriers who had not received an inspection in the previous two years. Through adjusting the calculation to exclude the inspection component, we found, for example, that 94 carriers moved into a range that would trigger a warning letter and three carriers would potentially trigger a sanction.

In our follow-up, we found that starting in May 2021, the Ministry began to produce a report that it intends to repeat quarterly, that identifies carriers that have not been inspected over the past 24-month period. This report is used to recalculate a carrier's risk profile by assigning the carrier with an inspection score of zero, so that intervention such as a warning letter, can be taken based on this revised risk rating, when warranted.

### Recommendation 7

*So that convictions are fully reflected in carrier safety records, we recommend that the Ministry of Transportation:*

- *include convictions in the calculation of carrier safety records from the date of conviction rather than the date of the offence;*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we noted that convictions are intended to remain on a carrier's safety record for a period of two years. However, the Ministry uses the date the offence occurred as the starting point for the two-year period instead of the conviction date, thus making the actual monitoring period shorter than intended. Our analysis of 2017 and 2018 data showed that on average, convictions remained on a carrier's record for 20 months, meaning delays in obtaining convictions and adding them to a carrier's safety rating reduced the time carriers were affected by those convictions by four months. In addition, if an offence takes longer than two years to result in a conviction and be added to the carrier's safety record, it will not count against a carrier's violation rate at all.

In our follow-up, the Ministry advised us that because its treatment of convictions is aligned with the National Safety Code Standards, which is a set of nationally agreed-upon standards covering a number of vehicle- and driver-related areas, the Ministry cannot include without agreement from other parties, a carrier's convictions in their safety rating for a full 24 months after the date of conviction. However,

we were informed that in April 2021, the Ministry updated its system to allow it to retroactively assess a carrier's safety record for a full two-year period by assessing the carrier's record as if the conviction occurred on the date of the offence. The Ministry noted that this process is automatically triggered on a carrier-by-carrier basis upon receiving notice of a conviction. The Ministry advised us that it began using these reassessed safety records to determine if Ministry enforcement interventions, ranging from warning letters to sanctions, are warranted for carriers in April 2021. By March 2022, the Ministry will assess the effectiveness of this process in ensuring that convictions impact the safety records of carriers for a two-year period.

- *evaluate why some convictions are significantly delayed in being added to the Commercial Vehicle Operator Registration and take action to correct the delays.*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we found that for more serious offences it took longer to obtain convictions, and consequently, these affected carrier safety ratings for a shorter period of time than less serious convictions. Offences accompanied by five violation points (the most serious) against the carrier's safety rating took almost one-and-a-half months longer than those accompanied by zero violation points. The Ministry is also slow to add offences to a carrier's safety record after a conviction. Although the Ministry informed us that new convictions are added overnight or the next day to the carrier's record, we found that, on average, it actually took 12 days.

In our follow-up, the Ministry informed us that it had identified and addressed two key reasons that were responsible for delays to adding convictions to a carrier's safety record. The Ministry advised us that in August 2020, it addressed a system interface failure issue where convictions were not included in the carrier's record in some cases. The Ministry also informed us that in May 2021, it implemented a

system rule that will flag delayed conviction events for additional review. The system has been designed to amend a carrier's Overall Violation Rate calculation and activate a trigger for staff to review and act as necessary. The Ministry has committed to assessing the impact of these changes to the delay in adding convictions to carrier records, to ensure that the recommendation has been fully addressed by December 2021.

## Carrier Enforcement

### Recommendation 8

*To improve the effectiveness of its carrier oversight, and the accuracy and completeness of carrier safety ratings, we recommend that the Ministry of Transportation:*

- *evaluate why wait-time targets for the completion of facility audits are not being met and take corrective action;*
- *assess whether it has a sufficient number of enforcement officers who perform facility audits to meet its wait-time targets and take corrective action if it determines that it does not;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the number of enforcement officers who are trained for and spend the majority of their time conducting facility audits decreased from 30 in 2014, to 24 by the end of 2018. This coincides with a reduction in the number of facility audits conducted over the same period, which decreased from 649 in 2014, to 476 in 2018—a 27% drop. The Ministry expects to perform a minimum of 600 facility audits per year—both voluntary and non-voluntary—but has not reached this mark since 2014. The Ministry informed us that the drop in the number of facility auditors has contributed significantly to facility audit wait times and an overall backlog. The Ministry has set a target for completing facility audits within 60 days of being

assigned, but at the time of our audit, the average wait time for facility audits exceeded 150 days.

In our follow-up, we found that the Ministry had made little progress toward implementing these recommendations. However, the Ministry advised us that it implemented an Alternative Safety Rating Assessment to remove low-risk voluntary audits (typically requested by carriers who had received a Conditional rating) from its backlog of facility audits. This assessment involves a digital review of submissions from a carrier as well as a carrier's performance data. If the carrier passes the assessment, the carrier's safety rating is upgraded from Conditional to Satisfactory – Unaudited. The Ministry advised us that a carrier cannot receive a rating of Excellent unless the carrier undergoes an audit. The Ministry indicated that this led to the removal of nearly 20% of outstanding audits from its backlog, and allowed its enforcement officers to focus on higher-risk audits.

In January 2021, the Ministry also began a Remote Facility Audit pilot project aimed at addressing regional differences in outstanding facility audits. Under the pilot, enforcement auditors are to complete audits in order of risk, regardless of location, whereas prior to this, they would only complete audits in their own region. The Ministry plans to review the impact of these processes on wait times by December 2021 to determine if additional actions and enforcement officers are required to meet its facility audit wait-time targets.

- *focus and prioritize the use of its resources on completing facility audits of the carriers that pose the greatest risk to road safety in Ontario.*

**Status:** Fully implemented.

### Details

Our audit found that in 2018, voluntary audits, those requested by the actual commercial vehicle carriers, represented 20% of all audits that enforcement officers performed. The pass rate for these audits was 82%, compared with 50% for non-voluntary audits. Enforcement staff we spoke to at district offices agreed that audit resources were increasingly being over-directed toward voluntary audits;

in 2018, voluntary audits represented 20% of all audits that enforcement officers performed, compared with 7% in 2014.

In our follow-up, the Ministry informed us that it had developed a manual process to prioritize and assign facility audits based on the carrier's safety rating. The Ministry also advised us that it implemented an Alternative Safety Rating Assessment to remove low-risk voluntary audits from its backlog of facility audits. This assessment involves a digital review of submissions from a carrier as well as a carrier's performance data. The Ministry indicated that this led to the removal of 115, nearly 20%, of outstanding audits from its backlog, and allowed its enforcement officers to focus on higher-risk audits.

### Recommendation 9

*To improve the effectiveness of facility audits in improving carrier safety, we recommend that the Ministry of Transportation (Ministry):*

- *evaluate and establish a score that carriers must pass during a facility audit that supports improving commercial vehicle safety;*

**Status: In the process of being implemented by December 2021.**

#### Details

In our 2019 audit, we noted that a carrier needs to achieve an overall score of 55% on its facility audit to pass, despite the fact that most facility audits are conducted in response to a carrier having a poor safety rating. We noted that other jurisdictions require a higher score to pass this type of audit. For example, British Columbia requires a score of 70% to pass an audit and Manitoba requires 85%.

In our follow-up, the Ministry informed us that it had started a review of facility audit scoring based on 2017 data to assess correlations between audit scores and positive safety outcomes in the following 24 months. The Ministry informed us that it plans to consult with stakeholders and complete a jurisdictional scan on facility audit scores by the fall of 2021. The Ministry indicated that it expects to develop and implement a new scoring model by December 2021.

- *evaluate why differences exist between districts in charges laid during facility audits and take corrective action where such differences are not reasonable;*

**Status: Little or no progress.**

#### Details

In our 2019 audit, we noted that the Ministry's draft truck safety oversight study found that facility audits, specifically failed facility audits, were significantly more effective at preventing future collisions when they were accompanied by charges. However, we found that 37% of non-voluntary failed audits between 2014 and 2018 did not result in charges against the carrier, despite the fact that many violations, and therefore, opportunities to charge, must be present in order for a carrier to fail.

In our follow-up, we noted that in May 2021, the Ministry had developed a new Post-Audit Review Report, consisting of a report to be completed after the completion of a facility audit along with guidance on appropriate action to be taken when non-compliance is found, including for laying charges. The Ministry informed us that it plans to collect data from these reports as audits are completed and analyze differences in charges laid between districts. However, the Ministry has not established a timeline for completing this analysis or for taking the necessary corrective action.

- *assess whether enforcement officers are laying charges during facility audits in accordance with the Ministry's Informed Judgment Matrix guidelines and take corrective action where they are not.*

**Status: In the process of being implemented by March 2022.**

#### Details

In our 2019 audit, we noted that the Ministry developed an Informed Judgment Matrix framework in 2015 that provides guidance for when enforcement officers should lay charges, including in the case of facility audits. Nevertheless, we noted significant variances between districts subsequent to the framework's implementation. For example, in 2018, one district

laid charges in 83% of failed audits, while another laid charges in just 29%. We also noted that the Ministry has no quality assurance process that ensures audits are conducted consistently and that appropriate charges are laid.

In our follow-up, the Ministry informed us that its enforcement officers will use the Post-Audit Review Report that it developed in May 2021 to guide decisions when non-compliance is found during facility audits, including with respect to laying charges. The Ministry noted that it expects this will result in greater consistency in laying charges in accordance with its guidance. The Ministry plans to begin analyzing whether enforcement officers are laying charges in accordance with the guidance in the Post-Audit Review Report beginning in fall 2021. The Ministry also indicated that in May 2021, it created a quality assurance process that will examine the results of facility audits relative to the guidance in the Post-Audit Review Report to determine if appropriate actions were taken where non-compliance was found during an audit and facilitate corrective action where appropriate action was not taken. The Ministry expects to have assessed whether enforcement officers are laying charges during facility audits in accordance with guidelines, and to take corrective action where they do not by March 2022.

### Recommendation 10

*So that municipalities are held to the same standards as other carriers, and have incentive to improve poor safety performance, we recommend that the Ministry of Transportation:*

- *study the causes for the increased collision risk associated with municipalities;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that, on average, the collision violation rate for the 50 largest Ontario municipalities that operate commercial vehicles was almost 250% higher than the average rate for all carriers travelling a similar amount of kilometres. Of the

50 municipalities we reviewed, 28% had exceeded 100% of their collision points threshold at the time of our audit. Moreover, 18% of these municipalities had not had a vehicle inspected at roadside in the previous two years.

In our follow-up, we found that the Ministry had completed a jurisdictional literature review in fall 2020 to study the causes of increased collision risks associated with municipalities. The Ministry also identified that it was conducting a study to assess whether municipal carriers have meaningfully higher collision rates than other comparable carriers, and if so, the reasons why. As well, the Ministry indicated that it was conducting an analysis of Ontario collision data for municipal carriers. The Ministry expects to complete these analyses and report on them by December 2021.

- *develop alternative options that encourage safety improvement where sanctions, such as cancellation and suspension of municipal carrier registration certificates, are not feasible.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we noted that although the Ministry issues warning letters, carries out facility audits and conducts interviews in response to high violation rates in municipal carriers, we found that the Ministry does not impose sanctions on municipalities—such as suspending or cancelling the registration of municipalities, regardless of how poor their safety record is. Regardless of their violation rates, the Ministry informed us that it does not suspend or cancel the registration of municipalities because of the essential nature of the services they provide to their local communities. Municipalities, therefore, can operate under poor safety ratings with few consequences and have little incentive to improve.

In our follow-up, we found that in January 2021, the Ministry made policy changes aimed at managing municipal safety performance. The Ministry has assigned a Senior Program Administrator to review municipal safety performance when a municipality's violation rate triggers the need for an intervention by

the Ministry's system. In addition, when a municipality's violation rate necessitates an interview with the Ministry, under the new policy, the Chief Administrative Officer of the municipality must now attend and sign off on any commitments to the Ministry on behalf of the municipality, to ensure that the safety risks are known at the municipality's executive level. The Ministry also explained that poorly performing municipal carriers are required to report back to the Ministry on any progress made on action items and safety risks within their communities.

## Driver Licensing and Training

### Recommendation 11

*To improve the consistency with which Mandatory Entry-Level Training (MELT) is delivered across the province, we recommend that the Ministry of Transportation work with the Ministry of Colleges and Universities to:*

- *review and standardize curriculum approval and audit policies for organizations delivering MELT;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that Mandatory Entry-Level Training (MELT) is delivered by two different types of organizations: private career colleges and the Driver Certification Program. However, the two are subject to different delivery and oversight standards. While the Ministry of Transportation (Ministry) developed the MELT program and standard and oversees the organizations delivering MELT under the Driver Certification Program, the majority of students complete MELT at private career colleges, which are regulated by the Ministry of Colleges and Universities. The Ministry did not have a memorandum of understanding with the Ministry of Colleges and Universities to deliver MELT or to share information on the program.

In our follow-up, we found that the Ministry had not made significant progress toward implementing this recommendation. The Ministry advised us that in January 2021, it began developing options to enhance

its audit and inspection programs to ensure consistent delivery of MELT. The Ministry has also begun discussions with the Ministry of Colleges and Universities concerning options to facilitate consistent delivery and oversight of MELT, including with respect to curriculum approval and audit policies for organizations delivering MELT. The Ministry plans to discuss its developed options with stakeholders once the options have been finalized between the Ministry and the Ministry of Colleges and Universities.

- *develop an instructor certification process for all instructors delivering commercial vehicle training;*

**Status:** In the process of being implemented by January 2022.

### Details

In our 2019 audit, we noted that neither the Ministry of Colleges and Universities nor the Ministry of Transportation had a certification program for MELT instructors. These instructors can teach without any formal education or training in teaching. Multiple stakeholders we spoke to expressed their concern that the quality of MELT was not consistent, due in part to a lack of required training or certification for instructors.

In our follow-up, we found that in November 2020, the Ministry drafted a document outlining qualifications and requirements for instructors administering MELT in order to promote consistency across all private career colleges and Driver Certification Program organizations that are delivering MELT. These draft qualifications include a criminal background check, three years of commercial driving experience within the last five years, as well as knowledge and practical assessments. The Ministry plans to work with stakeholders, including the Ontario Trucking Association and the Private Motor Truck Council, to obtain additional input on instructor qualifications and requirements. The Ministry expects to implement its qualifications and requirements for instructors delivering MELT by January 2022.

- *evaluate whether offering advanced standing at private career colleges and not at organizations*

*operating under the Driver Certification Program is fair and justified;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we noted that while private career colleges can grant students advanced standing, Driver Certification Program organizations cannot. Advanced standing allows students with previous recognized training or acquired skills to skip some of the hours required in MELT. The Ministry did not have a well-defined policy on how to evaluate prior experience, or how much advanced standing should be granted. Some stakeholders we spoke with expressed concern that advanced standing might be granted too easily at some schools.

In our follow-up, we found that the Ministry had not made significant progress toward implementing this recommendation. We found that effective March 1, 2021, the Ministry imposed a moratorium on the provision of advanced standing to students by private career colleges. The Ministry advised us that by March 2023, it plans to evaluate and determine whether it should allow the granting of advanced standing in the future, including at Driver Certification Program organizations, and plans to engage with industry stakeholders to make this decision.

- *periodically review the effectiveness of MELT in improving the safety of drivers who complete it.*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, the Ministry informed us near the completion of our audit that in September 2019, it began to evaluate the effectiveness of MELT. However, this evaluation was still in progress by the end of our audit, and a final conclusion on its effectiveness had yet to be reached.

In our follow-up, we noted that the Ministry contracted a vendor to survey drivers on the impact of MELT, and that it is undertaking an analysis of Ontario commercial drivers, and collision and conviction data to determine if MELT for Class A drivers is

producing road safety benefits, and whether improvements are required. The Ministry expects to complete its work by December 2021. The Ministry also advised us that it has committed to a seven-year cyclical evaluation of its safety programs, including MELT.

### Recommendation 12

*To help improve commercial driver safety on Ontario roads, we recommend that the Ministry of Transportation (Ministry):*

- *evaluate the benefits of requiring additional classes of new commercial drivers to take Mandatory Entry-Level Training (MELT); and*
- *extend MELT to the classes of new commercial drivers where the Ministry determines it would be beneficial.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the Mandatory Entry-Level Training (MELT) only applies to obtaining a Class A licence. Some of the industry stakeholders we spoke to believed that MELT should be extended to all commercial vehicle class licences, some of which pose a comparable safety risk to the tractor-trailers typically operated under a Class A licence. Overall, we found that drivers of large trucks that do not require the completion of MELT appear to pose a significant risk to road users.

In our follow-up, we found that the Ministry has not yet evaluated the benefits of requiring additional classes of new commercial drivers to take MELT, nor has it extended MELT to additional classes of new commercial drivers. The Ministry informed us that it will first complete its review on the effectiveness of MELT for Class A drivers by the end of 2021 before evaluating the benefits of extending such training to additional classes of new commercial drivers.

## Commercial Driver Testing and Drug and Alcohol Regulations

### Recommendation 13

*So that only drivers who demonstrate the required skills and knowledge to operate commercial vehicles are able to obtain a commercial vehicle driver's licence, we recommend that the Ministry of Transportation:*

- *analyze the difference in pass rates between the Driver Certification Program and DriveTest to determine whether they are reasonable and identify instances that require follow up or corrective action;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that in Ontario, individuals can obtain a commercial driver's licence at DriveTest centres or through organizations that include private carriers under the Driver Certification Program. We found that carriers that test their own drivers had a significantly higher pass rate of 95%, compared to just 69% at DriveTest centres. In Ontario, there were 106 carriers registered to test employees for commercial driver licences at the time of our audit. We found several instances of carriers with a poor collision history that were allowed to continue testing drivers under the Driver Certification Program. We also found that 27 of these 106 carriers were ranked among the worst 1% of carriers in terms of at-fault collisions. These 27 carriers performed over 7,800 road tests for commercial vehicle licences between 2014/15 and 2018/19 and failed just 9% of drivers tested.

In our follow-up, we found that the Ministry had begun to address the recommendation but had not yet made significant progress. The Ministry identified that it is analyzing driver licensing, carriers, and collision and conviction data to determine whether Driver Certification Program trained and tested drivers present a different level of road risk than other commercial drivers, and if this relates to differences in pass rates between the two programs. Specifically,

it has begun comparing the crash risk of Driver Certification Program drivers with MELT-trained drivers tested via DriveTest. The Ministry expects to complete this analysis by December 2021. Once this analysis is completed, the Ministry will determine what follow-up and corrective action is needed and set a timetable for doing so.

- *review whether allowing carriers to administer driver's licence testing through the Driver Certification Program constitutes a conflict of interest;*

**Status:** Little or no progress.

### Details

In our 2019 audit, multiple stakeholders we spoke to indicated that there was a shortage of qualified drivers for carriers to hire. Because private carriers under the Driver Certification Program are allowed to test their own drivers, there could be incentive to pass drivers who otherwise would have failed in order to get trucks and commercial vehicles on the road. The Ministry also indicated that it is not uncommon for the same instructors who deliver training programs to then administer their students' knowledge and road tests for licensing, posing a potential conflict of interest.

In our follow-up, the Ministry informed us that it has not yet reviewed whether allowing carriers to administer driver's licence testing through the Driver Certification Program constitutes a conflict of interest. The Ministry noted it plans to complete an assessment to make this determination by the end of 2022.

- *obtain data on drivers testing and driving different transmission types, and study any related safety implications to inform policy decisions on driver licensing.*

**Status:** In the process of being implemented by July 2022.

### Details

In our 2019 audit, we found that Ontario was the only jurisdiction in Canada that allowed drivers to obtain a Class A equivalent licence by performing their road test in a vehicle with an automatic transmission and

does not restrict those drivers from operating trucks with manual transmissions. All other Canadian provinces and the United States do not allow drivers who obtain their licence using a vehicle with an automatic transmission to operate a tractor-trailer with a manual transmission. We also noted that in 2019, two other Canadian provinces changed their Class A licence equivalent to require the use of a manual transmission truck when performing a test.

In our follow-up, we found that the Ministry had drafted Ontario Regulation 340/94, to be included in the *Highway Traffic Act*. The regulation proposed that Class A drivers get tested on the vehicle transmission they will operate once licensed. If a driver completes their road test in a commercial vehicle with an automatic transmission, a restriction will appear on their licence, preventing them from operating a commercial vehicle with a manual transmission. In order to remove this restriction, drivers must pass the Class A road test in a vehicle with a manual transmission. The Ministry anticipates that this regulation will take effect in July 2022.

#### Recommendation 14

*To reduce the risk of collisions involving commercial vehicle drivers under the influence of drugs and alcohol, we recommend that the Ministry of Transportation:*

- *study and report on the potential road safety benefits of mandatory pre-employment and random drug and alcohol testing for commercial vehicle drivers;*  
**Status: In the process of being implemented by December 2021.**
- *where road safety benefits are identified in the study, work with federal and provincial governments to establish pre-employment and random drug and alcohol testing guidelines for commercial vehicle drivers;*  
**Status: Little or no progress.**

#### Details

In our 2019 audit, we noted that in Ontario, drivers operating a vehicle that requires a commercial licence are prohibited from having any presence of alcohol, marijuana, or any other prohibited drug in their system. However, there is no requirement in Ontario for commercial vehicle drivers to be subject to mandatory testing either before or during their employment. Our research did not find any Canadian provinces enforcing mandatory testing of commercial vehicle drivers. The Ministry informed us that the only testing conducted in Ontario is at roadside, if police suspect that a driver is impaired. However, in the United States, federal regulations require pre-employment drug testing as well as random drug and alcohol testing for commercial drivers throughout the year by the carriers that employ drivers. From 2014 to 2018, 244 collisions in Ontario involving commercial vehicle carriers listed the driver as under the influence of drugs or alcohol, 21% of which resulted in injury or a fatality.

In our follow-up, we were informed that in 2020, the Ministry conducted a literature review and jurisdictional scan to study the potential road safety benefits of mandatory drug and alcohol testing for commercial vehicle drivers. The Ministry also contracted a vendor to survey commercial vehicle operators and transit operators in May 2021 regarding drug and alcohol policies and prevalence in the commercial vehicle sector. In addition, the Ministry informed us that it is analyzing driver, carrier, collision and conviction data to estimate the road safety improvement attainable through the implementation of mandatory drug and alcohol testing of commercial vehicle drivers. The Ministry also indicated that it is planning to obtain and analyze drug and alcohol testing data from transit agencies that have already implemented similar testing. Upon the completion of these analyses, which the Ministry expects to complete in December 2021, if there is found to be a clear safety benefit, the Ministry plans to engage in conversations with its provincial and/or federal counterparts concerning establishing pre-employment and random

drug and alcohol testing guidelines for commercial vehicle drivers by December 2022.

- *study the risks to road safety of exempting commercial vehicle drivers with medical prescriptions for marijuana from the same standards applied to recreational users, and develop a strategy to mitigate these risks.*

**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we found that Ontario drivers who hold a prescription for medical marijuana may operate a commercial vehicle with marijuana present in their system as long as they are not legally impaired, unlike those who use it recreationally. The Ministry does not track information on the number of commercial vehicle drivers using medical marijuana. We found that some transportation organizations in Canada have come out against the use of medical marijuana for operators of vehicles such as buses, trains and airplanes, including Metrolinx and Transport Canada, who have each banned the use of the drug, including for medical purposes.

In our follow-up, we were informed that in 2020, the Ministry conducted a literature review and jurisdictional scan, for reasons that included studying the risks to road safety of exempting commercial vehicle drivers with medical prescriptions for marijuana from the same standards applied to recreational users, and developing a strategy to mitigate these risks. The Ministry also hired a vendor that surveyed commercial vehicle operators in May 2021 about drug use behaviours and patterns of commercial vehicle operators and drivers in Ontario. The Ministry informed us that it is also planning to obtain other transit agency data and examine commercial vehicle collisions pre- and post-implementation of zero drug tolerance policies for commercial vehicle drivers implemented by these organizations. The Ministry indicated that after it completes its analysis of road safety risk, if it identifies clear benefits, it plans to develop a strategy to mitigate risks by December 2022.

## Motor Vehicle Inspection Stations

### Recommendation 15

*To support the licence renewal of only commercial vehicles that have passed an annual or semi-annual inspection and to improve the efficiency and effectiveness of its oversight of Motor Vehicle Inspection Stations (MVIS), we recommend that the Ministry of Transportation:*

- *work with Service Ontario to include proof of inspection certificates as a requirement when licence plates are renewed for commercial vehicles;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the Ministry does not require Service Ontario to ask for proof of a valid annual or semi-annual inspection certificate when renewing commercial vehicle licence plates. Therefore, the Ministry does not know how many commercial vehicles are operating without an up-to-date annual or semi-annual inspection certificate. The only way to catch these vehicles is for police or enforcement officers to review the certificate during a roadside inspection. During roadside inspections in 2017 and 2018, officers found nearly 7,500 instances where commercial vehicles did not have a valid annual or semi-annual inspection certificate.

In our follow-up, we found that the Ministry had taken steps to begin addressing the recommendation, but it had not yet worked with Service Ontario to include proof of inspection certificates when renewing commercial vehicle licence plates. The Ministry informed us that it is in the process of modernizing its Motor Vehicle Inspection Stations (MVIS) program into a digital program modelled after its former Drive Clean program. The Ministry noted that it issued a Request for Proposals in October 2020 and signed an agreement with a vendor based on this process in May 2021. The selected vendor will be responsible for the new program's information systems, training of inspection staff, maintenance and support service, and audit function. The Ministry

advised us that once the modernization process is complete, it will require carriers to complete an annual emission and safety inspection prior to renewing their plates. The inspection will be completed digitally by a technician at an MVIS garage, and the Ministry plans to implement a hard-stop in its systems, which will be utilized by Service Ontario, to prevent those who have not passed their emission and safety inspection from renewing their licence plates. However, the Ministry does not expect this process to be in place until November 2023.

- *implement electronic inspection certificates to be issued by MVIS garages using a central system, using the Drive Clean program and its controls as an example.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry was unable to track annual and semi-annual inspection certificates because they are paper-based. The Ministry has no information on the annual inspection of commercial vehicles performed by MVIS garages or the certificates they issued. For example, the Ministry cannot link a particular annual or semi-annual inspection certificate number to the vehicle it was issued to, or the mechanic who performed the inspection. Our audit compared the MVIS system to the province's Drive Clean program, which had significantly stronger controls, such as inspection reports that are completed electronically, electronic data on individual inspections, and the ability to lock out inspection facilities such as those that have been suspended, from the Drive Clean inspection system—preventing them from issuing inspection reports.

In our follow-up, we found that the Ministry had taken steps to begin addressing the recommendation. The Ministry advised us that it had signed an agreement with a vendor to modernize its MVIS program in May 2021. The Ministry advised us that the modernized MVIS program will be modelled on the Ministry's former Drive Clean program. As part of the modernization, the Ministry plans to eliminate the current

paper-based inspection certificates by implementing digital inspection certificates. Technicians will be able to issue these digital certificates after completing an inspection. However, the Ministry does not plan to complete the modernization, including the implementation of digital inspection certifications until November 2023.

### Recommendation 16

*To help identify and take enforcement action on high-risk Motor Vehicle Inspection Station (MVIS) garages, we recommend that the Ministry of Transportation:*

- *add inspection certificate information to the data captured during roadside inspections;*

**Status:** Little or no progress.

### Details

During our audit, we noted that the Ministry was not utilizing roadside inspections to record inspection certificate information or identify high-risk MVIS garages. Part of a roadside inspection is checking for a valid inspection certificate; however, we found that enforcement officers did not record details of the certificate, such as the issuing MVIS garage, signing mechanic or when the certificate was issued.

In our follow-up, we found that the Ministry has made little progress toward implementing this recommendation and had not yet added inspection certification information to data captured during roadside inspections. The Ministry indicated that as part of its MVIS modernization plans (described in **Recommendation 15**), it plans to make inspection details available to officers conducting roadside inspections, allowing officers to review the location, station, technician and data entry elements of the inspection. If concerns are identified in an inspection, there will be a process for findings to be communicated to the Ministry. The Ministry expects to complete the MVIS modernization, including these inspection enhancements, by November 2023.

- *create a process that allows enforcement officers to easily flag concerning inspection certificates for follow up with the MVIS garage; and*
- *develop a system for assigning risk levels or scores to MVIS garages and use this information to drive investigations and audits.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the Ministry did not have a formal process that allowed officers to flag a vehicle with a recently issued inspection certificate that they had found to have significant mechanical defects. Such a process could identify and allow for the investigation of MVIS garages that are potentially inspecting commercial vehicles improperly or the fraudulent signing of inspection certificates. In our 1997 audit of Commercial Vehicle Safety and Regulations, we expressed concern about the absence of an inspection process for MVIS garages and the Ministry committed to developing criteria for choosing high-risk MVIS garages for inspection audits. However, by our 2008 audit the Ministry had made no progress in developing guidelines or a process for identifying high-risk MVIS garages, or for taking enforcement action against them. In our 2019 audit, we found that the Ministry had still not made any progress toward implementing a process to identify high-risk MVIS garages.

In our follow-up, we found that the Ministry had made little progress toward implementing these recommendations and had not yet developed a process to flag concerning inspection certificates, nor had it developed a system for assigning risk levels or scores to MVIS garages to drive investigations and audits. The Ministry indicated that it plans to address these recommendations as part of its MVIS modernization plan which it expects to complete by November 2023. The Ministry plans to transition to printed inspection decals for vehicles that have a scannable feature that will allow officers to scan and review the most recent inspection results for the vehicle as well as the MVIS garage and technician who completed the inspection.

As part of the MVIS modernization plan, the Ministry informed us that MVIS garages will sign a contract with the Ministry to join the program and the Ministry will retain the authority to terminate the contract with these MVIS garages or to take action such as freezing an MVIS garage's ability to purchase and issue digital certificates if compliance violations are found. A risk-based system of intervention will be created to address MVIS garage fraud and non-compliance. The Ministry indicated that the modernization plan will also include the development of an MVIS garage report card, that will score an MVIS garage's compliance history relative to its peers. The Ministry indicated that MVIS garages with poorer compliance records will be subject to more frequent audits.

### Recommendation 17

*So that Motor Vehicle Inspection Station (MVIS) garages are not ordering excessive inspection certificate stock that could be sold, distributed, or issued inappropriately, we recommend that the Ministry of Transportation:*

- *create automated controls in the inspection certificate ordering system that flag excessive ordering based on factors such as registered mechanics and prior order history; and*
- *create guidelines and train order processors to identify excessive ordering, and follow up when investigation requests are submitted by these processors.*

**Status:** Little or no progress.

### Details

In our 2019 audit, our analysis of orders made by MVIS garages in 2018 revealed that many seem to be ordering far more certificates than they could be issuing based on the number of registered mechanics they have. For instance, 211 garages ordered over 528 certificates per licensed mechanic during 2018, which is 10 times the amount ordered by the average garage. Despite this, the Ministry only requested 18 investigations related to excessive

ordering in 2018. Our audit also found that the MVIS inspection certificate ordering system has no automated controls to flag excessive ordering of inspection certificates. We noted that the Ministry had no benchmark or guideline to assist order processors in identifying these orders, nor was there a requirement for order processors to report any anomalies in ordering.

In our follow-up, we found that the Ministry had made little progress toward implementing these recommendations. The Ministry indicated that once digital certificates are implemented through its MVIS modernization project, stock controls will not be required, nor will training of order processors, as certificate stock will not be bulk ordered. In the interim, the Ministry has advised MVIS garages to limit purchases to only immediate needs, and provided order processors with instructions on what to do when excessive ordering is suspected. The Ministry plans to begin to phase out paper copies of inspection certificates by late 2022 and expects all MVIS garages to be fully digital by December 2023.

### Recommendation 18

*So that audits and investigations of Motor Vehicle Inspection Station (MVIS) garages are performed consistently, we recommend that the Ministry of Transportation (Ministry):*

- provide vehicle inspectors with standardized training on conducting audits and investigations; and
- update its MVIS policy manual, audit reports and checklists to reflect current practices and Ministry systems.

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that there was no standardized training for vehicle inspectors on how to effectively audit or investigate an MVIS garage. Managers we spoke to expressed concern over the lack of training for vehicle inspectors. They indicated that when hired, vehicle inspectors have no experience in investigations, gathering evidence

or laying charges against MVIS garages. We also found that the Ministry had not updated the MVIS Policy Manual or its MVIS audit reports and checklists since 2009. This was problematic given that changes have occurred since, and the manual refers to information systems no longer used by the Ministry. Our review of MVIS files found that audit requirements were not being met consistently. For example, inspectors did not check for all the required tools in 47% of the files we tested and inspectors did not complete the audit checklist in 53% of the files we tested.

In our follow-up, we found that the Ministry has not yet provided vehicle inspectors with standardized training on conducting audits and investigations, nor has it updated its MVIS policy manual, audit reports and checklists to reflect current practices and Ministry systems. The Ministry indicated that it plans to address these recommendations with the implementation of the MVIS modernization plan which it expects to complete by November 2023.

## Performance Measurement

### Recommendation 19

*To more effectively assess Ontario's performance in commercial vehicle safety and allow for informed decision-making in regard to commercial vehicle safety policy, we recommend that the Ministry of Transportation:*

- develop relevant commercial vehicle safety-specific performance indicators and associated targets and take steps toward meeting those targets; and
- report these performance measures to the public.

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the only commercial vehicle specific performance indicator in place was compliance rates during Road Check, which is not publicly reported. We noted that the Ministry tracks extensive data on carriers, commercial vehicles and

drivers that could be used to establish performance indicators that would help measure the effectiveness of its enforcement activities. As well, we noted that the province's road safety annual report provides extensive road safety statistics for Ontario that could be used to measure performance, including commercial vehicle-specific statistics.

In our follow-up, we found that the Ministry had made limited progress toward implementing these recommendations. The Ministry informed us that it planned to develop key performance indicators by December 2021 that address collision risk factors in the trucking industry. Thereafter, the Ministry indicated that it would assess which of these indicators would be most relevant for public reporting and release these results related to these indicators in documents such as the province's road safety annual report.

# Chapter 1

## Section 1.05

Ministry of Long-Term Care

# Food and Nutrition in Long-Term-Care Homes

Follow-Up on VFM Section 3.05, 2019 Annual Report

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1			1		
Recommendation 2	1		1			
Recommendation 3	2			2		
Recommendation 4	3	1	1	1		
Recommendation 5	2	1		1		
Recommendation 6	2		2			
Recommendation 7	1			1		
Recommendation 8	1			1		
Recommendation 9	1			1		
Recommendation 10	2		2			
Recommendation 11	2			2		
Recommendation 12	1			1		
Recommendation 13	1	1				
Recommendation 14	2			2		
Recommendation 15	3		1	2		
Recommendation 16	3		1	2		
Recommendation 17	1			1		
Recommendation 18	1			1		
Recommendation 19	1			1		
<b>Total</b>	<b>31</b>	<b>3</b>	<b>8</b>	<b>20</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>10</b>	<b>26</b>	<b>64</b>	<b>0</b>	<b>0</b>

## Overall Conclusion

The Ministry of Long-Term Care (Ministry), AdvantAge Ontario and the Ontario Long Term Care Association (sector associations), as of October 28, 2021, have fully implemented 10% of actions we recommended in our *2019 Annual Report* and were in the process of implementing an additional 26% of the recommendations. The Ministry and the long-term-care sector made little progress on 64%.

The Ministry indicated that it was taking extensive measures to mitigate risk imposed by the COVID-19 pandemic and was engaged in assisting homes to manage outbreaks for much of the period between the 2019 audit report and the time of our follow-up. The Ministry indicated that, as the tasks associated with COVID-19 subsidy and the human resource issues are addressed, it will resume work on addressing the audit recommendations.

Similar to the Ministry, the sector associations were focused on supporting long-term-care homes to manage the impact of the COVID-19 pandemic on home operations and human health.

At the time of our follow-up, the Ministry has fully implemented recommendations related to monitoring whether long-term-care homes' staff are complying with internal policies to refer residents for registered dietitian assessment and maintain complete and accurate resident food and fluid consumption records, and ensuring homes regularly assess compliance with the hand hygiene policy around mealtimes.

The Ministry was in the process of implementing recommendations such as confirming during its inspection process that all direct-care staff are able to know the residents' plans of care for food and nutrition before serving food and developing and implementing an updated staffing strategy for the long-term-care home sector that considers the varying needs of residents throughout the day.

The Ministry and the long-term-care sector have made little progress on 64% of the recommendations.

For example, the sector associations had provided education and other resources to help long-term-care homes implement the audit recommendations but had not yet measured the homes' implementation status of our audit recommendations. Similarly, the Ministry has done little to determine how best to group the long-term-care homes, such as by region or by ownership type, in future food-buying arrangements, until the organization(s) responsible for co-ordinating group purchasing is identified. The Ministry has also not yet set performance targets and regularly assessed actual results against these targets that measure how effective a long-term-care home is at meeting residents' food and nutrition needs. Implementation of these actions is also contingent on the completion of other actions that were in progress of being implemented.

The status of actions taken on each of our recommendations is described in this report. Many timelines provided for implementation are for two years and beyond, with minimal short-term actions being taken or planned to address the situation for current residents in a timelier manner. Some timelines are unreasonable given the urgency of care required for current residents.

## Background

As of December 31, 2020, the most recent data available at the time of the follow-up, more than 67,100 (77,000 in 2018/19) adults live in Ontario's 626 (same as 2018/19) long-term-care homes. The Ministry of Long-Term Care (Ministry) funds the homes to provide residents with 24-hour nursing care and help with daily living activities in a protective and supportive environment.

At the time of our audit, the average age of residents in Ontario's long-term-care homes was 83. However, compared with 2009, the current cohort of residents are more cognitively impaired and require more assistance with daily living, including eating

and drinking. It was estimated that in 2016, there were 228,000 long-term-care home residents living with dementia. This number was expected to grow substantially to over 430,000 by 2038. Providing food and nutrition services to residents will become more challenging for long-term-care homes with this expected increase in the prevalence of dementia.

The Ministry inspects long-term-care homes on aspects related to food, such as dining room observation, menu planning and evaluating nutritional and hydration risks to residents. As well, Ontario's 35 public health units (reduced to 34 effective January 1, 2020), which are co-funded by the Ministry of Health and municipalities, inspect the homes for food-safety concerns such as food temperature control, food-area sanitation, pest control and food-preparation practices.

Our audit found that the long-term-care homes were not consistently providing residents with sufficient and high-quality food and nutrition care.

Our more significant audit findings included:

- Residents typically waited an average of 43 minutes to receive breakfast, compared to 29 minutes during lunch and 24 minutes during dinner, because personal support workers have other responsibilities in the morning to help residents get ready for the day. As well, over a two-week period in February 2019, one in eight, or 13% of meals served at the long-term-care homes we visited did not have a full complement of staff reporting to work on those days.
- Long-term-care staff did not consistently follow the residents' plans of care, increasing the risk that residents may be eating the wrong food. Plans of care define the level of care residents require for various aspects of their living activities, including eating. Between January 2017 and May 2019, the Ministry noted 56 homes that failed to follow a resident's plan of care, with 29% of these homes having repeated non-compliance issues in this same area.
- Menus did not have the nutrients for residents recommended by the Dietary Reference Intakes. While we found that homes' menus had sufficient

protein, they contained too much sugar, ranging from 40% to 93% over recommended amount; too much sodium, ranging from 32% to 59% over the recommended amount; and not enough fibre, ranging from 19% to 34% below recommended amount.

- In three of the five long-term-care homes we visited, some food used to make meals was past its best-before date. Two of these homes served that food to residents; one of the food items was three months beyond the best-before date. Food past its best-before date may still be safe, but can lose some of its freshness, flavour and nutritional value, and undergo a change in texture.
- Only 19% of residents were observed to have washed their hands to prevent and control infections. We also observed that 76% of staff practised proper hand hygiene directly before or after the meal. According to the Ministry of Health's March 2018 publication—*Gastroenteritis Outbreaks in Long-Term Care Homes, Recommendations for Long-Term Care Homes and Public Health Unit Staff*, long-term-care homes could prevent 20% of infections through adherence to an infection prevention and control program that includes proper hand hygiene.
- The Ministry did not require long-term-care homes to report on performance indicators related to food and nutrition. Such indicators could include the percentage of residents at high nutritional risk, ratio of staff to residents who need help eating, and satisfaction of residents and families with respect to food and dining.

We made 19 recommendations, consisting of 31 action items, to address our audit findings.

We received commitment from the Ministry of Long-Term Care, AdvantAge Ontario and the Ontario Long Term Care Association that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of Long-Term Care, that effective October 28, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Plans of Care Not Always Followed or Updated to Meet Residents' Needs for Food and Nutrition

#### Recommendation 1

*To provide residents with safe and appropriate food and nutrition services that are in accordance with their plans of care and reduce the risk of food-related harm to residents, we recommend that long-term-care homes develop ways to ensure that all direct-care staff have timely access to the most current plans of care of the residents for food and nutrition before serving food.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted that personal support workers at the long-term-care homes we visited did not always have ready access to the most current plan of care, and home management did not consistently ensure that they had access. A regulation under the *Long-Term Care Homes Act, 2007* states that long-term-care homes shall ensure staff and others who provide direct care to a resident have convenient and immediate access to the resident's plan of care.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started

shortly after the completion of the 2019 audit.

The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted recommendations for the long-term-care sector. AdvantAge Ontario also delivered four webinars related to food and nutrition in August 2020, which contained suggestions or strategies to enable direct-care staff access to the most current plans of care for residents for food and nutrition, for instance, using technology so that staff have table-side access to resident care plans.

In addition, in its newsletter to members, AdvantAge Ontario in April 2021 reminded member long-term-care homes to take specific actions to address this audit recommendation. Specifically, AdvantAge Ontario reminded homes to review with staff the importance of referencing the care plan and dietary requirement lists at each mealtime and consider ways and means of making dietary care plan information readily accessible to staff and feeding volunteers.

At the time of our follow-up, we found that the Ontario Long Term Care Association had included a program on dietary services in its conference held in April 2021. This program covered the challenges food service faced in responding to COVID-19, better infection prevention and improving the culinary experience. In another conference held in October 2020, one of the sessions covered a technological solution to support various aspects of mealtime, including food procurement, menu planning to meet nutritional goals and nutritional analysis; another session covered a program that consists of checklists to help improve the mealtime experience for residents.

### Recommendation 2

*To remind long-term-care homes of the importance of providing residents with safe and appropriate food and nutrition services that are in accordance with their plans of care and reduce the risk of food-related harm to residents, we recommend that the Ministry of Long-Term Care confirm during its inspection process that all direct-care staff are able to know the residents' plans of care for food and nutrition before serving food.*

**Status:** In the process of being implemented by December 2022.

#### Details

In our 2019 audit, we noted that personal support workers at the long-term-care homes we visited did not always have ready access to the most current plan of care, and home management did not consistently ensure that they had access.

At the time of our follow-up, the Ministry has drafted a new proactive inspection process with the goal of developing an improved, standardized proactive inspection that aligns with addressing risk in reactive inspections and ensures quality of care and safety of residents. The Ministry started this work in early March 2020, before the onset of the COVID-19 pandemic, and reconvened the work in January 2021. The Ministry expects that by December 2022, it will complete its review to determine potential legislative and regulatory requirements that may be included in the scope of the new inspection process. This may include confirming during inspections that all direct-care staff have access to the residents' plan of care for food and nutrition before serving food. The Ministry also confirms that direct-care staff have access to the residents' plan of care for food and nutrition before serving food, which is required in regulation, in the existing process of inspection of complaints and critical incidents regarding issues with residents not receiving appropriate meals.

As well, in July 2021, the Ministry issued a memo to the long-term-care sector to remind it of this regulatory requirement.

### Recommendation 3

*To better meet the dietary needs of their residents, as assessed in their plans of care and proactively mitigate nutritional risks to residents, we recommend that long-term-care homes:*

- *communicate to their staff the importance of complying with internal policies to refer residents for registered dietitian assessment and maintain complete and accurate food and fluid consumption records;*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted that long-term-care home direct-care staff did not always follow their home's internal referral policy to refer residents for a registered dietitian assessment, and consumption data to help identify residents who require dietary intervention was not always reliable.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted recommendations for the long-term-care sector. AdvantAge Ontario also delivered two webinars related to food and nutrition in August 2020, which included education on the importance of ongoing education for staff regarding referrals to the registered dietitian according to internal nutrition and

hydration policies, and the importance of completing food consumption records.

In addition, in its newsletter to members, AdvantAge Ontario in April 2021 reminded member long-term-care homes to take specific actions to address this audit recommendation. Specifically, AdvantAge Ontario reminded homes to enhance quality audits of food and fluid documentation.

The Ontario Long Term Care Association indicated that it continues to support quality improvement initiatives led by its member homes to meet the complex needs of their residents.

- *allocate more time for the registered dietitians to proactively monitor the nutrition and hydration risk posed to all residents such as observing residents eating at mealtimes, attending resident-care conferences and providing education to residents, staff and family members.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that registered dietitians at the five homes where we conducted detailed audit work estimated that they spent more time on conducting clinical assessments and creating or updating plans of care, as opposed to proactively monitoring residents' dietary needs.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted recommendations for the long-term-care sector. AdvantAge Ontario also delivered two webinars related to food and nutrition in August 2020, which included suggestions on how to encourage registered dietitians to be more proactive in the dining room and during meal service. In one webinar, the expert speaker noted that this may require increasing the hours of registered dietitians to achieve this. AdvantAge Ontario indicated that its members have also expressed this view and the association continues to advocate to the Ministry of Long-Term Care to adequately fund and staff long-term-care homes to meet resident needs.

The Ontario Long Term Care Association indicated that there has been little or no sector progress in implementing this recommendation, as the province has not provided any additional guidance on increasing dietitian hours and an expanded role for dietitians beyond what is currently stated in the *Long-Term Care Act, 2007* and its regulation.

### Recommendation 4

*To confirm that long-term-care homes are meeting the residents' dietary needs as assessed in their plans of care and proactively mitigate nutritional risks to residents, we recommend that the Ministry of Long-Term Care:*

- *monitor whether long-term-care homes' staff are complying with internal policies to refer residents for registered dietitian assessment and maintain complete and accurate resident food and fluid consumption records;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we noted that long-term-care home direct-care staff did not always follow their home's internal referral policy to refer residents for a registered dietitian assessment, and consumption data to help identify residents who require dietary intervention was not always reliable.

At the time of our follow-up, the Ministry noted that when it receives complaints or mandatory reporting of residents receiving improper nutritional care or not being assessed for nutritional needs, it monitors, as part of its inspection process, compliance with the regulatory requirements whether the resident's plan of care was based on an interdisciplinary assessment of the resident's nutritional and hydration statuses, whether the long-term-care home has a system to monitor and evaluate the food and fluid intake of residents with identified risks related to nutrition and hydration, and whether the home has a written description of its protocols for referring residents to specialized resources where required. As part of the dining observation conducted during proactive inspections, Ministry inspectors may notice risks related to the nutrition and hydration status of a resident and as a result may examine internal policies related to registered dietitians or food and fluid consumption records.

The Ministry has demonstrated that its inspectors have reviewed and cited non-compliances of long-term-care homes' practices of referring residents for registered dietitian assessment and maintaining complete and accurate resident food and fluid consumption records in inspections conducted since our 2019 audit.

As well, in July 2021, the Ministry issued a memo to the long-term-care sector to remind it of the regulatory requirement to have a system to monitor and evaluate the food and fluid intake of residents with identified risks with hydration and nutrition.

- *establish protocols for registered dietitians to allocate more time for observing residents eating at mealtimes, attending resident-care conferences and providing education to residents, staff and family members;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that registered dietitians at the five long-term-care homes where we conducted detailed audit work did not spend much

time on proactive care such as proactively observing residents eating in the dining room, attending all resident-care conferences to see if the resident and family are satisfied with the food and dietary interventions, and providing education to residents, staff and family members about different diets and risks associated with consuming the wrong textured food. Instead, registered dietitians were allocating more time to conducting clinical assessments and creating or updating plans of care.

At the time of our follow-up, the Ministry indicated that long-term-care homes and the registered dietitians in those homes can review the time allotted for registered dietitians to observe residents eating at mealtimes, attend resident-care conferences and provide education to residents, staff and family members, to determine if more time is required than the minimum required time of 30 minutes per resident per month to carry out clinical and nutritional care duties. In April 2019, the Ministry introduced a global increase adjustment in addition to the four level-of-care per diem categories. Long-term-care homes can use this adjustment as needed to address priority areas and use up to 32% of the global per diem increase in the level-of-care envelope that funds dietitian services. The Ministry indicated that long-term-care homes can use this funding if they need to spend more beyond this minimally required time on registered dietitians, and that there are similar increases in the 2020 and 2021 budgets for long-term-care homes. The Ministry can monitor whether long-term-care homes allocate more funding toward dietitian services by reviewing information that homes report to it annually.

As well, according to Ontario's Long-Term Care Staffing Plan (2021-2025) that the Ministry released in December 2020, it plans to increase the staffing level of allied health care workers, including registered dietitians, by 20%. The Ministry indicated that it expects this funding increase will be fully implemented by March 2023, and it will consider adjustments that may be appropriate in relation to expensing registered dietitians' time to carry out

clinical and nutritional care duties and/or providing further guidance to the sector.

In the meantime, in July 2021, the Ministry issued a memo to the long-term-care sector to inform it of the best practices developed by Dietitians of Canada. The Ontario Long-Term Care Action Group of Dietitians Canada (now known as the Ontario Seniors Nutrition and Advocacy Committee) developed a working paper in 2019 that noted that regular observations by registered dietitians and other long-term-care home staff and informal conversations with residents are important components of menu planning and evaluation. The group also advocated for the dietitian to attend resident-care conferences and to provide more education to staff and families.

- *during their inspections, review long-term-care homes' system for monitoring resident food and fluid consumption as a whole to see how they proactively minimize the nutrition and hydration risk posed to other residents.*

**Status:** In the process of being implemented by December 2022.

### Details

In our 2019 audit, we noted that Ministry inspectors only look at food and fluid consumption records if the inspection was related to a resident with a nutrition or hydration risk, but not for all residents. Reviewing the home's system for monitoring resident food and fluid intake as a whole could help proactively minimize the nutrition and hydration risks posed to other residents.

At the time of our follow-up, the Ministry had drafted a new proactive inspection process with the goal of developing an improved, standardized proactive inspection that aligns with addressing risk in reactive inspections and ensures quality of care and safety of residents. The Ministry started this work in March 2020, before the onset of the COVID-19 pandemic, and reconvened the work in January 2021. The Ministry expects that by December 2022, it will complete its review to determine potential legislative and regulatory requirements that may be included in the scope of the new inspection process, which may

include reviewing long-term-care homes' systems for monitoring resident food and fluid intake to see how they proactively minimize the nutrition and hydration risk posed to other residents. As well, in its existing process of inspection of complaints and critical incidents regarding issues with residents not receiving appropriate meals, the Ministry confirms that long-term-care homes have systems to monitor and evaluate the food and fluid intake of residents with identified risks related to nutrition and hydration, which is required in regulation.

As well, in July 2021, the Ministry issued a memo to the long-term-care sector to remind it of this regulatory requirement.

## Residents Not Consistently Consuming Sufficient Quality of Food and Fluid

### Recommendation 5

*To increase the likelihood that residents receive food and fluids with adequate nutrients, fibre and energy, we recommend that long-term-care homes':*

- *registered dietitians make appropriate menu changes to achieve compliance with the current Canada's Food Guide and Dietary Reference Intakes requirements;*

**Status:** Little or no progress.

### Details

In our 2019 audit, our review of menus and recipes from a sample of long-term-care homes showed that residents were not provided with food that had adequate nutrients, fibre and energy based on the Dietary Reference Intakes values established by a scientific body commissioned by both the Canadian and the US governments. These values specify the intake level required of healthy populations in specific sex and age groups. An example of a standard from the Dietary Reference Intakes is that people over the age of 70 years have a recommended dietary allowance of 1,200 mg of calcium per day.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted recommendations for the long-term-care sector. AdvantAge Ontario also delivered two webinars related to food and nutrition in August 2020, which included specific education around the new Canada's Food Guide and the Dietary Reference Intakes requirements. One of the webinars focused specifically on understanding best practices for menu planning to meet resident needs in long-term-care homes, integrating the new food guide into menu planning, and recognizing practice and policy options that support high-quality menu planning while balancing resident preferences. This webinar also included sharing a template menu planning guide based on changes in the new food guide, as well as a menu-approval tool, which incorporates menu audit questions. In another webinar, the presenter recommended that homes be proactive about adopting the new food guide and referred to a report from the Ontario Long-Term Care Action Group of the Dietitians of Canada (now known as the Ontario Seniors Nutrition and Advocacy Committee) regarding this.

In addition, in its newsletter to members, AdvantAge Ontario in April 2021 reminded member long-term-care homes to take specific actions to address this audit recommendation. Specifically,

AdvantAge Ontario reminded homes to, in collaboration with the registered dietitian, review the nutrient values of the home's menu and compliance with the Canada's Food Guide.

The Ontario Long Term Care Association indicated that it had included a program on dietary services in its conference held in April 2021. This program covered the challenges food service faced in responding to COVID-19, better infection prevention and improving the culinary experience. In another conference held in October 2020, one of the sessions covered a technology solution to support various aspects of mealtime including food procurement, menu planning to meet nutritional goals and nutritional analysis; another session covered a program that consists of checklists to help improve the mealtime experience for residents.

- *management monitor their menus for compliance with the current Canada's Food Guide and Dietary Reference Intakes requirements.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that of the five long-term-care homes where we conducted detailed audit work, two could not provide evidence that their registered dietitian analyzed the home's menu to be in accordance with Canada's Food Guide and the Dietary Reference Intakes, two performed minimal analysis and instead relied on the corporate dietitian to perform the analysis, and one performed analysis as required by regulation.

At the time of our follow-up, the two homes that did not provide evidence that they performed nutritional analysis on the home's menu now demonstrated that they analyzed their menus to be in compliance with the current Canada's Food Guide and Dietary Reference Intakes requirements. As well, for the two homes that used corporate dietitian services, one home has demonstrated that it has reviewed and signed off on the corporate dietitian's analysis and the other home ensures it has the corporate dietitian's analysis in writing for each of its menu cycles.

### Recommendation 6

*To increase positive health outcomes and assist residents in receiving food and fluid with adequate nutrients, fibre and energy, we recommend that the Ministry of Long-Term Care:*

- *support long-term-care homes to develop and implement a transition plan setting out when long-term-care homes need to fully adopt the 2019 Canada's Food Guide;*

**Status:** In the process of being implemented by December 2022.

#### Details

In our 2019 audit, we noted that the Ministry did not have a transition plan to set out when homes needed to fully adopt the Canada's Food Guide that came into effect in January 2019. All five homes where we conducted detailed audit work were still following the 2007 version of the Guide. The 2019 Guide recommended people include plenty of vegetables and fruit in their meals as they contain more important nutrients such as fibre, vitamins and minerals.

At the time of our follow-up, the Ministry noted that in April 2020, Dietitians of Canada, L'Ordre professionnel des diététistes du Québec and the Canadian Malnutrition Task Force together issued a guidance document to assist long-term-care dietary and nutritional staff to prepare menus to meet residents' overall nutritional needs that follow the 2019 Canada's Food Guide, which did not provide specific guidelines on people living in institutional environments.

In addition, the Ministry consulted with various parties including Health Canada and the Food and Nutrition Advisory Team in spring 2021, and indicated that it will continue consulting with stakeholders to determine how best to use this guidance document together with Canada's Food Guide and the Dietary Reference Intakes as the basis for menu planning in Ontario long-term-care homes. The Food and Nutrition Advisory Team is a newly formed dietary consultation team that is part of the Ontario Seniors Nutrition and Advocacy Committee within the Dietitians of Canada. The advisory team consists

of registered dietitians and nutrition managers working in the long-term care and retirement sector that works with the Ministry of Long-Term Care, the Ministry of Health, the Ontario's Long-Term Care COVID-19 Commission and other stakeholders.

As well, the Ministry noted that training for inspectors and the long-term-care sector may also follow if the Ministry decides to endorse the guidance document. The Ministry expects to complete this work by December 2022.

- *instruct its inspectors to regularly verify that long-term-care-home menus are meeting the current Canada's Food Guide and Dietary Reference Intakes requirements as part of their inspection protocol and review the long-term-care home's nutrient analysis of its menus.*

**Status:** In the process of being implemented by December 2022.

#### Details

In our 2019 audit, the Ministry informed us that it would be unlikely an inspection would require a review of the entire menu cycle. An inspector would likely only review nutrition levels of a particular day if there were complaints about the nutrients provided or if the inspector observed unusual meals in the dining room. None of the registered dietitians and nutrition managers at the five long-term-care homes where we conducted detailed audit work said Ministry inspectors had asked them for the nutrient analysis of the home's menu in the last three years.

At the time of our follow-up, the Ministry indicated that it will, by December 2022, continue stakeholder consultations to determine whether it would endorse the 2019 Canada's Food Guide and Dietary Reference Intakes as the basis for menu planning in Ontario long-term-care homes.

In addition, the Ministry has drafted a new proactive inspection process with the goal of developing an improved, standardized proactive inspection that aligns with addressing risk in reactive inspections and ensures quality of care and safety of residents. The Ministry started this work in March 2020, before the onset of the COVID-19 pandemic, and reconvened

the work in January 2021. The Ministry expects that by December 2022, it will complete its review to determine potential legislative and regulatory requirements that may be included in the scope of the new inspection process, which may include verifying that long-term-care home menus are meeting the current Canada's Food Guide and Dietary Reference Intakes requirements and reviewing the long-term-care home's nutrient analysis of its menu.

### Recommendation 7

*To minimize the risk of residents consuming low-quality food, we recommend that long-term-care homes require and monitor that their staff abide by the internal food storage policy, including not storing food beyond their best-before date.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that at three of the five long-term-care homes where we conducted detailed audit work, food items past their best-before date were still in the fridge or dry-storage area. Management at these homes explained that staff did not always use food inventory according to the home's policy of first-in-first out.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted

recommendations for the long-term-care sector. AdvantAge Ontario also delivered a webinar related to food and nutrition in August 2020, which reinforced the importance of internal food storage policies and monitoring food safety elements, for example, fridge temperatures and food expiration dates.

In addition, in its newsletter to members, AdvantAge Ontario in April 2021 reminded member long-term-care homes to take specific actions to address this audit recommendation. Specifically, AdvantAge Ontario reminded homes to review food inventory and storage policies and procedures related to expiry and best-before dates of food products.

The Ontario Long Term Care Association indicated that it had included a program on dietary services in its conference held in April 2021. This program covered the challenges food service faced in responding to COVID-19, better infection prevention and improving the culinary experience.

### Recommendation 8

*To minimize the risk of residents consuming low-quality food, we recommend that the Ministry of Long-Term Care require its inspectors to regularly verify that food items in refrigeration and storage in long-term-care homes are not beyond their best-before date.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted that Ministry inspectors only observe whether homes store food and fluid in a manner that preserves taste, nutritional value, appearance and food quality when an incident or complaint related to food storage occurs.

At the time of our follow-up, the Ministry noted that its existing inspection process ensures food is stored to preserve taste, nutritional value, appearance and food quality. It has researched guidance on best-before date issued by the Canadian Institute of Food Safety, which indicated that while unopened products should still be of high quality until the specified best-before date, the date no longer applies if a

package is opened and failure to adhere to handling and storing guidelines will affect the food item's quality. The Ministry expects to, by December 2022, consult with subject matter experts to review inspection processes regarding best-before dates and food quality and develop a framework to identify appropriate indicators, which could include qualitative measures such as satisfaction of food and meals and food quality, and determine if any changes are required to inspector practices when determining compliance with the *Long-Term Care Homes Act, 2007* related to food quality.

## Wait Times for Meals and Level of Service Vary Across the Province

### Recommendation 9

*To promote quality of life and provide timely assistance during mealtimes to residents, we recommend that long-term-care homes evaluate alternative staffing options to provide assistance to residents during peak demand times such as mealtimes; for example, volunteer or students trained in feeding residents with dementia.*  
**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that at the 59 long-term-care homes where we observed mealtimes, residents rarely had family or friends present during mealtimes and relied on personal support workers to help them eat or feed them. Yet in a 2018 survey of long-term-care homes conducted by the Ontario Long Term Care Association, about 80% of long-term-care homes that responded to the survey indicated that they had difficulty filling shifts. During our audit, we found that staff did not report to work despite being scheduled to work, resulting in an average of 13% of meals not having enough staff on the floor at the five long-term-care homes where we conducted detailed audit work over a two-week period in February 2019.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's

long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario in December 2019 prepared a summary of the audit report to raise awareness among its membership and highlighted recommendations for the long-term-care sector. AdvantAge Ontario also delivered two webinars related to food and nutrition in August 2020, which included suggestions on staffing options to provide residents with assistance during mealtimes, for example, working with the staff available, including the leadership team, rethinking tasks and staff roles during mealtime, and using technology to boost staff efficiency and availability to interact with residents during meals.

The Ontario Long Term Care Association included several programs on staffing in its conference held in April 2021. These programs covered technology solutions on shift scheduling, possible staffing solutions, challenges faced by personal support workers, managing unionized and non-unionized workforces, and foundations of workplace culture. In another conference held in October 2020, programs covered discussions on staffing shortages and recruitment issues.

### Recommendation 10

*To promote quality of life and provide timely assistance during mealtimes to residents, we recommend that the Ministry of Long-Term Care:*

- *clarify to long-term-care homes that alternative staffing options exist that can be used to provide*

*assistance to residents during peak demand times such as mealtimes; for example, part-time staff, volunteers or students trained in feeding residents with dementia;*

**Status:** In the process of being implemented by March 2025.

### Details

In our 2019 audit, we noted that Ministry inspectors observed that staffing shortages caused some residents to miss their meal. We also observed that residents on average waited 43 minutes during breakfast, 29 minutes during lunch and 24 minutes during dinner, before they received their food at 59 long-term-care homes where we observed mealtimes. Meanwhile, the long-term-care sector associations indicated that the *Long-Term Care Homes Act, 2007* specifies that assistance with activities of daily living to residents be provided by qualified personal support workers and indicated that clarification by the Ministry would help remove a barrier to ensuring sufficient support for residents during mealtimes.

At the time of our follow-up, we found that the Ministry had issued a four-year long-term care staffing plan for 2021 to 2025 in December 2020, which called for increasing the level of direct care hours per resident to an average of four hours per resident per day, and increasing the care provided by allied health-care professionals by 20% over two years. The Ministry plans to start funding long-term-care homes to increase the average hours of care in 2021/22 and expects to fully implement the increase in direct care by March 2025. The Ministry also expects that it will issue further guidance to the long-term-care sector on staffing models.

- *develop and implement an updated staffing strategy for the long-term-care home sector that considers the varying needs of residents throughout the day.*

**Status:** In the process of being implemented by March 2025.

### Details

In our 2019 audit, we noted that some residents experienced longer wait times during breakfast, some did not receive timely assistance for eating, and staffing shortfalls at some long-term-care homes affected personal support workers' ability to deliver adequate care to residents when they had to take on increased workload on shifts where other personal support workers did not report to work.

At the time of our follow-up, we found that the Ministry had issued a four-year long-term care staffing plan for 2021 to 2025 in December 2020, which called for increasing the level of direct care hours per resident to an average of four hours per resident per day, and increasing the care provided by allied health-care professionals by 20% over two years. The Ministry plans to start funding long-term-care homes to increase the average hours of care in 2021/22 and expects to fully implement the increase in direct care by March 2025. By 2021/22, the Ministry expects that residents will receive an average of 180 minutes (165 minutes, 2018) of care by registered nurses, registered practical nurses and/or personal support workers and 33 minutes (30 minutes, 2018) of care by physiotherapists, occupational therapists, recreational therapists, and/or social workers. The Ministry expects these will increase to an average of 240 minutes by the end of 2024/25, and an average of 36 minutes by the end of 2022/23, respectively.

## Design of Dining Areas Impacts Residents' Dining Experience

### Recommendation 11

*To allow more long-term-care home residents to eat in a safe and home-like environment, we recommend that the Ministry of Long-Term Care:*

- *re-evaluate whether its home design requirements for homes constructed before 2009 continue to be reasonable given the increased use of mobility devices in long-term-care homes today;*

**Status:** Little or no progress.

## Details

In our 2019 audit, we noted that the Ministry allows homes built before 2009 to have dining areas outside of dining rooms. We observed that some residents were eating in the hallway, close to linen carts and close to people moving through the hallway.

At the time of our follow-up, the Ministry indicated that the design standards established in 1998 were no longer in use and have been replaced by the 2009 and subsequently the 2015 standards that require all dining space be provided in the “resident home area” as opposed to permitting some of the dining space to be outside the area. The Ministry feels that updating the design standards over the years has improved comfort and access for residents.

As well, the Ministry had committed to upgrading existing older homes to current design standards. Homes with B, C and upgraded D classifications may be eligible for redevelopment funding under the Long-Term Care Home Development Program. The Program seeks to build 30,000 new beds by 2028 and redevelop older existing beds to current design standards. The Ministry expects that the Program will cover more than 50% of the older beds.

The Ministry further indicated that many older homes moved to in-room dining and other models of meal delivery during the COVID-19 pandemic and these practices may be adopted permanently.

The Ministry also indicated that it expects the recent changes made to modernize the Long-Term Care Development Program will respond to the challenges in the sector brought by COVID-19, particularly the elimination of three- and four-bed ward rooms in which isolation and cohorting has proven difficult. These changes include a redesigned funding model on long-term-care home capital development, announced in July 2020, that the Ministry expects to address historic barriers and accelerate the construction of new and redeveloped beds to current design standards. Also, the Ministry is implementing initiatives to address capacity issues in long-term-care homes, including selling surplus government lands for delivering long-term care and building new homes on hospital-owned lands in the

Greater Toronto Area. As well, the Ministry expects that the Final Report of the Ontario’s Long-Term Care COVID-19 Commission released in April 2021 will help identify further changes that may be required to the existing design standards.

- *determine what measures to put in place for homes that do not have dining spaces under the current design manual to increase the comfort of their residents during mealtimes.*

**Status:** Little or no progress.

## Details

In our 2019 audit, home management informed us that more residents today have mobility limitations than in previous years and use either wheelchairs or walkers. During our audit, we noted that residents at one long-term-care home we visited had limited space to move in the dining room—many of them were in wheelchairs and they were seated in a small space with additional people including staff and family members assisting with feeding. Residents who had mobility devices were not able to move through the dining room unless staff moved other residents. The Ministry’s best practice, as noted in its 2015 home design manual, stated that dining room layouts should consider wheelchair access to tables as well as staff accessibility as they serve meals.

At the time of our follow-up, the Ministry indicated that the design standards established in 1998 were no longer in use and have been replaced by the 2009 and subsequently the 2015 standards that require all dining space be provided in the “resident home area” as opposed to permitting some of the dining space to be outside the area. The Ministry feels that updating the design standards over the years has improved comfort and access for residents.

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## Only 19% of Residents Observed to Have Washed Their Hands to Prevent Infections

### Recommendation 12

*To minimize the risk of gastroenteritis outbreaks in long-term-care homes, we recommend that long-term-care homes regularly assess compliance with the Ministry of Health's policy on hand hygiene around mealtimes and correct on a timely basis any weaknesses that they identify through these reviews.*

Status: Little or no progress.

### Details

In our 2019 audit, we observed at the 59 long-term-care homes we visited across Ontario that 19% of residents and 76% of staff practised proper hand hygiene directly before or after a meal. Management and personal support workers from some homes informed us one of the reasons they did not perform proper hand hygiene with residents was due to the lack of available time. A March 2018 Ministry of Health document noted that proper hand hygiene is the single most important practice in preventing the transmission of infections.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province's long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started shortly after the completion of the 2019 audit. The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario indicated that infection prevention and control practices have been a focus of the COVID-19 pandemic response in the long-term-care sector, and regular hand hygiene audits are part of these practices.

In addition, in its newsletter to members, AdvantAge Ontario in April 2021 reminded member long-term-care homes to take specific actions to address this audit recommendation. Specifically, AdvantAge Ontario reminded homes to review hand-washing policies, procedures and protocols with all staff and volunteers.

Although the Ontario Long Term Care Association has put on two conferences in 2020 and 2021 to support and educate the long-term-care sector, programming did not cover hand hygiene.

### Recommendation 13

*To minimize the risk of gastroenteritis outbreaks in long-term-care homes, we recommend that the Ministry of Long-Term Care monitor to ensure that long-term-care homes regularly assess compliance with the Ministry of Health's policy on hand hygiene around mealtimes, and correct on a timely basis any weaknesses that they identify through these reviews.*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we noted that even though home management displayed reminders on proper hand hygiene throughout the homes and the Ministry in its inspections monitors whether home staff and residents practise proper hand hygiene during mealtimes, we still observed improper hand hygiene directly before or after residents' meals.

At the time of our follow-up, the Ministry, in conjunction with the Ministry of Health and Public Health Ontario, has issued infection prevention and control resources, including the importance of hand hygiene, to long-term-care homes during the COVID-19 pandemic. As well, in October 2020, the Ministry provided an inspection guide to its inspectors on infection prevention and control, including an example of how to document a non-compliance related to staff not assisting residents with hand hygiene before and after meals.

As well, as of January 18, 2021, the Ministry required all inspectors to complete an infection prevention and control inspection with every new inspection of homes. In completing these inspections, Ministry inspectors follow a checklist, which includes a step to verify whether long-term-care home staff assisted residents to perform hand hygiene before and after meals.

The Ministry also demonstrated that its inspectors have included verification that long-term-care homes assess compliance with hand hygiene policies around mealtimes and have documented these concerns in inspection reports.

As well, in July 2021, the Ministry issued a memo to the long-term-care sector to remind it of the requirement to adhere to the hand hygiene program.

### Long-Term-Care Homes Can Do More to Divert Food Waste from Landfills

#### Recommendation 14

*To limit the impact of food waste on the environment, we recommend that the Ministry of Long-Term Care:*

- *work with the Ministry of the Environment, Conservation and Parks to establish a goal of diverting food and organic waste generated in long-term-care homes;*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted that while the province's Food and Organic Waste Policy Statement of April 2018 had a goal of diverting food and organic waste in certain hospitals by 2025, it did not apply to long-term-care homes.

At the time of our follow-up, the Ministry of the Environment, Conservation and Parks (Ministry) had released its two-year progress update to the A Made-in-Ontario Environment Plan in November 2020. This update includes a commitment to consult on a proposal to phase out food and organic waste from landfills by 2030. The Ministry indicated to us that it will consider whether the phasing-out of food and organic waste could apply to long-term-care homes as part of this work.

Food and organic waste diversion is not currently required in long-term-care homes. By December 2021, the Ministry aims to release a discussion paper for consultation on industrial, commercial and institutional waste diversion. The Ministry's consultation may lead to the need to amend Ontario's Food and Organic Waste Policy Statement to clarify which industrial, commercial and institutional sector facilities should be required to divert food and organic waste.

- *work with the associations that represent the long-term-care home sector to develop guidelines to help long-term-care homes meet this goal.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that only one of the five homes where we conducted detailed audit work had procedures to divert food waste from landfills. This home donates leftover food to a local soup kitchen and composts the remaining organic waste.

At the time of our follow-up, the Ministry of Long-Term Care, in conjunction with the Ministry of the Environment, Conservation and Parks, as part of the province's consultation process and posting on the Environmental Registry, will share with the long-term-care sector associations the policy proposal to phase out food and organic waste from landfills and the consultation paper on waste diversion in the industrial, commercial and institutional sector. These documents are expected to be released by summer and fall 2021, respectively.

## Opportunities Exist to Improve Allocation of Resources Related to Food and Nutrition

### Recommendation 15

*To achieve further cost savings in purchasing food for the long-term-care-home sector, we recommend that Ministry of Long-Term Care, in conjunction with the Ministry of Health:*

- *identify the organization(s) responsible for co-ordinating group purchasing for long-term-care homes;*

**Status:** In the process of being implemented by March 2023.

### Details

In our 2019 audit, we noted that each of the long-term-care homes where we conducted detailed audit work was responsible for securing its own bulk-purchase discounts from food suppliers.

At the time of our follow-up, the Ministry indicated that it is scoping out a plan for co-ordinating group purchasing and achieving cost savings in food procurement for the long-term-care sector. This plan includes consultation with shared services organizations, group purchasing organizations and the Ministry of Government and Consumer Services. The Ministry of Government and Consumer Services is responsible for providing overall direction and transfer payment accountability for Supply Ontario. Supply Ontario is an integrated supply chain agency for the Ontario public service and the broader public sector, that the government announced the creation of in November 2020 and appointed the CEO of in February 2021. The Ministry expects that the organization(s) responsible for co-ordinating group purchasing for long-term-care homes will be identified once Supply Ontario completes prioritized work such as stabilizing and maintaining personal protective equipment supply chain operations and takes on additional direction from the government to manage other areas of provincial importance, such as food procurement. This is expected to be by March 2023.

- *determine how best to group the long-term-care homes, such as by region or by ownership type, in future food-buying arrangements, until the organization(s) responsible for co-ordinating group purchasing is identified;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that Local Health Integration Networks (LHINs) were purchasing nursing services, personal support services and medical equipment and supplies for the home and community care sector but did not play a role in group purchasing for long-term-care homes. Under the *Connecting Care Act, 2019*, LHINs and other provincial health agencies were to be transitioned into Ontario Health. At the time of our audit, Ontario Health's mandate regarding long-term-care homes was not yet established.

At the time of our follow-up, the Ministry has not moved forward to address this recommendation and will wait for Supply Ontario to begin its work, if any, with the long-term-care sector.

- *assist in the establishment of group-buying contracts where needed, until the organization(s) responsible for co-ordinating group purchasing is identified.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that Local Health Integration Networks (LHINs) were purchasing nursing services, personal support services and medical equipment and supplies for the home and community care sector but did not play a role in group purchasing for long-term-care homes. Under the *Connecting Care Act, 2019*, LHINs and other provincial health agencies were to be transitioned into Ontario Health. At the time of our audit, Ontario Health's mandate regarding long-term-care homes was not yet established, and long-term-care homes were arranging their own purchases of food products.

At the time of our follow-up, the Ministry has not moved forward to address this recommendation and will wait for Supply Ontario to begin its work, if any, with the long-term-care sector.

## Measurement and Reporting of Food and Nutrition Services

### Recommendation 16

*To demonstrate that residents receive the best possible nutritional care, we recommend that the Ministry of Long-Term Care, in conjunction with long-term-care homes:*

- *identify appropriate meaningful performance indicators that measure how effective a long-term-care home is at meeting residents' food and nutrition needs;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we noted that the Ministry did not have performance indicators that measure how homes manage residents who are of high nutritional risk, and are under or over their goal weight range. Dietitians of Canada released a report in February 2019 for best practices in long-term-care homes. The report included indicators, such as satisfaction of residents and families with respect to food and dining, average number of days to complete nutrition referrals received monthly, and percent completion of residents with significant weight change assessed, that can help measure whether homes are providing high-quality nutrition and food services.

At the time of our follow-up, the Ministry had indicated that it was in the process of developing a new quality framework and performance measures to guide oversight and quality improvement in long-term-care homes. In developing this quality framework, the Ministry engaged with residents and families in late summer 2021 to understand what quality of life and quality of care mean to them, which included residents' nutritional and food needs. The Ministry also expects to engage internal and external experts, including collaborating with the Ministry of Agriculture, Food and Rural Affairs on its work with the *Local Food Act, 2013*. The Ministry expects to complete this quality framework by December 2021.

- *set performance targets and regularly assess actual results against these targets;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry did not have performance indicators that measure how homes manage residents who are of high nutritional risk, and are under or over their goal weight range.

At the time of our follow-up, the Ministry was still developing the quality framework. Following

the completion of that framework, the Ministry will initiate the work on setting performance targets and assessing actual results against these targets.

- *report publicly on the results.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry did not have performance indicators that measure how homes manage residents who are of high nutritional risk, and are under or over their goal weight range.

At the time of our follow-up, the Ministry was still developing the quality framework. Following the completion of that framework, the Ministry will initiate the work on reporting the results publicly.

### Recommendation 17

*To improve the well-being and safety of long-term-care home residents, we recommend that long-term-care homes formally share best practices related to food and nutrition with each other.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that long-term-care homes had various nutrition and feeding-related practices worth sharing but they were not widespread. For example, one home had a “food first” mentality and used fortified milk, milkshakes, pudding and hot cereal to provide additional calories; this home had fewer of its residents on supplements than the average used in other long-term-care homes where we conducted detailed audit work. As well, one home displayed important food-related information, such as food texture and allergies, directly on the resident’s table to decrease the risk of not following a resident’s plan of care.

At the time of our follow-up, both AdvantAge Ontario and Ontario Long Term Care Association, associations that represent the province’s long-term-care homes, indicated that they will conduct a member survey by March 2023 to measure how their respective members have implemented this audit recommendation. The COVID-19 pandemic started

shortly after the completion of the 2019 audit.

The long-term-care sector experienced significant impacts to both long-term-care home operations and human lives. While the sector associations prioritized managing and responding to the pandemic, they have, nevertheless, still provided education and other resources to their members to support implementation of the audit recommendations.

For example, AdvantAge Ontario delivered four webinars related to food and nutrition in August 2020. The presenters, who are leaders in the long-term-care sector, shared best practices related to food and nutrition with attendees. AdvantAge Ontario also maintains an online policy exchange portal, where its members can share policies and best practices on a variety of topics. In April 2021, it requested that its members send best practices or policy templates related to food and nutrition to the association so that they can be disseminated broadly on the portal.

The Ontario Long Term Care Association indicated that it included a program on dietary services in its conference held in April 2021. This program covered the challenges food service faced in responding to COVID-19, better infection prevention and improving the culinary experience. In another conference held in October 2020, one of the sessions covered a technology solution to support various aspects of mealtime including food procurement, menu planning to meet nutritional goals and nutritional analysis; another session covered a program that consists of checklists to help improve the mealtime experience for residents.

### Recommendation 18

*To improve the well-being and safety of long-term-care home residents, we recommend that the Ministry of Long-Term Care identify commonly occurring issues related to food and nutrition from data collected through critical incidents and inspections, and provide information and recommend best practices to long-term-care homes.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry did not analyze food-related compliance data from inspection reports to support quality improvements in long-term-care homes and improve decision-making such as training and guidance provided to homes. The *Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System* by Justice Eileen E. Gillese in July 2019 also recommended that the Ministry establish a dedicated unit to support homes in achieving regulatory compliance and identify, recognize and share best practices leading to excellence in the provision of care in homes.

At the time of our follow-up, the Ministry indicated that it had been focusing on mitigating risk and adapting to the challenges posed by the COVID-19 pandemic. As the tasks associated with the pandemic subsided and the human resource issues are addressed, the Ministry will, by December 2023, share best practices and learnings from commonly occurring issues with long-term-care homes. In the meantime, in July 2021, the Ministry issued a memo to the long-term-care sector to inform it of the best practices developed by Dietitians of Canada on nutrition, food service and dining in long-term-care homes.

## Ministry Not Always Inspecting Food-Related Critical Incidents in a Timely Manner

### Recommendation 19

*To decrease long-term-care home residents' harm or the risk of harm, we recommend that the Ministry of Long-Term Care respond to all critical incidents reported by long-term-care homes within prescribed timelines.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry did not respond to 47 or 64% of the food-related critical incidents reported by long-term-care homes between January 2018 and May 2019 within the

timeline required in its internal policy, which varied between 30 and 90 days for incidents that were “level 2”, “level 3” and “level 3+”, representing minimal, actual and significant actual harm or risk.

At the time of our follow-up, the Ministry indicated that it was not meeting all timelines for completing critical incident inspections. It further indicated that it had been focusing on mitigating risk and adapting to the challenges posed by the COVID-19 pandemic. As the tasks associated with the pandemic subsided and the human resource issues are addressed, the Ministry aims to, by December 2022, respond to all critical incidents reported by long-term-care homes within prescribed timelines.

## Chapter 1

### Section 1.06

Ministry of Agriculture, Food and Rural Affairs and Ministry of Health

# Food Safety Inspection Programs

Follow-Up on VFM Section 3.06, *2019 Annual Report*

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2	1			1	
Recommendation 2	1		1			
Recommendation 3	2	2				
Recommendation 4	2		2			
Recommendation 5	2	2				
Recommendation 6	1	1				
Recommendation 7	1	1				
Recommendation 8	2	2				
Recommendation 9	1			1		
Recommendation 10	1		1			
Recommendation 11	1	1				
Recommendation 12	5	1	4			
Recommendation 13	2	2				
Recommendation 14	1		1			
Recommendation 15	1		1			
Recommendation 16	1		1			
Recommendation 17	2		1	1		
Recommendation 18	3			3		
Recommendation 19	2			2		
Recommendation 20	1	1				
Recommendation 21	2			2		
<b>Total</b>	<b>36</b>	<b>14</b>	<b>12</b>	<b>9</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>39</b>	<b>33</b>	<b>25</b>	<b>3</b>	<b>0</b>

Note: Recommendations 1 through 14 were made to the Ministry of Agriculture, Food and Rural Affairs, and Recommendations 15 to 21 were made to the Ministry of Health.

## Overall Conclusion

The Ministry of Agriculture, Food and Rural Affairs (Ministry of Agriculture) and the Ministry of Health, as of September 30, 2021, have fully implemented 39% of the actions we recommended in our *2019 Annual Report*. The Ministries have made progress in implementing an additional 33% of the recommended actions.

The Ministry of Agriculture has fully implemented recommendations such as establishing roles and responsibilities in following up with farmers of animals with drug-residue over the allowable limit, reviewing education material to farmers on pesticide use, introducing a new regulation to licence fish processing plants, and developing a risk-ranking document to prioritize compliance actions on dairy infractions. Recommendations that the Ministry of Agriculture was in the process of implementing include assessing whether glyphosate should be added to their produce monitoring program and updating its current agreement with the Dairy Farmers of Ontario.

However, the Ministry of Agriculture stated that it will not implement one (3%) of the recommended actions, to formally penalize farmers selling animals with drug-residue levels over the allowable limit. The Ministry of Agriculture stated that it does not have the authority to implement this recommendation.

The Ministries have made little progress on the remaining 25% of the recommended actions, which includes eight of the twelve recommended actions to the Ministry of Health. The Ministry of Health stated that due to the COVID-19 pandemic, the Public Health Units' resources and efforts for the last year were redirected from the implementation of our recommendations.

The status of actions taken on each of our recommendations is described in this report.

## Background

According to the latest study by Public Health Ontario dated March 2019, foodborne illnesses in Ontario account for 41,000 visits to hospital emergency rooms and 137,000 visits to physicians' offices each year. Contaminated food kills about 70 people in the province annually and sends another 6,600 to hospital.

Contamination of food can happen at any point in the food-supply chain, from the farm to transport to preparation and packaging.

In Ontario, prevention of foodborne illness is the responsibility of all three levels of government, which license and inspect food producers and food premises as follows:

- Meat, produce, fish and dairy produced, processed and consumed only in Ontario are generally the responsibility of the Ontario Ministry of Agriculture, Food and Rural Affairs (Ministry of Agriculture).
- Food premises are inspected by 34 Public Health Units in municipalities across Ontario funded by the Ontario Ministry of Health, and by the municipalities in which they are based.
- Food imported into Ontario from other provinces or countries, or produced in Ontario for export outside the province, is inspected by the federal Canadian Food Inspection Agency (CFIA).

According to the latest StatsCan data from 2017, 45% of agriculture food products sold in Ontario are produced or processed within the province; the remaining half is imported from other provinces and countries, which means it is licensed and inspected by the federal CFIA.

The Ministry of Agriculture spent about \$38.4 million in 2020/21 (\$39.5 million in 2018/19) on food-safety licensing, inspections and other related services, while the Ministry of Health and municipalities spent about \$36.2 million in 2020/21 (\$63.1 million in 2018/19) the same year to fund Public Health Units. Total average annual spending by the two ministries and municipalities on food

safety over the last five years was \$98.6 million (\$105.7 million from 2013/14 to 2018/19).

Some of our most significant findings from the 2019 audit included the following:

- Ninety-eight percent of slaughterhouse meat tested negative for harmful drug residue, but in the 2% of cases of positive drug-residue test results, there was no follow-up with the farmers who raised the animals to prevent repeat occurrences.
- The *Cosmetic Pesticides Ban Act* lists 131 pesticides that cannot be used for cosmetic groundskeeping, in parks and yards, for example, because of potential health and environmental concerns. However, their use is allowed in agriculture for operational and economic reasons. Between 2014 and 2018, the Ministry of Agriculture tested about 1,200 Ontario-grown produce samples and found residues of 14 banned pesticides that exceeded Health Canada limits a total of 76 times.
- Fish processors who sell only in Ontario did not require a licence to operate. The Ministry of Agriculture, therefore, may not be able to close them because there is no licence to revoke if inspectors identify serious food-safety deficiencies.
- Businesses operating solely within Ontario could market their products as “organic” even if they are not certified to the Canadian Organic Standards. In comparison, Quebec, Manitoba, Alberta, British Columbia, New Brunswick and Nova Scotia all have laws requiring that organic food be certified to the Canadian Organic Standards, even when it is sold only within their borders. We also noted that routine sample testing of produce for pesticides residue was not required for the CFIA organic certification process.
- The degree of public disclosure of inspection results for food premises, along with the inspection grading systems used by the 35 Public Health Units at the time of our audit, varied across the province and led to inconsistent information provided to the public across Ontario.
- Based on our review of inspection reports from 2016 to 2018 at the five Public Health Units we visited, we found that for those

foodborne-illness complaints that required food premises inspections, Public Health Units consistently did not inspect 20% of food premises within two days of receiving the complaint. The Public Health Units we visited informed us that a two-day timeline is considered a best practice.

- While not all special events require inspections, we found that only about 12% of all special events in 2018 within the jurisdictions of the five Public Health Units we visited were inspected. According to the US Centers for Disease Control and Prevention, special events can be high risk because the usual safety features of a kitchen may not be available at outdoor events.

We made 14 recommendations to the Ministry of Agriculture and 7 recommendations to the Ministry of Health, consisting of 36 action items, to address our audit findings.

We received commitment from the Ministry of Agriculture and the Ministry of Health that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and July 2021. We obtained written representation from the Ministry of Health that effective October 28, 2021 and the Ministry of Agriculture that effective October 29, 2021, they had provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Meat

#### Recommendation 1

*To reduce the risk of meat with drug-residue levels above prescribed standards from entering the food chain, we recommend that the Ontario Ministry of Agriculture, Food and Rural Affairs, in collaboration with the Canadian Food Inspection Agency:*

- *establish clear roles and responsibilities in the areas of reviewing positive drug-residue results with the farmers who raised the animals;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that since April 2015, about 300 meat samples (representing about 2% of the meat tested) taken from provincially inspected slaughterhouses were found to contain drug residues above prescribed standards. There was no follow-up with the farmers who raised the animals to prevent repeat occurrences.

In our follow-up, we found that the Ministry of Agriculture met with the Canadian Food Inspection Agency (CFIA) in September 2020 to determine their roles and responsibilities regarding following up on drug residue violations. In June 2021, the Ministry of Agriculture developed an internal policy that articulates its process in responding to adverse drug residue violations. The policy outlines that in an event of an adverse drug result, in addition to its current protocols of notifying the slaughterhouse and CFIA, it would also attempt to trace back to the producer. In the event that a producer cannot be traced, the Ministry of Agriculture would send a letter to the last identified place where the animal was supplied from. CFIA has confirmed with the Ministry of Agriculture that its ability to follow up with a producer on drug residues identified at provincially inspected slaughterhouses is dependent on regulations and in most cases is limited only to banned and illegal substances.

- *formally penalize farmers who continue to sell animals with drug-residue levels above the allowable limit.*

**Status: Will not be implemented.** The Office of the Auditor General of Ontario continues to recommend that the Ministry of Agriculture should work with the CFIA to formally penalize farmers that continue to sell animals with drug-residue levels above the allowable limit.

### Details

In our 2019 audit, we found that the Ministry of Agriculture could only encourage provincially inspected slaughterhouse operators to follow up positive drug test results with their suppliers.

In our follow-up, we found that the Ministry of Agriculture met with the Canadian Food Inspection Agency (CFIA) in September 2020 to determine their roles and responsibilities regarding following up on drug residue violations. CFIA confirmed with the Ministry of Agriculture that its ability to formally penalize farmers who supplied animals with drug-residue levels above the allowable limit is dependent on regulations and in most cases is limited only to banned and illegal substances. The Ministry of Agriculture also consulted with its legal services and determined that the current legislation does not grant the Ministry of Agriculture the authority to impose fines on farmers who supply animals that contain drug residue levels above the allowable limits. The Ministry of Agriculture will continue to take strong compliance actions at the meat plant level, and continue to raise awareness across the supply chain through an education campaign about the responsible use of livestock medicines. In addition, as noted above, in June 2021, the Ministry of Agriculture developed an internal policy that articulates its process in responding to adverse drug residue violations.

### Recommendation 2

*To ensure more consistent inspections of facilities that engage in high-risk meat processing such as smoking and curing, we recommend that the Ministry of Agriculture, Food and Rural Affairs, in collaboration with the Public Health Units, develop approved inspection guidelines for Public Health Unit inspectors to follow when inspecting such facilities.*

**Status: In the process of being implemented by January 2022.**

### Details

In our 2019 audit, we found that the Ministry of Agriculture and the Public Health Units used different criteria when inspecting high-risk meat processors

that smoke or cure meat. Ministry of Agriculture inspectors enforce the Meat Regulations for such premises while Public Health Inspectors enforce the Food Premises Regulation. While the Ministry of Health, in partnership with the Ministry of Agriculture, provided training to Public Health Inspectors on high-risk meat processing, there is no requirement for Public Health Inspectors to inspect these facilities in accordance with the criteria outlined in the Meat Regulations.

In our follow-up, we found that the Ministry of Agriculture has provided to the Ministry of Health higher-risk meat processing guidance and training materials, and its meat inspection checklist is in accordance with the criteria outlined in the Meat Regulations. Two Public Health Inspectors also attended the Ministry of Agriculture's meat inspection training program from April to June 2021 in order to better inform the update and development of the Ministry of Health's inspection tools and training materials. The Ministry of Health, with support from the Ministry of Agriculture, is in the process of developing a draft facility inspection checklist, and then will validate it with Public Health Units through consultation. This list will be finalized for release and use by January 2022.

## Fruits and Vegetables

### Recommendation 3

*To improve the safety of Ontario produce, we recommend that the Ministry of Agriculture, Food and Rural Affairs, in collaboration with the Ministry of the Environment, Conservation and Parks, assess the education and training it provides to farmers to ensure that it fully addresses:*

- *the use of lower-risk pesticides, biopesticides and alternatives to pesticides in agricultural farming;*
- *which pesticides are approved for use on which crops, and how long to wait after applying pesticides to harvest crops.*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that 131 pesticides banned for general groundskeeping are allowed in agricultural farming. Between 2014 and 2018, the Ministry of Agriculture tested about 1,200 Ontario-grown produce samples and found residues of 14 banned pesticides that exceeded Health Canada limits a total of 76 times. Our review of a sample of 30 of these cases showed that the causes of pesticide contamination were pesticide spray drifting from adjacent crops; farmers unaware of which pesticides were approved for use on which crops; produce harvested too soon after pesticides were applied; and cross-contamination from other crops during packaging. The Ministry of Agriculture, in collaboration with the Ministry of the Environment, Conservation and Parks (MECP), delivers an education and training program for farmers, including a formal mandatory certification course that covers the proper use of pesticides and alternatives to the use of pesticides.

In our follow-up, we found that the Ministry of Agriculture had reached out to the Ontario Pesticide Education Program (OPEP) coordinators at the University of Guelph in spring of 2020 to discuss the next steps, and had also initiated a review of their training, specifically, the Grower Pesticide Safety Course (GPSC) in September 2020. As a result of a December 2020 meeting between the Ministry of Agriculture, MECP and OPEP, a one-page guidance document was drafted to provide direction on the review of the content of the GPSC and provide recommendations to improve the course materials if gaps are identified. The GPSC materials being reviewed include the course manual, instructor presentations, and tests. Recommendations have been provided to the OPEP administrators and revisions to the manuals, presentations and tests are underway.

### Recommendation 4

*In order to protect consumers, we recommend that the Ministry of Agriculture, Food and Rural Affairs, in collaboration with Health Canada:*

- *add glyphosate to the list of chemicals to be monitored and tested as part of the regular pesticide-residue sample testing;*
- *use the results of the testing to reassess whether glyphosate should be approved for use in farming and the appropriate maximum residues allowed in produce.*

**Status:** In the process of being implemented by May 2022.

#### Details

We found in our 2019 audit that glyphosate, an herbicide linked to cancer, was commonly used on the two highest-volume crops in the province—corn (including sweet corn) and soybeans. However, the Ministry of Agriculture did not regularly monitor or sample-test sweet corn and soybeans for residues of glyphosate.

In our follow-up, we found that the Ministry of Agriculture developed a two-year glyphosate baseline study in May 2020 expected to be completed by May 2022. This study adds glyphosate testing to all commodities currently collected as part of the Foods of Plant Origin (FOPO) Food Safety Monitoring program. The Ministry of Agriculture will share the results with Health Canada's Pest Management Regulatory Agency when the study is complete. Approval for the use of glyphosate for use in farming and its maximum residue level falls under Health Canada's jurisdiction. The permanent inclusion of glyphosate in the FOPO monitoring program is dependent on the results of the baseline study and will be determined after the study is completed.

### Recommendation 5

*To help the Ministry of Agriculture, Food and Rural Affairs develop a risk-based approach to sampling produce suppliers, we recommend that it:*

- *obtain access to the Agricorp database to provide it with additional produce information;*
- *update its database of producer information that includes types of crops grown, production volumes, where the produce is sold and other data as available.*

**Status:** Fully implemented.

#### Details

We found in our 2019 audit that the Ministry of Agriculture's current inventory of producers lacks specific information on the type of crops grown, how much is grown and where the produce is sold. This limited information makes it difficult for the Ministry of Agriculture to select appropriate producers for sample-testing. The Ministry of Agriculture had access to the registry of Ontario farms with gross sales of \$7,000 or more annually maintained by Agricorp, an agency of the Ministry. However, the Ministry of Agriculture was not using Agricorp's registry to update its inventory listing because, according to the Ministry, the crop information in the registry was updated at most every five years, with information self-reported by farmers.

In our follow-up, we found that the Ministry of Agriculture obtained access to the Agricorp database to make use of some of the produce-related data to help inform its current producer inventory and has incorporated this producer information into its fresh fruit and vegetable sampling plan. However, going forward, Agricorp's Farm Registration Program is reducing the amount of data collected and the level of detail to make registration easier for new farmers. For example, there is a planned reduction in the type of crops and produce listed from about 80 to about 30 broader categories as well as the types of information collected from farmers related to crops and produce. These new streamlined categories also include all agricultural on-farm activities and do not

just specify fruits and vegetables. For this reason, going forward, the information Agricorp can provide to the Ministry of Agriculture is of less value as it would not be possible to know which producer grows which specific crops if they fall under the “other” category. In response, the Ministry of Agriculture has developed and implemented a business profile survey for its inspectors to collect more detailed information about growers of Ontario produce, including the crops grown, production volume or acreage and the locations where the produce is sold. The Ministry of Agriculture continues to build the producer database by collecting business profiles (using the business profile questionnaire) from new producers not previously captured in the database.

## Fish and Seafood

### Recommendation 6

*To improve the food safety of fish processed in Ontario, we recommend that the Ministry of Agriculture, Food and Rural Affairs implement a licensing requirement for fish processors and allow inspectors to suspend or revoke licences if significant infractions are found during inspections.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that while the Ministry of Agriculture inspected the 100 fish-processing plants in the province, there was no licensing requirement for them. This meant that the Ministry of Agriculture was not able to close them if there were problems because there was no licence to revoke in the event that inspectors identified serious food-safety deficiencies. The Ministry of Agriculture had no authority to issue tickets, fines or compliance orders, and inspectors only had the authority to detain and dispose of unsafe fish products.

In our follow-up, we found that effective January 1, 2020, Ontario enacted O. Reg. 465/19 Fish Processing under the *Food Safety and Quality Act*. This new fish processing regulation now requires all fish processors that engage in higher-risk activities,

such as processing and packaging a ready-to-eat fish product, or any fish product using vacuum packaging, to obtain a licence by January 1, 2021. As of May 2021, not including federally-inspected fish facilities, there were 101 fish processing plants in the province. Twenty-six fish processing operations have been licenced and 18 are in the process of being licenced. In addition, the Ministry of Agriculture has hired and trained three food safety inspectors to inspect fish processing plants. Under the new regulation, a fish processing licence may be suspended or revoked if significant infractions were found during inspections.

The remaining 57 fish processing plants were assessed by the Ministry of Agriculture as lower risk, so licensing was not required. These fish processing plants now fall under the jurisdiction of and are inspected by Public Health Units.

### Recommendation 7

*To appropriately address food safety concerns in dual facilities that both process fish and sell it at retail, we recommend that the Ministry of Agriculture, Food and Rural Affairs, in collaboration with Public Health Units, conduct joint inspections of these facilities.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the authority of the Ministry of Agriculture and the Public Health Units differed with respect to “dual” premises—operators involved in both processing fish and selling it at retail, all from a single location. The Ministry of Agriculture only inspected the fish-processing areas of dual premises and the Public Health Units only inspected retail areas. This difference sometimes led to such operators not being held accountable for failing to meet food safety standards.

In our follow-up, we found that in March 2021, the Ministry of Agriculture and the Ministry of Health signed a Memorandum of Understanding (MOU) that clarifies roles and responsibilities for each entity, and promotes joint inspections at dual premises. The MOU also clarifies that while neither party is expected to

conduct a full inspection of a dual premise, either party may inspect other areas of the facility and take appropriate actions to mitigate food-safety hazards.

## Dairy

### Recommendation 8

*To improve the safety of goat-milk products in Ontario, we recommend that the Ministry of Agriculture, Food and Rural Affairs:*

- *develop policies that prioritize the significance of infractions and establish deadlines for correcting infractions; and*
- *develop policies regarding which compliance tools should be used, and when, for goat-milk producers with frequent infractions*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that the Ministry of Agriculture’s raw goat-milk test results between the 2014/15 and 2018/19 fiscal years indicated a significantly larger percentage of samples tested with high bacterial count or presence of inhibitors (antibiotics and other chemicals) compared to cow milk. When we reviewed Ministry of Agriculture inspections during the same period, we noted that about 18%, or 46, of the goat-milk producers repeatedly had the same infractions such as issues surrounding cleanliness and sanitation of the cooling and milking equipment, milking area and milk house. The Ministry of Agriculture did not have policies that prioritize the significance of infractions or set due dates for correcting infractions. We also found that the Ministry of Agriculture had the authority to issue warning letters to dairy producers, dispose of raw milk and order production shutdowns. However, we found that the Ministry of Agriculture had not developed clear policies on which compliance tools should be used, and when, for goat-milk producers with frequent infractions.

In our follow-up, we found that the Ministry of Agriculture had developed a policy document in June 2021 that outlines how infractions will be prioritized, how grades are to be assigned based on inspection findings and describes the timelines around progressive compliance follow-up activities. Under this policy document, 123 items on the Dairy Goat Farm Inspection Report will be ranked from “Low” to “Critical.” For example, the overall adequate condition of the building, with the exterior in good repair, and the tools to keep dairy operations clean are ranked as a “Low”, while the animal’s health and welfare is ranked as a “Critical” part of the inspection report. Farms will be assigned a timeline to fix issues, depending on the number and severity of the non-compliant findings during the inspection. For example, a farm which has a small number of “Low” deficiencies (up to three deficiencies) can take up to 13 months to fix issues. On the other hand, a farm that has even one “Critical” deficiency will be immediately assigned a Raw Milk Quality Program Coordinator who will conduct a risk assessment to determine the follow-up timelines and can order an immediate shutdown of the farm for up to three weeks for the issue to be fixed. The farms will also be graded depending on their level of compliance during the inspection. Any farm receiving a “Non Grade A” rating will be immediately shut off from supplying to the milk market for a minimum of seven days which can be extended to bring the farm into compliance. The premises must meet Grade A standards prior to the shut-off order being lifted. The policy is to be used by all Food Safety Inspectors to ensure a consistent risk-based approach to follow-up activities and compliance actions.

### Recommendation 9

To improve the safety of all milk products in Ontario, we recommend that the Ministry of Agriculture, Food and Rural Affairs include inspection oversight of milk from species such as sheep and water buffalo in its dairy food safety program.

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that the *Ontario Milk Act* does not regulate the production of milk from other species such as sheep and water buffalo. At the time of our audit, there were an estimated 75 sheep-milk producers and three water-buffalo-milk farms in Ontario. These producers do not have to comply with regulations under the *Milk Act* related to quality, sanitation of farms or testing for bacteria and inhibitors such as antibiotics and other chemicals.

In our follow-up, we found that while the *Ontario Milk Act* still does not regulate the production of species such as sheep and water buffalo, the Ministry of Agriculture has implemented a protocol for assisting public health units in their food safety oversight of sheep and water buffalo milk processors by providing technical and scientific expertise related to the milk production process. The inspection oversight of sheep and water buffalo milk processors continues to rest with the Ministry of Health under the *Health Protection and Promotion Act*. The Ministry of Agriculture continues to support public health units by conducting joint inspections at sheep and water buffalo milk processors upon request. However, the Ministry of Agriculture has not engaged the Ministry of Health or farmers directly regarding inspections and sample testing of milk at sheep and water buffalo farms.

### Recommendation 10

To improve oversight of Ontario cow-milk producers, we recommend the Ministry of Agriculture, Food and Rural Affairs to work with the Dairy Farmers of Ontario (DFO) to update their 2010 agreement to clarify the Ministry of Agriculture's right of access to all information it needs given that the province in its own right has the authority to delegate and retract authority from the DFO.

**Status:** In the process of being implemented by December 2022.

#### Details

In our 2019 audit, we found that the Ministry of Agriculture did not receive the information it needed from the DFO to demonstrate sufficient oversight of the DFO. For example, the Ministry of Agriculture was not able to identify non-compliant milk producers who repeatedly committed the same infractions, those whose sample tests exceeded regulatory bacteria limits and, most importantly, what actions DFO took to address repeated non-compliance by producers. The DFO did not provide the Ministry of Agriculture with monthly reports, as required under the agreement, showing the total number of milk samples collected, type of sample testing performed and an explanation for any shortfalls between the required and actual sampling. It was also unclear in the agreement with the DFO what other information the Ministry of Agriculture had access to.

In our follow-up, we found that the Ministry of Agriculture has done an initial review of items that require updates or revisions according to the Ministry and is engaging with the DFO through a working group to discuss proposed changes while updating the outdated Administrative Agreement. As part of this discussion to revise the Administrative Agreement, the DFO has formally requested to add additional authorities which will require some additional time for the Ministry of Agriculture to assess. The finalization of this agreement is anticipated to be in December 2022.

## Non-Chicken Eggs Not Graded or Inspected for Quality Assurance

### Recommendation 11

*To improve the food safety of non-chicken eggs, we recommend that the Ministry of Agriculture, Food and Rural Affairs, in collaboration with the Canadian Food Inspection Agency, assess the risks and benefits of extending the chicken-egg inspection and grading requirements to non-chicken eggs.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Canadian Food Inspection Agency (CFIA) does not regulate the grading requirements in Ontario for non-chicken eggs such as those from quails or ducks.

In our follow-up, we found that in November 2020, the Ministry of Agriculture collaborated with the CFIA to assess the risks and benefits of extending chicken-egg inspection and grading requirements to non-chicken eggs. They determined that there is neither a sufficient quantity of non-chicken eggs sold in Ontario nor a significant food safety risk to warrant the inspection or grading of non-chicken eggs.

## Organic Foods

### Recommendation 12

*To promote consistent standards for organic foods, we recommend that the Ministry of Agriculture, Food and Rural Affairs collaborate with the Canadian Food Inspection Agency to:*

- *consider having organic food produced and consumed in Ontario certified to the federal Canadian Organic Standards;*

**Status: In the process of being implemented by November 2023.**

### Details

We found in our 2019 audit that food produced and sold only in Ontario and claiming to be organic does not have to be certified to the federal Canadian Organic Standards; no provincial law requires such

certification. Certification to the federal Canadian Organic Standards is required only for organic foods sold across provincial or international borders. In comparison, Quebec, Manitoba, Alberta, British Columbia, New Brunswick and Nova Scotia all have laws requiring that organic food be certified to the Canadian Organic Standards even when it is sold only within their province.

In our follow-up, we found that in June 2021 the Ministry of Agriculture had assessed the risks and benefits of implementing a mandatory requirement that all food marketed as organic that is produced and consumed in Ontario be certified to the federal Canadian Organic Standards, however, it decided not to impose organic certification requirements at this time for farmers who only sold produce locally.

The Ministry of Agriculture is aware of a private member's bill, Bill 54 the Organic Products Act, which proposes to prohibit the marketing and labelling of products as "organic" unless they have been certified as organic in accordance with the Act. While recently government prorogued the legislature and ended Bill 54, the Ministry of Agriculture anticipated that Bill 54 may be re-introduced in the next legislative period and its potential passage occur by November 2023.

The Ministry of Agriculture has also held bi-monthly discussions with the CFIA on opportunities for collaboration on labelling, claims and standards. The Ministry of Agriculture is also working with the Organic Council of Ontario to consider their advice on any further recommendations on organic standards. The Ministry of Agriculture reaffirmed that the CFIA is responsible for monitoring and enforcing organic product regulations across the country and that providing false or misleading information on any food label is an offence under federal food safety laws. The Ministry of Agriculture continues to refer incidents of suspected non-compliant food claims to the CFIA for action.

- *develop more specific requirements for farming of livestock, such as maximum density of barns for "free run" egg-laying chickens and minimum length of time spent outdoors for "free range" animals;*

- *require sample monitoring and testing for pesticide residues in produce as part of an organic certification process;*
  - *develop a system of certification for food claims such as “free run,” “free range,” and “grass fed” to ensure consistency in standards;*
- Status: In the process of being implemented by November 2023.**

### Details

Our 2019 audit found that there was no federal or provincial government certification in place for some of the more common methods of production claims such as “free run,” “free range,” and “grass fed.” For example, there was no specific standard as to the maximum density of a barn for “free run” eggs, nor were there specific requirements, such as the length of time spent outdoors, that qualifies for the use of the claim “free range.” Similarly, there were no requirements for the minimum proportion of grass in an animal’s diet for grass-fed claims. Additionally, organic farms in Canada certified to the Canadian Organic Standards were inspected by one of the CFIA-accredited organic certification bodies once a year to ensure ongoing compliance with organic standards. However, organic certification bodies did not, and were not required to, perform routine sample-testing of organic produce for pesticide residue.

In our follow-up, the Ministry of Agriculture reaffirmed that it has no authority to enforce food claims or create standards under the federal Safe Food for Canadians Regulations including marketing claims such as “free run,” “free range,” and “grass fed.” As noted above, the Ministry of Agriculture is aware of a private member’s bill, Bill 54 the Organic Products Act, which proposes to prohibit the marketing and labelling of products as “organic” unless they have been certified as organic in accordance with the Act. While recently government prorogued the legislature and ended Bill 54, the Ministry of Agriculture

anticipated that Bill 54 may be re-introduced in the next legislative period and its potential passage occur by November 2023. If passed, there might be additional requirements with respect to methods of production claims such as “free run,” “free range,” and “grass fed.”

- *develop public-education materials on food labelling and marketing claims.*
- Status: Fully implemented.**

### Details

In our 2019 audit, we found that under the federal *Safe Food for Canadians Act* and the *Food and Drugs Act*, no food can be advertised in a way that is false, misleading or deceptive. The CFIA investigates food-packaging claims to confirm they are consistent with the public’s general understanding of the terms in question.

In our follow-up, we found that, in February 2021, the Ministry of Agriculture had provided its feedback on CFIA’s proposed Joint Policy Statement on Food Labelling Coordination, a joint federal initiative by Health Canada, CFIA and Agriculture and Agri-Food Canada (AAFC) to develop a strategy for coordinating future changes to food labelling requirements. The Ministry of Agriculture also promoted awareness of organics requirements and food labelling by sharing education and awareness materials developed by the federal government with the general public through its webpage. The Ministry of Agriculture and CFIA have also discussed leveraging resources produced by CFIA for broader education and awareness, including providing information on new public resources on food fraud to the Ministry of Agriculture to share with the Food Integrity Initiative Table, a collaboration between government, industry, and academia to discuss food fraud issues and build awareness of food integrity risks in the Ontario agri-food value chain.

## Federal Labelling Requirements Not Enforced in Provincial Food-Processing Plants

### Recommendation 13

To help reduce gaps and overlaps in inspections of food producers by the Ontario Ministry of Agriculture, Food and Rural Affairs and the federal Canadian Food Inspection Agency (CFIA), we recommend that the Ministry of Agriculture collaborate with the CFIA to:

- update the Ministry's *Meat Inspection Policy and Procedure Manual* to include guidance on the inspection of federal and provincial labelling requirements;
- ensure the Ministry checks for allergens and labelling more thoroughly during inspections.

**Status:** Fully implemented.

### Details

We found in our 2019 audit that a lack of co-ordination between the Ministry of Agriculture and the CFIA created a gap in the inspection and enforcement of federal labelling requirements in Ontario food-processing plants. The Ministry of Agriculture's inspectors did not check for federal food-labelling requirements (for example, place of origin, nutritional value, etc.), except for allergens, and that the labelling section of the *Meat Inspector Policy and Procedures Manual* offered no guidance on inspecting these food-labelling requirements.

In our follow-up, we found that the Ministry of Agriculture had updated the *Meat Inspection Policy and Procedure Manual* in March 2021 to include additional information and inspection procedures regarding federal labelling requirements. The Ministry of Agriculture has also met with the CFIA to develop a process for informing federal partners when a provincial inspector identifies a potential non-compliance with federal labelling requirements in a provincially licenced meat plant. Since March 2020, the Ministry of Agriculture has identified and notified the CFIA on six mislabelling incidents. For example, in March 2021, a German salami spice was found at a

provincial plant containing mustard as an ingredient but was not declared on the label. The label was corrected during the inspection and the CFIA followed up and issued a recall.

### Recommendation 14

To improve transparency about food safety, we recommend that the Ministry of Agriculture, Food and Rural Affairs publicly disclose the results of its food-safety inspections and sample testing.

**Status:** In the process of being implemented by November 2023.

### Details

In our 2019 audit, we found that the inspection results of producers and processors were not disclosed on the Ministry of Agriculture's public website. This would give institutional buyers such as retail stores and wholesalers food-safety performance information about producers and processors that they could take into account in making purchasing decisions.

In our follow-up, we found that the Ministry of Agriculture is currently assessing the benefits and risks of its food safety inspection dataset that would be made public as part of the reporting and is reviewing public disclosure options. In fall and winter 2021, the Ministry of Agriculture plans to submit risk assessments to its management for review. In early 2022, the risk and issues management process required to open the data to the public will be developed and implemented throughout 2022 and 2023. By November 2023, the Ministry of Agriculture intends to implement its approved plan to publicly post its food inspection data.

## Inventory of Food Premises

### Recommendation 15

To provide every Public Health Unit with access to current lists of food premises in its jurisdiction, we recommend that the Ministry of Health collaborate with the Ministry of Municipal Affairs and Housing and municipalities to put in place agreements to have regular access to a current inventory of food premises.

Status: In the process of being implemented by early 2024.

### Details

In our 2019 audit, we found that the five Public Health Units we visited relied on their working relationships with, for example, issuers of municipal business licences and provincial liquor licences to maintain up-to-date lists of food premises. However, there were no agreements in place that outlined the responsibilities of the municipalities and the Public Health Units with respect to regular access to a current inventory of food premises. We also found inconsistent monitoring and inspection of online and home-based food businesses.

In our follow-up, we found that initial discussions between the Ministry of Health and the Ministry of Municipal Affairs and Housing to put in place agreements for Public Health Units to have regular access to a current inventory of food premises from municipalities are scheduled to begin in late summer 2021.

The Ministry of Health will also be conducting broad stakeholder consultations to develop new protocols to enhance food premise inventories, providing training materials to the Public Health Units and helping the health units develop local operational policies to implement this recommendation by early 2024.

In March 2020, the Ministry of Health also distributed training materials to clarify that home-based food businesses fall under the *Health Protection and Promotion Act* to ensure consistent enforcement of food handler training requirements. As of December 2020, the Ministry of Health has posted new guidance on home-based food businesses on its website. The guidance includes information such as the requirement for an inspection before opening a home-based food business, guidance on which types of food are considered low-risk and that all home-based food businesses, except for those selling low-risk food items, are required to operate with a certified food handler. In April 2021, the Ministry of Health also drafted a jurisdictional scan of best practices for home-based food businesses.

## Public Health Units' Inspection and Enforcement Practices

### Recommendation 16

*To improve the consistency of inspections for special events among Public Health Units, we recommend that the Ministry of Health establish clear protocols and minimum standards for inspection requirements at special events based on a consistent risk assessment, which includes relevant factors such as event size, expected attendance and types of food preparation.*

Status: In the process of being implemented by May 2024.

### Details

In our 2019 audit, we found that while the Ministry of Health required Public Health Units to establish and implement procedures to monitor or inspect temporary food premises, including those operating at special events, it had not yet developed a standard template that Public Health Units can use to assess the risk of special events, such as summer fairs and festivals. Although the Ministry of Health provided direction to Public Health Units on factors that need to be considered at a minimum, Public Health Units had developed their own forms and protocols to assess the risk of a special event to determine whether it should be inspected.

In our follow-up, we found that in early 2021 the Ministry of Health had developed a draft document with a jurisdictional scan of best practices and evidence on food safety at special events, and has developed a stakeholder engagement plan as of July 2021 that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit. As part of next steps, the Ministry of Health will be engaging Public Health Units and other stakeholders to update the risk categorization tool and related guidance documents; provide the necessary training to the Public Health Unit staff and develop local policies to implement this recommendation by May 2024.

### Recommendation 17

*To ensure consistency across Ontario's 35 (now 34) Public Health Units, we recommend the Ministry of Health work with the Public Health Units to:*

- *establish a consistent set of inspection and quality-assurance procedures, protocols and tools for conducting consistent food premises inspections that all Public Health Units can use; and*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that the Ministry of Health's Food Safety Protocol did not prescribe the content of the inspection reports, the details that an inspector needed to include in inspection reports and what actions the Public Health Unit would take when there was non-compliance. As a result, Public Health Units had developed their own inspection forms and protocols which were not standardized across the province.

In our follow-up, we found that the Ministry of Health provided an educational webinar to the Public Health Units in March 2020 which included plans to establish a technical working group to develop a consistent set of inspection and quality-assurance procedures, protocols and tools, but the Ministry of Health has not begun any work on it yet. The Ministry of Health stated that due to the COVID-19 pandemic, its resources and efforts for the last year were redirected from the implementation of our recommendations.

- *require consistent enforcement of the 2018 amendments to the Ontario Food Premises Regulation regarding not having at least one certified food handler or supervisor on the premises who has completed food-handler training during every hour that the premises is operating.*

**Status:** In the process of being implemented by December 2022.

#### Details

We found in our 2019 audit that two of the five Public Health Units we visited were not enforcing the new

requirement under the Ontario Food Premises Regulation that mandated that every operator of a food premises must have at least one certified food handler or supervisor on the premises who had completed food-handler training during every hour the premises is operating.

In our follow-up, we found that the Ministry of Health held an educational webinar for the Public Health Units in March 2020 to reinforce the amendments to the Ontario Food Premises Regulation that requires that food premises must have at least one certified food handler at their premises during all operational hours. The Ministry of Health provided a refresher training to the Public Health Units in its September 2021 Environmental Health Quarterly meeting and reminded them of the enforcement requirements around food handlers. Through late 2021 and into 2022, the Ministry of Health's technical working group will determine and implement, if needed, further improvements to the consistency of enforcement of the requirement to have at least one certified food handler at the food premise during operating hours. The Ministry anticipates the work will be completed by December 2022.

### Recommendation 18

*To make inspection results clear for Ontarians, we recommend that the Ministry of Health work with the Public Health Units to establish a single consistent and comparable food premises grading system.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted a number of different inspection grading systems in use across the province in the Public Health Units' online disclosure of food premises' inspection results.

In our follow-up, we found that in June 2021, the Ministry of Health has developed a draft jurisdictional scan of current public health quality-assurance procedures, which includes disclosure of food premise inspection results, but has not undertaken any other steps to address this recommendation.

Subsequent to establishing the system, we recommend that the Ministry of Health work with the Public Health Units to:

- ensure that all Public Health Units publicly report their inspection results through a single provincial website;
- ensure that the latest inspection results are posted on-site at food premises.

**Status:** Little or no progress.

### Details

We found in our 2019 audit that four of the 35 (now 34) Public Health Units (Huron, Perth, Porcupine and Thunder Bay) did not post their inspection results on their respective websites as required by the Ministry of Health. Inspection results for these Public Health Units were only available upon request. There was also no requirement for Public Health Units to post the results of their inspections on-site at food premises. At the time of our audit, only 15 of the 35 (now 34) Public Health Units posted the results on-site.

In our follow-up, we found that in June 2021, the Ministry of Health has developed a draft jurisdictional scan of current public health quality-assurance procedures, which includes disclosure of food premise inspection results, but had not taken any other steps to address the recommendation to ensure all Public Health Units publicly report their inspection results through a single provincial website. The Ministry of Health also had not taken specific steps to address the recommendation to ensure the latest inspection results are posted on-site at food premises. The Ministry of Health has advised us it still intended to implement these recommendations.

## Tracking and Monitoring of Foodborne-Illness Outbreaks

### Recommendation 19

To improve the effectiveness and consistency of the complaints investigations relating to potential exposures to foodborne hazards, we recommend that the Ministry of Health work with Public Health Units to:

- establish consistent protocols and procedures for the investigation of complaints of potential foodborne illness connected to food premises;

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that there are no standardized procedures on how to investigate foodborne illness complaints within each Public Health Unit. Our review showed that the investigation procedures of the five Public Health Units we visited varied.

In our follow-up, we found that the Ministry of Health has started work by developing a stakeholder plan in July 2021 that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit. It has not taken any further steps to address the recommendation to establish consistent protocols and procedures for the investigation of complaints of potential foodborne illness connected to food premises, but it advised us it still intended to implement it.

- require Public Health Units to conduct food premises inspections connected to a potential foodborne illness within two days of receiving the complaint, if an inspection is needed as per the Ministry's Food Safety Protocol.

**Status:** Little or no progress.

### Details

We found in our 2019 audit that the Ontario Food Safety Protocol required Public Health Units to determine and initiate a response within 24 hours

of receiving a foodborne illness complaint, but did not require an inspection of a food premises within a specified time period. However, the five Public Health Units we visited informed us that it was a best practice to perform an inspection, if needed, within 48 hours of receiving the complaint.

In our follow-up, we found that the Ministry of Health has begun work by developing a stakeholder plan in July 2021 that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit. It had not taken specific steps to address the recommendation to require Public Health Units to conduct, if needed, food premises inspections connected to a potential foodborne illness within two days of receiving the complaint, but it advised us it still intended to implement it.

### Recommendation 20

*To improve the consistency in the recording of foodborne-illness information data by Public Health Units, we recommend that the Ministry of Health, in collaboration with the Public Health Units and Public Health Ontario, review current guidelines for data entry reporting into the integrated Public Health Information System and make any necessary revisions.*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that the level of detail recorded in the Ministry of Health's integrated Public Health Information System (iPHIS) varied among the individual Public Health Units, and that the accuracy of data recorded in iPHIS relied on manual inputting by staff of the individual Public Health Units. In addition, the databases operated by individual Public Health Units and iPHIS were not integrated, meaning it was not possible to do easy information uploading, sharing and cross-database searching.

In our follow-up, we found that the Ministry of Health, Public Health Ontario and the Public Health

Units collaborated in 2019 to update and release a revised iPHIS user guide on December 17, 2019 that states that data entries about foodborne-illnesses are now mandatory to ensure consistent information across Public Health Units. Ministry of Health's Foodborne Illness Outbreak Protocol was also updated in March 2020 to require Public Health Units to prioritize iPHIS data entry in the case of an outbreak so that information was readily available.

### Recommendation 21

*To reduce the number of foodborne-illness cases due to improper preparation, handling, cooking and storage of food at home, we recommend that the Public Health Units:*

- *regularly survey Ontarians to monitor areas of poor food-safety knowledge and behaviours; and*
- *develop specific educational materials to address those weaknesses.*

**Status: Little or no progress.**

#### Details

In our 2019 audit, we found through a 2018 Health Canada survey of Canadians' knowledge and behaviours related to food safety showed that Canadians are generally conducting themselves appropriately when it comes to handling and preparing foods. However, the survey also identified some improper preparation, handling and storage of food by ordinary citizens at home. For example, 62% of survey respondents rinsed poultry before cooking it, which can increase the risk of food poisoning as splashing water from washing chicken under a tap spreads bacteria onto hands, work surfaces, clothing and cooking equipment; 51% did not use a food thermometer to check whether food is cooked to the recommended temperature; 43% did not store raw meat, poultry and seafood on the bottom shelf of the fridge to prevent juices from dripping onto other foods and causing cross-contamination; and 22% were still defrosting meat on the countertop at room temperature.

In our follow-up, we found that the Ministry of Health drafted a document in May 2021 detailing an interjurisdictional scan of public surveillance of education best practices and developed a stakeholder plan in July 2021 that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit, but has not undertaken any other steps to address this recommendation.

## Chapter 1

### Section 1.07

Ministry of Labour, Training and Skills Development

# Health and Safety in the Workplace

Follow-Up on VFM Section 3.07, 2019 Annual Report

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1		1			
Recommendation 2	1		1			
Recommendation 3	4	1		3		
Recommendation 4	4		2	2		
Recommendation 5	3		3			
Recommendation 6	2		2			
Recommendation 7	1		1			
Recommendation 8	1			1		
Recommendation 9	1			1		
Recommendation 10	3		3			
Recommendation 11	1		1			
Recommendation 12	2	2				
Recommendation 13	3			2	1	
<b>Total</b>	<b>27</b>	<b>3</b>	<b>14</b>	<b>9</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>11</b>	<b>52</b>	<b>33</b>	<b>4</b>	<b>0</b>

## Overall Conclusion

The Ministry of Labour, Training and Skills Development, as of August 31, 2021, has fully implemented 11% of the actions we recommended in our 2019 Annual Report. An additional 52% of recommended actions were in the process of being implemented.

Fully implemented recommendations included requiring Health and Safety Associations to track the

use of government funding separately from other revenue and expenses; and reassessing the benefits of conducting further engineering reviews and comprehensive inspections and if determined to be beneficial, prioritizing resources to conduct engineering reviews and/or comprehensive inspections for all underground mining operations and high-risk surface mining operations.

Examples of recommendations in the process of being implemented include the Ministry setting

meaningful targets, and tracking and publicly reporting performance measures to demonstrate the impact of its prevention efforts and strategies; improving the case-management system to allow inspectors to extract compliance data from the system so that they can analyze trends and compare workplaces; linking and comparing compliance data in the Ministry's case-management system with claims data from the Workplace Safety and Insurance Board (WSIB); selecting workplaces for inspection across all sectors based on their compliance history and employee-claims history; and using escalating measures to deter employers or individuals who are responsible for repeat offences.

However, the Ministry has made little progress on 33% of the actions we recommended. These included recovering from Health and Safety Associations any surplus government funding not used by year-end; developing checklists specific to each sector and requiring inspectors to use and include the checklists in their inspection reports; and measuring the impact each sector-specific plan has had toward achieving its objective.

The Ministry will not be implementing one of our recommended actions. That is, to continue to implement the recommendations outlined in the various sector-specific action plans. The Office of the Auditor General continues to support the implementation of this recommended action.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Occupational Health and Safety Program is responsible for administering the *Occupational Health and Safety Act* (Act) in Ontario. The Program, which is part of the Ministry of Labour, Training and Skills Development (Ministry), spent about \$204 million in 2020/21 (\$200 million in 2018/19) for prevention and enforcement activities. Almost half of this funding goes to six external Health and Safety Associations to consult with and train businesses and workers on how

to maintain a safe workplace. The Ministry recovers its costs to administer the Act from the Workplace Safety and Insurance Board (WSIB), which derives its revenue primarily from premiums paid by employers to insure their workers.

In 2020, 79 people in Ontario (85 in 2018) died at work. In 2018, an additional 62,000 were absent from work because of a work-related injury (comparable information for 2020 is not readily available, as the 2018 figure was initially identified through detailed data analysis). In addition, another 166 people (143 in 2018) died from an occupational disease, 28 of which were COVID-19-related. Between 2014 and 2018, the number of employers, supervisors or workers prosecuted and convicted for violating the Act totalled 1,382, or about 276 annually, and financial penalties imposed in 2018 totalled \$62.1 million (comparable information for 2020 is not readily available, as these figures were initially identified through detailed data analysis).

Compared to other Canadian jurisdictions, Ontario had consistently one of the lowest worker lost-time injury rates over the 10-year period from 2008 to 2017. In fact, it has had the lowest rate of any province since 2009. Ontario continued to have the lowest worker lost-time injury rates in 2019, the latest information available at the time of our follow-up. With regard to fatalities from workplace injuries or occupational diseases, we calculated that Ontario had the second-lowest fatality rate in Canada on average from 2013 to 2017. However, we found that Ontario had no reason to be complacent. Injury rates for workers who lost time from work as a result of a workplace injury began to decrease from 2009, but have increased since 2016. Further, the number of injuries in the industrial and health-care sectors had increased from 2013/14 to 2018/19 by 21% and 29%, respectively.

Some of our significant audit findings included:

- The Ministry's enforcement efforts were not preventing many employers from continuing the same unsafe practices. We reviewed companies inspected at least three times during the previous six fiscal years and found that many had been

issued orders for violations and contraventions relating to the same type of hazard in multiple years. For example, in the construction sector, 65% of companies we reviewed had repeatedly been issued orders relating to fall-protection hazards.

- The Ministry's information system contained only 28% of all businesses in Ontario, leaving many workplaces uninspected. The Ministry did not maintain an inventory of all businesses that are subject to inspection under the *Occupational Health and Safety Act*, because there was no requirement for businesses to register with or notify the Ministry when they start operating or close down. The inventory is updated only when the Ministry's contact centre receives a complaint or an incident report, or if an inspector happens to notice a new, unrecorded workplace in their area of inspection.
- The Ministry did not identify workplaces for inspection where workers are more likely to get injured, often leaving companies with the highest injury rates uninspected. Although the Ministry used WSIB injury data and its own compliance data to identify high-risk or workplace/worker characteristics for developing enforcement strategies, it did not use this data to identify, rank and select specific higher-risk workplaces for inspection.
- The Ministry provided Health and Safety Associations with about \$90 million in funding per year, but did not know how effective the associations have been at helping to prevent occupational injury or disease. The Ministry assessed the associations' performance solely on outputs (for example, number of training hours provided) rather than the effectiveness of their prevention efforts (for example, changes in the rates of injuries and fatalities in businesses that received their training services).
- The Ministry did not require Health and Safety Associations to account for or repay surplus funding owed to the government. Under the transfer-payment agreements with the Ministry,

the associations were not allowed to retain any portion of unused funding at year's end. In addition to government funding, all five training associations also generated revenue from private sources. None of the associations, however, tracked what portion of expenses related to activities funded by the government, and the Ministry did not require them to do so. We estimated the Ministry's share of the associations' total recoverable surplus to be approximately \$13.7 million. In January 2019, the Ministry reduced 2018/19 fourth-quarter payments by \$2.9 million to the associations and in April 2019, announced a \$12-million reduction to their funding. Associations were permitted to use their accumulated surpluses to offset this.

We made 13 recommendations, consisting of 27 action items, to address our audit findings.

At the time of our audit in 2019, the Ministry of Labour, Training and Skills Development committed to take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of Labour, Training and Skills Development that effective November 12, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Performance of the Worker Occupational Health and Safety Program

### Recommendation 1

*In working toward a continuous reduction in worker injuries and fatalities, we recommend that the Ministry of Labour, Training and Skills Development set meaningful targets, and track and publicly report*

performance measures that demonstrate the impact of its prevention efforts and strategies.

**Status:** In the process of being implemented by April 2023.

### Details

In our 2019 audit, we found that although the Ministry had established outcome-based targets for four key performance measures relating to occupational health and safety, it had not publicly disclosed these targets in its annual report.

In our follow-up, we found that the Ministry no longer planned to use its previous indicators and had begun development of a performance measurement framework to measure the success of prevention efforts. The framework is intended to accompany the Ministry's new Occupational Health and Safety Strategy, released in July 2021. The Ministry expects to release the performance measurement framework after the strategy. At the time of our follow-up, the performance measurement plan was a work in progress, including four objectives based on priorities the Ministry has identified and will try to solve. Each objective is to include a list of activities for the next five years to make positive changes toward measuring not only the strategy's outputs but also its outcomes, including improved knowledge and practices in Ontario's workplaces and ultimately the system's contributions toward measurable reductions in workplace injuries, illnesses and fatalities in the province. At the time of our follow-up, the Ministry had completed the draft performance measures for one of the four objectives.

The Ministry expects to finalize the draft framework by April 2022 and to fully implement performance measures by April 2023. Fiscal 2023/24 is to be the baseline year for the measurement of the performance measures.

The Ministry told us it was in the process of identifying major gaps in data collection in order to identify future methods of data collection, such as large-scale surveys, needed to be able to track outcomes. The Ministry also stated that the first planned public reporting of the indicators is expected in the Ministry's 2023 annual report, to be released in

March 2024, and will include a description of the indicators and baselines and targets for each.

## Ministry Oversight of Health and Safety Associations

### Recommendation 2

*To better measure the effectiveness of the Health and Safety Associations' prevention activities, we recommend that the Ministry of Labour, Training and Skills Development develop a well-documented, outcome-focused performance measurement model including relevant, quantitative metrics that Health and Safety Associations must be accountable for meeting as demonstrated through annual performance measurement.*

**Status:** In the process of being implemented by April 2023.

### Details

In our 2019 audit, we found that the Ministry did not know how effective Health and Safety Associations have been at helping to prevent occupational injury or disease, since performance measures focused solely on outputs (for example, the number of training and consulting hours provided), and not on the impact or effectiveness of prevention efforts provided by the associations.

In our follow-up, we found that the Ministry had not yet developed any additional performance metrics for the Health and Safety Associations. However, as noted in **Recommendation 1**, the Ministry was in the process of developing a performance measurement framework and had developed a set of objectives, and for each objective intended outcomes and potential indicators for measurement. Included in the draft objectives are intended outcomes for Health and Safety Associations to demonstrate measurable contributions to preventing injuries, illnesses and fatalities.

In early 2021, the Ministry informed the Health and Safety Associations that following completion of the performance measurement framework in April 2023, it plans to use these indicators to inform

a performance-based funding model for Health and Safety Associations.

The Ministry stated it plans to have the final indicators, along with the performance-based funding model, ready for the start of the 2023/24 fiscal year.

### Recommendation 3

*So that government funding is both used and recovered in accordance with the Transfer Payment Accountability Directive, we recommend that the Ministry of Labour, Training and Skills Development:*

- *require Health and Safety Associations to track government funding and how that money is used, separately from other revenue and expenses;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ministry's ability to track and recover government funding that is not used by the Health and Safety Associations for prevention activities was limited because the associations were allowed to commingle funding received from the Ministry with revenue generated from private sources, and the associations did not have mechanisms in place to track what portion of expenses related to activities funded by the government.

In our follow-up, we found that beginning in 2019/20, the Ministry required Health and Safety Associations to report expenses and revenue by program. As a result, the associations and Ministry are now able to identify and track programs that are sustained from Ministry funding.

- *recover any surplus funding not used by year-end;*
- *collect interest income earned by associations on government funds;*

**Status: Little or no progress.**

### Details

At the time of our audit, we estimated that as of March 31, 2018, the Health and Safety Associations were collectively holding \$13.7 million in surplus funding that was recoverable by the Ministry. Instead

of recovering the amounts, the Ministry reduced government funding to the associations by \$2.9 million in the fourth quarter of 2018/19 and \$12 million in 2019/20.

We also found in our 2019 audit that interest income generated by the Health and Safety Associations on Ministry-provided funds was not being returned to the Ministry or used to reduce future funding to the associations. During our audit, we estimated that the Health and Safety Associations had generated approximately \$3.3 million in interest income on Ministry-provided funding from 2013/14 to 2017/18.

In our follow-up, we found that the Ministry had not acted to collect surplus funding from the Health and Safety Associations, nor to collect interest earned on government funding. The Ministry told us that it held discussions with all Health and Safety Associations in February 2021 and came to a verbal agreement to allow the use of surplus funding toward specific projects, if approved by the Ministry, through such means as a business case or transfer-payment agreement. Further, as a result of a reduction in funding for fiscal (2019/20), the Ministry allowed the Health and Safety Associations to use the accumulated surplus to manage the funding change. According to the Ministry's current tracking, for 2019/20 the total accumulated funding surplus from all Health and Safety Associations was \$9.2 million.

Regarding the collection of interest earned on government funding, the Ministry was not able to show any progress.

- *follow up and recover any Ministry funding that may have been inappropriately transferred to the Centre for Health and Safety Innovation.*

**Status: Little or no progress.**

### Details

During our 2019 audit, we noted that two Health and Safety Associations had transferred unrestricted funds to a restricted capital-improvement fund to maintain a leased building as part of a joint investment. The

Ministry had not determined what amount of these transferred funds was attributable to Ministry funding and should therefore be recovered. The use of Ministry funding for unapproved capital improvements rather than prevention efforts goes against the spirit of the transfer-payment agreements between the Ministry and the Health and Safety Associations, which state that the funds are only to be used for prevention activities.

At the time of our follow-up, the Ministry had not yet completed a reconciliation of whether any Ministry funding was transferred inappropriately to allow it to recover funding not used for its intended purpose, and said it anticipates this to be completed by December 2021.

At the time of the 2019 audit, we reported the two associations had collectively transferred \$3.1 million to the restricted capital improvement fund. According to the most recent available financial statements of the two associations, Workplace Safety and Prevention Services (WSPS) no longer had restricted amounts for the fiscal year ending March 31, 2021; however, the Infrastructure Health and Safety Association (IHSA) had \$94,000 in restricted capital for the year ending December 31, 2020.

## Identifying Workplaces for Inspection

### Recommendation 4

*To maintain a more complete inventory of businesses in areas demonstrating a high risk of worker injuries or fatalities, including construction projects, from which to assess risk and prioritize inspections, we recommend the Ministry of Labour, Training and Skills Development:*

- *review business registration information captured by the Ministry of Government and Consumer Services and the Workplace Safety and Insurance Board to determine the most useful source of information for the program's needs, and develop an information-sharing agreement with the appropriate party that could include use of their IT systems;*

**Status:** In the process of being implemented by March 2023.

### Details

In our 2019 audit, we found that the Ministry did not have a complete inventory of workplaces that are subject to inspection under the *Occupational Health and Safety Act*, because there was no requirement for businesses to register with or notify the Ministry when they start to operate or close down. Moreover, although new businesses are required to register with the Ontario Business Registry and with the Workplace Safety and Insurance Board, the Ministry was not using these sources to develop a complete inventory of workplaces.

Since April 2018, the Ministry has had a Memorandum of Understanding in place with the Ministry of Government and Consumer Services to receive a monthly extract of business registrations (OnBIS). However, as was the case at the time of our audit, the Ministry was still not using this data to update its workplace inventory. However, as discussed in **Recommendation 5.2**, the Ministry is completing a project to combine data from OnBIS (and other sources) into a common employer record for the purpose of having a single employer record which will include Ministry inspection and enforcement data along with WSIB claims data, and data from other government systems. The expected completion of the project is March 2023.

In regard to information sharing with the WSIB, the Ministry stated it is reviewing the terms and conditions of the current agreement in place, in advance of renewing it in the summer of 2021. The Ministry currently uses WSIB data when assessing hazards within sectors and for selecting specific sectors to focus on, but it is not used to inform workplace inventory. The Ministry expects to have a revised information-sharing agreement with WSIB in place by March 2022 that would formalize the agreement for the collection and use of data between their information systems.

- *develop, in collaboration with the Ministry of Municipal Affairs and Housing, an information-sharing agreement for municipalities to provide a*

*listing of building permits on a regular basis, such as weekly or monthly;*

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we found that not all general contractors or owners of construction projects that were expected to cost at least \$50,000 were notifying the Ministry of these construction projects, even though they were notifying municipalities through the filing of building permits. We noted that the Ministry had not formalized an official arrangement with municipalities to capture building permit information consistently across all regions, to help it capture all large construction sites.

In our follow-up, the Ministry told us it had discussions with the Ministry of Municipal Affairs and Housing (MMAH) and determined that MMAH does not collect building permit information, and so was directed to the Municipal Property Assessment Corporation (MPAC) which does collect information about building permits, to assess if that information would be of value to the Ministry. In March 2021, the Ministry signed a non-disclosure agreement with MPAC to allow for sharing of confidential (personal) information; however, the decision on what specific data will be shared has not been made.

At the time of the follow-up, the Ministry had completed work with 10 select municipalities to informally share building permit information with Ministry regional offices (Brampton, Hamilton, Burlington, Oakville, Brantford, Norfolk, Brant County, Halton Hills, Milton and Ottawa). This building permit information is either sent to the Ministry by the municipality monthly or obtained by the Ministry directly from the municipality website. However, as was the case at the time of our audit, this information is not used to systematically update the inventory of workplaces, but rather can be used by inspectors in those regions to identify construction sites for inspection, which were not required to be filed with the Ministry.

The Ministry has stated it will continue to work toward formal information-sharing agreements with MPAC to share and potentially harmonize building permits and Notice of Project (required to be submitted to the Ministry for projects more than \$50,000). The Ministry expects to have this completed by March 2022. The Ministry told us that since not all municipalities use the same information system for their building permits, this has created a challenge in streamlining an information-sharing agreement that could easily integrate with Ministry information systems.

- *assess whether the \$50,000 reporting threshold is reasonable and whether other factors should be considered for construction work in order to sufficiently capture all worksites that pose a high risk for workers; and*
- *amend the threshold and add any other criteria needed based on the results of the assessment.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that having only a financial threshold, like the \$50,000 reporting threshold for construction companies, as a measure of risk did not capture all worksites that posed a risk for workers. For example, roofing projects which usually do not meet the \$50,000 threshold represented 8% of workplace deaths for the period 2014 to 2018.

In our follow-up, we found that the Ministry had prepared a plan to conduct a public consultation about a regulatory change to be made regarding eliminating the monetary threshold for reporting construction projects and replacing it with reporting requirements based on high-risk hazards or activities. The Ministry expects to propose the regulatory change after the public consultation is held and the results of the consultation are reviewed. At the time of our follow-up, the Ministry had not yet determined the date it would conduct the public consultation, and had not done any work to determine what risk-based reporting requirements would be best to replace the monetary threshold.

### Recommendation 5

To help prevent and minimize future injuries to workers, we recommend that the Ministry of Labour, Training and Skills Development:

- improve its case-management system to allow inspectors to extract compliance data from the system so that they can analyze trends and compare workplaces;

**Status: In the process of being implemented by fall 2024.**

#### Details

In our 2019 audit, we noted that the Ministry's IT system did not allow inspectors to generate reports showing the hazard type, severity, or frequency of violations by workplace. In addition, although the WSIB provided the Ministry with access to its claims data, the Ministry had not been able to link this data to its own inspection and compliance data so that inspectors could select workplaces based on their compliance history and employee-claims history, or the history of other businesses in the same sector.

At the time of our follow-up, the Ministry was planning for the development of a new enforcement case-management system for inspector use. The proposal for the planned system includes the ability for inspectors to search, sort and analyze employers by compliance history in both the health and safety area and in employment standards, as well as by WSIB claims data. The Ministry expects the system will be built and put into use in phases starting the spring of 2023, with completion in the fall of 2024.

We also noted that the Ministry has developed other tools to allow inspectors to analyze and compare workplaces for inspection, based on some risk factors.

- In October 2020, the Ministry opened an online portal which allows Ministry staff access to up-to-date enforcement data. The online portal has the capability to view and sort enforcement information by date, infraction type, and company, both in aggregate by sector or region. It also enables staff to view enforcement information for individual companies.

- In October 2020, the Ministry also developed an online work-planning tool for construction inspectors to assist them in selecting workplaces for proactive inspections based on the submission of notices of project submitted by general contractors. The tool allows inspectors to identify construction projects valued at over \$50,000 and locate them on a map. It also allows inspectors to identify the number of projects the contractor has filed in the previous five years, as well as the number of stop-work orders issued to the contractor per project and the number of critical injuries attributed to their employees. The data for this is pulled from the Ministry's enforcement database.

- link and compare compliance data in its case-management system with claims data from the Workplace Safety and Insurance Board;

**Status: In the process of being implemented by March 2023.**

#### Details

In our follow-up, we found that the Ministry was creating a single-source system for employer information including compliance, enforcement and claims information. It was combining information from the Ontario Business Information System (OnBIS) which records business registration, the Ministry's enforcement database which contains inspection results, the Employment Standards Information System which contains employer infractions regarding employment standards, and the Workplace Safety and Insurance Board (WSIB) which contains work-related injury claims data.

At the time of our follow up, the Ministry had completed the matching of employer records through the process of data cleaning and using a standard format to record the name of a business and its address. It also established matching rules applied to the various databases and created algorithms to match both exact matches and potential matches. The Ministry had also designed a process to combine the data from the various databases and told us it was developing

the programming required to complete the data combination.

The Ministry has set a timeline for expected completion of this recommendation, including development of a case-management system based on the combined single employer data record, of the end of March 2023.

- *select workplaces for inspection across all sectors based on their compliance history and employee-claims history.*

**Status: In the process of being implemented by fall 2023.**

### Details

In our 2019 audit, we found that the Ministry did not have a risk-based approach to identify, rank and select other higher-risk workplaces or businesses that may not be otherwise inspected under the Ministry's enforcement initiatives. At the regional offices visited, we found that inspectors selected other workplaces largely based on their own judgment and field intelligence (that is, their knowledge of local workplaces and familiarity with activities within their assigned geographical areas).

In our follow-up, we found that the Ministry has taken steps as noted in the first action of this recommendation. However, it will not be able to fully implement this recommended action until the new case-management system for inspection and enforcement noted above is built and put into use in the fall of 2023 and Ministry compliance data is successfully linked to claims data maintained by the WSIB.

### Recommendation 6

*In order to identify risks of poor health-and-safety practices that may extend to organizations and associated companies under common ownership, we recommend that the Ministry of Labour, Training and Skills Development:*

- *consistently record the names of business owners in its system and analyze reported incidents and inspection results by common ownership, in addition to the business name; and*

- *inspect affiliates with common ownership that might be using the same or similar unsafe practices.*

**Status: In the process of being implemented by March 2023.**

### Details

In our 2019 audit, we found that even though the Ministry's IT system contained a data field to record the names of owners or board of directors of individual businesses, this information was not being consistently recorded – 44% of the records we sampled did not contain details about owners and board of directors. As a result, the Ministry could not always identify and inspect affiliated businesses with common ownership that might be using the same unsafe practices.

In our follow-up, we found that through completion of the Ministry's work to link and compare compliance data in its case-management system with claims data from the Workplace Safety and Insurance Board and other databases, it will be creating a master employer data record as described in **Recommendation 5.2**. This employer record will include the legal entity name as reflected in the Ontario Business Intelligence System (OnBIS), as well as the ownership information, including corporate directors, allowing the Ministry to select and inspect workplaces based on common ownership.

### Recommendation 7

*To obtain more complete information on critical injuries for investigation that could contribute to preventing future incidents, we recommend that the Ministry of Labour, Training and Skills Development (Ministry) develop a process with the Workplace Safety and Insurance Board to inform the Ministry of claims that meet the Ministry's definition of a critical injury.*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we reported that the Ministry conducted a pilot project in 2017 to determine whether critical injuries were being underreported following

a change, in the prior year, in the interpretation of a critical injury. The Ministry reviewed a sample of critical-injury claims received by the WSIB and concluded that 48% had not been reported to the Ministry as required. But, at the time of our audit, the Ministry had not taken any action to address the reasons employers failed to notify the Ministry.

At the time of our follow-up, we found that the Ministry had identified options for developing a harmonized incident-reporting system for reporting critical injuries and fatalities to both the Ministry and to WSIB for claims purposes. The first option is an automatic notice sent to the Ministry from WSIB's claim reporting site, when a WSIB claim is filed that seems to meet the Ministry's definition of a critical injury. The other option is to develop a harmonized reporting system accessible to both the Ministry and WSIB which will meet the needs of both claims reporting and reporting of critical injuries. At the time of our follow-up, the Ministry, in collaboration with WSIB, had yet to select a preferred option; however, in January 2021 had developed a prototype of a digital harmonized reporting form, with input from both the Ministry's and WSIB's IT departments, should they decide to go forward with a harmonized reporting system. The Ministry told us it expected to have a decision made and implementation of sharing of critical-injury information to be in place by March 2022.

## Recording of Field Visit Reports and Orders

### Recommendation 8

*To assist inspectors in efficiently assessing and documenting all health and safety hazards in a workplace, we recommend the Ministry of Labour, Training and Skills Development develop checklists specific to each sector and require that inspectors use and include the checklists in their inspection reports.*

**Status:** Little or no progress.

### Details

During our 2019 audit, we noted that the Ministry had checklists for inspection of specific equipment (such as mobile cranes and material hoists), but did not provide a checklist of specific criteria that inspectors should assess when conducting field visits for all health-and-safety areas (for example, assessing certain electrical hazards in construction sites). Moreover, the level of detail documented in inspections reports varied, making it difficult for the reviewing manager to ensure that all relevant areas of the inspection were actually covered by the inspector.

In our follow-up, we found that the Ministry was reviewing whether checklists should be used for three of its sector programs (construction, health care, industrial). For the construction sector, the Ministry stated that it supports the use of checklists for highly technical inspections such as tower cranes, but not an overall inspection checklist. Similarly, in the health-care sector, instead of checklists the Ministry has developed various quick reference guides to be used in response to specific hazards, or while conducting inspections in specific workplace sector(s). A quick reference guide provides a short overview of the hazard and/or sector and then focuses on a compliance summary of key legislated requirements related to the hazard and/or sector. For example, it developed guides for COVID-19 infection prevention and control in the long-term-care sector, occupational illness in the health-care sector, and infection prevention and control in congregate living settings, but there is no plan to develop an overall inspection checklist. For the industrial sector, the Ministry has developed a draft template for the development of future checklists which would be specific to certain hazards (for example, storage of flammable liquids in industrial establishments). However, an expected date to produce and implement a checklist had not been established at the time of our audit, and similarly to the other sectors an overall inspection checklist is not being considered.

In response to the COVID-19 pandemic and in line with the *Reopening Ontario Act, 2020*, to help guide inspectors in ensuring businesses are in compliance

with the COVID-19 health and safety measures and to track areas of non-compliance with required health and safety measures, the Ministry created several checklists and reference guides. For example, some of these were for construction sites, industrial workplaces, temporary foreign agricultural workers, hotels and shared rental accommodations, shopping and retail, food and drink establishments, and personal care services. The Ministry also created a template of questions for inspectors to ask employers during all initial COVID-19-related proactive and reactive initial inspections for all sectors, to help guide whether COVID-related health and safety requirements were met. Inspectors then narrated the answers in their reports and wrote orders for any of the missing required elements.

Although we recognize the above noted guides and specific checklists can be a valuable tool in guiding inspectors in specific areas, they do not fully address the recommendation of developing a checklist to ensure all areas of an inspection are covered.

### Recommendation 9

*To improve the quality-assurance process for inspections, we recommend that the Ministry of Labour, Training and Skills Development develop and implement metrics to use when assessing whether an inspection has covered applicable hazards and legislative requirements.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that the quality-assurance process focused on administrative accuracy rather than whether an inspection covered all relevant areas of the Act and regulations, and the hazards present at the workplace. Inspection reports were reviewed but not assessed for quality. As well, although inspectors were accompanied on an inspection once a year by a reviewer, the metrics used to assess their performance were based on whether the inspector had completed an element of an inspection, rather than how well they had completed the task.

In our follow-up, we found that the Ministry had not taken any action toward the development of metrics to be included as part of its quality-assurance process for inspections.

Although the Ministry has stated it is developing performance measures that demonstrate the impact of prevention efforts and strategies as part of its performance measurement framework (discussed in **Recommendation 1**), these will not assess the quality of individual inspections completed.

## Ministry Enforcement of Occupational Health and Safety

### Recommendation 10

*To increase the accountability of employers that have continued violations of the same hazard and to deter future infractions, we recommend that the Ministry of Labour, Training and Skills Development:*

- *analyze enforcement data to determine which employers or individuals are repeatedly in contravention of the Occupational Health and Safety Act (Act) for the same hazard;*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we found that many companies that were inspected or investigated at least three times from 2013/14 to 2018/19, had been issued orders for violations and contraventions relating to the same type of hazard at least twice in the six-year period. For example, in the construction sector, 65% of 4,165 companies had repeatedly been issued orders relating to fall-protection hazards. We also reviewed stop-work orders separately, and similarly found that many companies had contraventions for the same type of hazard multiple times.

In our follow-up, we found that the Ministry had not taken any action to perform an analysis of its enforcement and compliance data to identify employers with repeated contraventions of the *Occupational Health and Safety Act*.

As also described in **Recommendation 5.1**, the Ministry has developed other tools to allow inspectors to analyze and compare workplaces for inspection, based on some risk factors. This includes an online portal which allows all Ministry staff access to up-to-date enforcement information, including the capability to allow staff to view enforcement information for individual companies. Also, in October 2020, the Ministry launched an online tool which allows inspectors to identify by construction contractor the number of stop-work orders issued and the number of critical injuries on those construction projects.

The Ministry has also stated, it developed and expects to launch an application for inspectors called the Escalating Enforcement App. This app is to use data from the Ministry's current inspection case-management system and from the Ministry's ticketing system, and produce a risk score for employers based on past compliance and infractions, to indicate the level of repeat contraventions. This application will also allow inspectors to search, sort and analyze employers by compliance history. The Ministry expects this tool to be completed in late 2021.

- *for employers or individuals who are responsible for repeat offences, use escalating measures to deter future infractions, such as issuing more fines through tickets and summonses or recommending prosecution;*

**Status: In the process of being implemented by November 2022.**

### Details

During our 2019 audit, we found that there were no consequences to a company or individual if they did not comply with an order, or if they complied temporarily, unless the Ministry considered issuing the company a fine or pursuing prosecution.

In our follow-up, we found that the Ministry had developed a compliance continuum for when an infraction is observed during inspection, that includes the steps of providing education and awareness, obtaining a commitment to compliance from the workplace, issuing enforcement measures, and prosecution. To inform the inspector where on

the continuum the infraction lies, the continuum includes a decision matrix intended to guide inspector judgment. Based on the number and type of prior infractions and whether they are related to the current infraction, the matrix informs inspector judgment as to whether it presents a low, medium, or high risk of harm and to apply the appropriate enforcement step in the continuum.

The Ministry piloted the compliance continuum in November and December of 2019 with 30 inspectors from all five regions and four programs and has prepared for a phased-in launching of the tool, which is to include built-in functionality in its enforcement case-management system beginning in fall 2021.

Although the Ministry has stated that project implementation was delayed due to immediate enforcement needs related to health and safety during COVID-19, it expects to have the new compliance continuum features incorporated into its existing case-management system by fall of 2022.

- *analyze the effectiveness of the various measures used to deter violations of the Act.*

**Status: In the process of being implemented by April 2023.**

### Details

In our follow-up, we found that the Ministry had not completed any analysis to determine how effective its various enforcement measures have been in deterring health and safety violations.

The Ministry stated that it plans to include indicators to measure the effectiveness of sanctions in the performance measurement framework planned to be developed in response to **Recommendation 1**. The Ministry has an expected project timeline of September 30, 2021, to complete a draft framework, with the framework to be finalized by December 31, 2021, and to begin measurement in fiscal 2022/23. Performance measures related to enforcement include the number of repeat contraventions for orders and for prosecutions, and the compliance rate for specific sanctions, such as commitments and orders issued.

### Recommendation 11

*To continue to gain knowledge about and limit hazardous exposures in Ontario workplaces, and in order to reduce the incidence and burden of occupational disease, we recommend that the Ministry of Labour, Training and Skills Development continue completing the activities outlined in the Occupational Disease Action Plan, assess the Plan's effectiveness periodically, and make adjustments if necessary.*

**Status:** In the process of being implemented by March 2022.

#### Details

In our 2019 audit, we reported that deaths from occupational diseases had outnumbered traumatic workplace-fatality claims for at least the past decade. The Ministry, in conjunction with other parties, developed the Occupational Disease Action Plan (Plan) in 2016 to reduce the incidence and burden of occupational disease. At the time of our audit, we followed up with the Ministry on the status of activities that were to be undertaken under the Plan, and noted that as of July 2019, half (50%) had been completed, including those recommendations that have to occur on an ongoing basis. The other 50% either had not been started, were on hold, or were in progress.

In our follow-up, we found that the Ministry had last assessed the status of the recommendations of the Occupational Disease Action Plan in September 2020. At that time, the Ministry determined that it had completed 61% (17) of the recommendations, including those recommendations that have to occur on an ongoing basis, and was in the process of implementing the remaining 39% (11) of the recommendations.

In January 2021, the Ministry began developing a new occupational illness prevention plan for identifying and addressing occupational illness, including to establish and strengthen partnerships to manage occupational illness, enhancing surveillance of occupational illness and exposure, improving knowledge and practices through training for occupational illness prevention, and to strengthen workplace protection and support workplaces to prevent or control

hazardous exposures. The Ministry plans to have the new plan completed by March 2022.

Additionally, in January 2021, the Ministry convened a working group, in partnership with the University of Toronto Dalla Lana School of Public Health and the Occupational Cancer Research Centre, to identify current gaps in exposure and disease-surveillance data and initiate discussions on how to address the gaps. The Ministry had also established an internal working group to design performance measurement and evaluation indicators to allow for collection of data to better understand the causes of occupational illness and measure success toward preventing them, which is expected to allow for future adjustments to its actions toward preventing occupational illness.

### Very Little Progress on Newer Initiatives Aimed at Reducing Health and Safety Risks at Mines in Ontario

#### Recommendation 12

*To help identify and correct health-and-safety risks to workers at mining operations, we recommend that the Ministry of Labour, Training and Skills Development:*

- *reassess the benefits of conducting further engineering reviews and comprehensive inspections and if these are determined to be beneficial, prioritize resources to conduct engineering reviews and/or comprehensive inspections for all underground mining operations and high-risk surface mining operations;*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we found that few comprehensive inspections and engineering reviews of mining operations had been done in the three and four years since they began, because the Ministry did not have the complement of mining inspectors needed to complete these in addition to other inspections and investigations.

In our follow-up, we found that the Ministry had assessed the benefits of completing comprehensive inspections and engineering reviews, in relation to the benefits to stakeholders (internal and external); efficiency (time, cost, and resources); and the impact on safety (worker safety, mine safety and informing enforcement activities).

In September 2020, the Ministry conducted a stakeholder survey of both external stakeholders (e.g., mine operations and the Ontario Mining Association) and internal stakeholders (e.g., specialized professional staff and regional program co-ordinators).

Further to this, for all options considered under both comprehensive inspections and engineering reviews, the Ministry's assessment included the creation of process maps to document the required steps needed for conducting comprehensive inspections and engineering reviews, as well as an analysis of the strengths, weaknesses, opportunities and threats associated with completing the inspections and reviews.

Based on its assessment, the Ministry recommended to move forward with conducting comprehensive inspections using a high-hazard risk-based approach, rather than attempt to conduct these inspections for all mines. Similarly, for engineering reviews the Ministry recommended adopting a risk-assessment model whereby the mining engineer is to tailor the review specific to each mine operation's high-risk hazards versus the earlier engineering review model that focused on three high-risk hazards for each mine (ground control, ventilation and water management).

- *develop procedures for conducting engineering reviews and documenting results in a consistent manner.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we reported that although the Ministry had developed a reporting template to record the findings of engineering reviews, there

were inconsistencies in the level of detail in reports completed by different engineers. With respect to comprehensive inspections, there was no checklist that clearly directed inspectors and other technical staff on what they should be evaluating or standard template for reporting results.

In our follow-up, we found that in late 2019 the Ministry had developed a procedure manual for conducting engineering reviews, including the required documentation (such as design plans and risk assessments) to be requested and reviewed, and detailed compliance criteria to be assessed by the engineer. Following the document review, the engineer could conduct an onsite visit of the mine, if deemed necessary.

The Ministry also established a standard reporting format for its engineering reviews, in which the same reporting template is used regardless of the type of engineering review completed (ground control, water management, ventilation). Each report is to be peer reviewed followed by a review by the Provincial Engineer before it is provided to the inspector.

Although the peer review process is not formally documented, the Ministry told us it consists of a technical review by an engineer in the same discipline (in this instance, it must be a mining engineer, preferably with the same specialty) to ensure technical accuracy and to see if there are any errors or omissions, and a quality-assurance review to ensure the report is presentable, inclusive, defensible, and contains sufficient technical information and calculations to support the findings.

## Work Needed to Address Recommendations of Ministry's Action Plans to Reduce Workplace Health-and-Safety Incidents

### Recommendation 13

*To help prevent and reduce the occurrence of occupational-related fatalities and injuries in workplaces across the province, we recommend that the Ministry of Labour, Training and Skills Development:*

- *continue to implement the recommendations outlined in the various sector-specific action plans;*  
**Status: Will not be implemented.** The Office of the Auditor General continues to believe this is a significant recommendation and continues to recommend that the Ministry of Labour, Training and Skills Development implement the remaining recommendations outlined in the various sector-specific action plans, in order to prevent and reduce workplace health and safety incidents.

### Details

At the time of our 2019 audit, the Ministry had developed action plans to reduce workplace health and safety incidents for three of the sector programs—construction (2017), mining (2015) and health care (2016), but none of the plans had been fully implemented. Implementation rates were 88% for the construction sector, 44% for the mining sector and 43% for the health-care sector.

Based on the latest assessments performed since our 2019 audit, the implementation rates of the sector action plans were 90% for the construction sector (as assessed in April 2020), and 47% for the mining sector, with the remaining actions noted as ongoing or on hold (as assessed in March 2020).

The implementation rate for the health-care sector action plan was unknown. The Ministry told us it was no longer actively implementing or tracking the status of the recommendations, as the leadership table responsible for the plan had come to an end. According to the Ministry, this was due to changes in Ontario's health-care system, including a realignment of the Ministry of Health and Long-Term Care into two ministries (Health and Long-Term Care), and with the creation of Ontario Health, which has taken over some of the functions of divisions within the Ministry of Health.

The Ministry also told us that it would no longer be actively implementing the recommendations of any of the action plans, as it is transitioning to create new risk-based prevention initiatives, for all sectors.

- *measure the impact each plan has had toward achieving its objective;*  
**Status: Little or no progress.**

### Details

In our 2019 audit, we reviewed WSIB claims data for the period since each plan's implementation to determine whether the plans have had an impact on their respective sectors. We reported the impact of the action plans for the mining sector and health-care sector as of 2018. But it was too early to assess the impact of its other two plans which were released in 2017 – one for the construction sector and the other for occupational disease.

In our follow-up, we found that the Ministry had not completed an assessment of the impact of the actions implemented in its current sector action plans. Going forward, the Ministry has begun planning to introduce a risk-based approach to be led by the applicable Health and Safety Association for each sector. The goal of this approach is to identify risks, hazards and controls for each sector, complete a root-cause analysis, develop evidence-based initiatives to address the causes and measure the impact of these initiatives.

- *based on the results of the impact achieved, assess a future course of action.*

**Status: Little or no progress.**

### Details

As the Ministry has not assessed the impact of its action plans, it has also not revised future actions based on the results. In our follow-up, the Ministry stated that it agrees with the recommendations of the Auditor General and, in response, is developing and will eventually implement the next iteration of the Occupational Health and Safety Strategy (discussed in **Recommendation 1**). The Ministry has committed to assess the impact achieved on a continuous basis and, based on evidence, adjust the course of action as it goes. It also noted that the sector risk-based approach it plans to implement in the future will be used to develop, implement and measure prevention and compliance initiatives at the sector level.

## Chapter 1

### Section 1.08

Ministry of the Solicitor General

# Office of the Chief Coroner and Ontario Forensic Pathology Service

Follow-Up on VFM Section 3.08, *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	5	4			1	
Recommendation 2	3	3				
Recommendation 3	5	2.5	1.5	1		
Recommendation 4	6	6				
Recommendation 5	5	3	2			
Recommendation 6	2	2				
Recommendation 7	1	1				
Recommendation 8	2	2				
Recommendation 9	3	2	1			
Recommendation 10	1		1			
Recommendation 11	1	1				
Recommendation 12	2				2	
Recommendation 13	1	1				
Recommendation 14	1		1			
<b>Total</b>	<b>38</b>	<b>27.5</b>	<b>6.5</b>	<b>1</b>	<b>3</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>72</b>	<b>17</b>	<b>3</b>	<b>8</b>	<b>0</b>

### Overall Conclusion

The Office of the Chief Coroner and Ontario Forensic Pathology Service (Office) and the Ministry of the Solicitor General (Ministry), as of October 26, 2021, have fully implemented 72% of

the actions we recommended in our *2019 Annual Report*. The Office and the Ministry have made progress in implementing an additional 17% of the recommendations, made little progress on 3% and will not be implementing 8%.

The Office has fully implemented recommendations such as working with the College of Physicians

and Surgeons of Ontario to develop more effective ways of sharing information about physician coroners, requiring all coroners to attend ongoing training, and reporting annually on performance.

The Office was in the process of implementing recommendations such as evaluating staffing model alternatives for coroner work and revising the transfer payment agreement with regional hospital-based forensic pathology units to allow the Office to obtain more detailed quality assurance data, particularly on the types of errors made by forensic pathologists and pathologists, and the Ministry was revisiting the terms of reference and authority of the Death Investigation Oversight Council.

However, the Office has made little progress on reporting any trends of billing violations or concerns to the Ministry of Health. As well, the Office does not intend to implement recommendations on tracking the workplaces of coroners, such as addiction medicine or long-term care homes, and taking this information into consideration when assigning death investigations; making the current status of implementation and responses to recommendations made by inquests and death review committees publicly available online; and communicating to the public the Office's position regarding the usefulness and practicality of recommendations resulting from inquests and death review committees. We continue to believe there is value in implementing these recommendations for purposes of strengthening the objectivity and quality of death investigations and increasing the transparency of the Office's role.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Office of the Chief Coroner and Ontario Forensic Pathology Service (Office) operates within the Ministry of the Solicitor General. The Office conducts investigations and inquests to ensure that no death is overlooked, concealed or ignored, and establishes

specialized death review committees to support death investigations. Recommendations made through these processes are intended to help improve public safety and prevent death in similar circumstances.

Since 2009, the Office has been led by a Chief Coroner, responsible for death investigations and the work of coroners and inquests, and a Chief Forensic Pathologist, responsible for the work of forensic pathologists and pathologists who perform autopsies. The Office's total expenditures for both coroner and pathology services in 2020/21 were about \$54 million (\$47 million in 2018/19). In 2020, the Office conducted almost 18,600 death investigations (about 17,000 in 2018). In about half of these cases, an autopsy was performed.

Coroners perform death investigations for types of deaths defined by the *Coroners Act* (Act)—mostly those that are sudden and unexpected. Coroners in Ontario are physicians, or medical doctors, who usually have a medical practice in addition to working for fee-for-service as coroners. About 70% of the about 350 licensed physicians who worked as coroners in 2018 had a background in family medicine.

Our significant findings in our 2019 audit included:

- Coroners performed death investigations with little supervision, and many deficiencies had gone undetected. Coroners had performed death investigations on their former patients, billed for more than 24 hours of services in one day, and conducted death investigations while under practice restrictions by the College of Physicians and Surgeons of Ontario (College).
- The Office's policy requires autopsy reports of criminally suspicious cases to be peer-reviewed by a centrally assigned reviewer on a rotation list. However, some forensic pathologists did not follow this process and instead chose their own reviewer.
- The only structured training required for a physician to work as a coroner was a five-day course, without a check to ensure proper course completion nor a competency examination. Refresher training was only required after the initial course if quality issues were later identified. However,

the Office's quality assurance unit identified significant errors in 18% of 2017 coroner reports. The reports were incorrect, incomplete, or did not meet the standards of the Office—even after the regional supervising coroners had reviewed them.

- The Office did not have a documented policy for suspension or removal of coroners under practice restrictions by the College. We found that 16 coroners had performed death investigations while under such practice restrictions. One was restricted by the College from prescribing narcotics in 2012 but had investigated 19 cases since then where the death was as a result of drug toxicity.
- Bodies that needed autopsies were often stored with other bodies in the hospital morgue. In 2019, one hospital-based regional forensic pathology unit conducted an autopsy on the wrong body. Due to limited capacity, regional units have stored bodies in hospital hallways and other rooms.
- Deaths were not always reported to the Office as required by law. In 2018, about 2,000 deaths, including those that resulted from pregnancy, fractures, dislocations or other trauma, were under-reported to the Office and so were not investigated.
- The Office did not require its coroners to provide it with documented reasons when they concluded a death investigation was not needed. While the Office did not track how frequently coroners do not provide reasons, our audit found this to be so in about 56% of the cases we sampled.
- The Death Investigation Oversight Council (Council), the primary oversight body for the Office's activities, was not effectively fulfilling its legislative oversight mandate due to its limited authority; Council recommendations are non-binding. As well, the Council was not informed of key decisions such as the closure of a hospital-based regional forensic pathology unit.

We made 14 recommendations, consisting of 38 action items, to address our audit findings.

We received commitment from the Office of the Chief Coroner and Ontario Forensic Pathology Service

and the Ministry of the Solicitor General that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and October 2021. We obtained written representation from the Office of the Chief Coroner and Ontario Forensic Pathology Service and the Ministry of the Solicitor General that effective October 26, 2021, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Some Coroners Suspected to Be Engaging in Unethical Practices and Professional Misconduct

#### Recommendation 1

*To strengthen the objectivity and quality of death investigations, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service:*

- *update its conflict of interest policy to be more specific about the time lapse required by a coroner between treating a living patient and performing a death investigation on that patient;*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we noted that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office) had a policy that defined and restricted coroners from performing investigations that constituted a conflict of interest. However, it did not specify the time lapse needed between treating a living patient and performing a death investigation that would be considered appropriate and not a conflict situation.

At the time of our follow-up, we found that the Office, in November 2020, implemented an operational policy manual, which includes a conflict of

interest policy that highlights what specific measures must be taken in the event of a conflict, such as informing and consulting with a regional supervising coroner. Although the policy did not specify a time lapse needed between treating a living patient and performing a death investigation that would be considered appropriate and not a conflict situation, it does state that if a coroner is aware that they have provided medical treatment to the deceased, the coroner must report the conflict of interest to the regional supervising coroner immediately upon recognition. The regional supervising coroner will decide how the investigation will be managed, which could involve assigning the case to another coroner. The Office explained that a time frame is not needed because the presence of a conflict depends on the circumstances of death and the nature of the physician-patient relationship, and therefore, the risk of a conflict of interest would not be mitigated by establishing a firm timeline between treatment and death. For instance, failure to recognize or to screen for a disease could still result in deaths years later. As well, the Office indicated that a strict time lapse could hinder the investigation process or result in delays, especially in non-urban regions of the province.

In addition, the operational policy manual includes a code of ethics for coroners, which states that coroners shall, unless otherwise directed by the Chief Coroner or his/her delegate, disqualify themselves from conducting an investigation, or presiding at an inquest, where a conflict of interest exists or appears to exist.

- *communicate to coroners and regional supervising coroners the policy prohibiting coroners from investigating the deaths of former patients clearly and periodically;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not require a coroner to confirm that a coroner had not provided care to the deceased, either when accepting the death investigation or when reports were

submitted, and dispatchers did not ask coroners if the deceased was a patient prior to death.

At the time of our follow-up, the Chief Coroner provided us with a copy of the memo that it issued to all coroners in November 2020 and regional supervising coroners in December 2020, advising them of the rollout of the operational policy manual, which included expectations of coroners in conflict of interest situations.

- *require coroners to formally confirm the absence of conflict of interest when they accept a death investigation, or complete a death investigation report;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office required coroners to declare and discuss a potential conflict of interest if they were asked to perform a death investigation on former patients to ensure they were free of bias when conducting death investigations. However, the Office was not aware that documentation was not consistently maintained for all cases of conflicts of interest.

At the time of our follow-up, the Office indicated that it began implementing a new case management system in Kingston in March 2021 and Toronto East and Toronto West in June 2021. By August 2021, the system was made available to all other regions across the province. The system has a mandatory field where a coroner would be prompted to consider whether there is a conflict of interest at the onset of a case. If a coroner indicates that there is a conflict of interest, either personal or professional in nature, the system will prompt a requirement for the immediate review by the responsible regional supervising coroner.

- *track the workplaces of coroners, for example addiction medicine or long-term care homes, and take this information into consideration when assigning death investigations;*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation to avoid situations of conflict of interest.**

### Details

In our 2019 audit, we noted in our sample review of cases that some coroners billed the Ontario Health Insurance Plan for addiction medicine services provided to the individuals whose death they subsequently investigated. In some cases, it appeared that the coroners were actively managing their patients' care and addictions, which would make it difficult for the coroner to impartially evaluate the circumstances leading up to death, which is central to the role of coroner.

At the time of our follow-up, the Office indicated that its database houses and tracks key information on each coroner, which includes their business address, medical credentials, discipline or specialty, and their practice/hospital/affiliations, but this information is not referenced in the initial assignment of a coroner's case. The Office will continue with its existing process of having dispatchers relay reported death information to the coroner on duty or available in that location. In addition, the Office indicated that it is the coroner's responsibility to recognize conflict of interest according to the Office's policy, and that there is no practical mechanism, such as to quickly search patient lists or billing histories, by which regional supervising coroners or others in the Office can pre-investigate to identify potential conflict of interest.

Further, the Office conveyed that depending on the circumstances of the death, its view is that it is appropriate for coroners to investigate deaths in facilities where they work and within their clinical specialities since they might possess the very skills and knowledge required to effectively investigate and answer the outstanding questions.

In some circumstances, a small number of cases would be reassigned, reinvestigated or undergo more expert review. In these cases, regional supervising coroners will consider a coroner's place of work and clinical specialty in re-assigning the cases.

- *monitor compliance with this policy routinely and, for instances where the policy has been violated, suspend or terminate coroner appointments, and*

*report coroners to the appropriate party, such as the College of Physicians and Surgeons of Ontario.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that senior management at the Office were not aware of any of the potential conflict of interest cases we found because the Office did not monitor whether coroners were abiding by the Office's policy.

At the time of our follow-up, the Office's new policy, which has been in effect since November 2020, states that violation of the policies may result in investigation, suspension or termination. In addition, the Office stated that the Chief Coroner is responsible for notifying the College of Physicians and Surgeons of Ontario (College) with respect to professional misconduct, quality or ethical concerns, including when operational policies are violated. The regional supervising coroners are responsible for managing coroners' performance, including reporting any professional misconduct violations to the Deputy Chief Coroners and the Chief Coroner.

The Office implemented its document management software in October 2021 across all regions in Ontario. The software provides all coroners with electronic access to all current policies and procedures, and tracks which coroners have reviewed these documents. The Office does not foresee the software being leveraged to automate communications with the College.

### Recommendation 2

*To improve its communication with the College of Physicians and Surgeons (College) regarding coroners who have practice concerns and properly address performance concerns of coroners, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service:*

- *work with the College to develop more effective ways of sharing information about physicians appointed as coroners who already have or may have serious performance issues;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office was not aware that the physician regulatory college had imposed practice restrictions on some coroners' practice of medicine because it did not periodically check the College's website for information on physician practice restriction and did not readily identify through direct communication from the college, because the college sent the Office notices about every public sanctioning action of any Ontario physicians annually and not just the ones on coroners and forensic pathologists.

At the time of our follow-up, the Office and the College of Physicians and Surgeons of Ontario had developed a process to share information regarding coroners every quarter. Upon receiving a list of all coroners, including those who are active, on leave or have resigned, the College indicates which physicians have had their practice licence revoked, suspended or cancelled. This information exchange last took place in September 2020. According to the Office, the College needed to alter its search processes due to a change in its computer system. The Office indicated that it is committed to and will be engaging the College on the issue on a regular basis to solidify the reporting dates.

- *update its policy to address when to suspend or terminate coroners with identified cases of professional misconduct, incompetence, other quality issues or ethical concerns;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office relied on coroners to notify their regional supervising coroners when they were under investigation by the regulatory college. As well, the Office's policy did not provide guidance or criteria on when to suspend or terminate a coroner.

At the time of our follow-up, the Office's updated policies, effective November 2020, now state that any violation of the policies such as those concerning ethics, conflict of interest, double billing, where a coroner is under investigation for a civil or criminal matter, or under investigation with respect to a

complaint received by the Office, may result in investigation, suspension or termination. The policies also outline the process for reporting and investigating complaints against coroners, and provide guidance about when the conduct of a coroner may be escalated to a review by the Chief Coroner.

- *report instances of professional misconduct, incompetence or other quality issues or ethical concerns to the College on a timely basis.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not have a formal process in place to notify the regulatory college if there was a concern with a coroner's workplace behaviour. A regulation under the *Coroners Act* requires both the Chief Coroner and the Registrar of the College of Physicians and Surgeons of Ontario to provide notification to each other about instances where a physician who is also a coroner has committed an act of professional misconduct or is found to be incompetent.

At the time of our follow-up, the Office indicated that, in addition to observing the regulatory requirements under the *Coroners Act* where the Chief Coroner would be responsible for notifying the College with respect to professional misconduct, quality or ethical concerns, it has formalized the expectation in its operational policies to inform the College if the Chief Coroner has determined that a coroner has practice-related concerns. In addition, the Office has also amended its coroner hiring practices so that regional supervising coroners cross reference potential applications with the disciplinary list on the College website to confirm that the coroner does not have any concerns on their profile as shown on the regulatory college's website. This step is part of the "new coroner applicant checklist" put in place to ensure that regional supervising coroners screen new applicants consistently. In addition, all potentially successful applicants must provide an official Certificate of Professional Conduct from the College, which confirms their standing and provides details regarding any disciplinary matters.

## Minimal Oversight of Coroners' Work

### Recommendation 3

*To improve the quality of coroners' death investigations and quality of care to their living patients, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office):*

- *require all coroners to attend ongoing training as a requirement to continue to be a coroner, in accordance with the recommendation from the Death Investigation Oversight Council in 2014;*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that physicians were required to take a five-day training course on death investigation when they were appointed, however the Office did not require coroners to obtain ongoing training to continue to be a coroner. This ongoing training was recommended by the Death Investigation Oversight Council to the Minister in 2014.

At the time of our follow-up, we found that, effective November 2020, the Office revised its policy to indicate that coroners shall strive to increase their knowledge of the proper and effective performance of their duties and shall attend or complete required programs and courses conducted by the Chief Coroner for the instruction of coroners, both in their initial qualification and in the ongoing performance of their duties.

The Office provides training for new coroners as well as an annual education course for all coroners. Coroners are expected to attend the annual education course at least every three years; the last course was held in November 2019. About 90 coroners, as well as others such as nurses, pathologists and fellows, attended that course. In addition, the last course for new coroners was offered in November 2020. About 40 new coroners, as well as others such as coroner investigator nurses and current coroners taking this course as a refresher, attended that course.

- *establish minimum and maximum caseload guidelines for coroners' work;*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office had not established minimum or maximum investigation numbers for coroners. We found that while the average caseload for a coroner in 2018 was 52 cases, 34 coroners carried about 90% of the total caseload. One coroner performed 16 times the average number of death investigations that year; the same coroner performed the most death investigations in each year from 2014 to 2018. Senior staff at the Office agreed that both low investigation numbers and an excessive caseload could present a risk for poor quality death investigations.

At the time of our follow-up, in March 2021, the Office updated its policy to establish caseload guidelines. Regional supervising coroners will identify coroners who complete fewer than 10 investigations or more than 200 investigations in a year and include this information for consideration in the coroner's performance review. An intervention such as an education plan or schedule change might be instituted. The range was established following consultation with regional supervising coroners in February 2021. The Office found that, on average, coroners completed 62 investigations per year in 2019/20; 54 coroners had fewer than 10 cases and 14 coroners had more than 200 cases. The Office also noted that more low-volume coroners were in rural or northern regions or regions with more coroners, and more high-volume coroners were in urban regions.

For the coroner who conducted the most death investigations in 2014 to 2020, a discussion of the coroner's performance took place in the beginning of 2020 during which the coroner did not indicate any issues balancing various aspects of coroner work and clinic (non-coroner) work. As well, the Office had no concerns about this coroner's quality of work, including this coroner's recent work from early 2021, which according to the Office met current standards and demonstrated that the coroner is well organized and efficient in conducting death investigations.

- *assess the reasonableness of coroners' caseloads periodically by analyzing caseload and total*

*workload using Ontario Health Insurance Plan (OHIP) claims data;*

**Status:** In the process of being implemented by April 2022.

### Details

In our 2019 audit, we noted that on one day in 2018, the top billing coroner, in addition to the time spent on investigating deaths, saw 82 living patients. The doctor would have had only about five minutes to see each patient—if this doctor worked around the clock for 24 hours. We also found that the Office and the Ministry of Health, which maintains physician billing data, do not share such data.

At the time of our follow-up, the Office had established a data sharing process with the Ministry of Health. Once this process is implemented by March 2022, the Office will receive OHIP billing data of coroners from the Ministry of Health to conduct its own analysis of death investigations conducted and OHIP data to assess overall workload of coroners. The Office plans to conduct this analysis once a year, starting in April 2022, on all coroners who conduct death investigations that exceed a threshold number.

- *establish a policy prohibiting coroners billing OHIP for the same services as the Office, and monitor compliance with this policy;*

**Status:** Fully implemented establishing policy; in the process of being implemented by April 2022 for monitoring compliance.

### Details

In our 2019 audit, we noted that 12 coroners billed twice for the same service from 2014 to 2018. These coroners billed and received both the \$450 case fee from the Office and Ontario Health Insurance Plan (OHIP) fees for pronouncing and certifying deaths. These coroners should have billed only the \$450 coroner fees.

At the time of our follow-up, the Office had developed a policy in late 2020 that prohibits coroners from billing for OHIP services provided as part of a death investigation. As well, the Office had established a data sharing process with the Ministry

of Health. Once this process is implemented by March 2022, the Office will provide relevant coroner data to the Ministry of Health on a quarterly basis to confirm coroners are not billing OHIP for death investigation services. The Office expects to initially include all coroners in the province in its analysis by April 2022, and then limit its analysis on a random sample of 10% of all coroners.

- *report any trends of billing violations or concerns to the Ministry of Health.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that a number of billing anomalies, such as coroners double billing the Office and OHIP for certifying deaths as well as for after-hours and travel premiums. The Office informed us that it assumed physicians would understand that double billing was unethical.

At the time of our follow-up, the Office indicated that it will, by April 2022, begin analyzing data to identify any coroner who has violated its conflict of interest policy, including double billing to OHIP. It will report any violations identified to the Ministry of Health.

### Recommendation 4

*To strengthen the objectivity and accuracy of death investigations and to support informed decision-making, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office):*

- *require regional supervising coroners to fully document their reviews of death investigations;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we noted that the Office's policy was silent on how regional supervising coroners should communicate changes needed in the death investigation reports to the coroners who authored them. As well, the regional supervising coroners did not consistently document evidence of their review of

these reports, making it difficult to assess the depth and extent of review.

At the time of our follow-up, the Office indicated that the case management system, which allows regional supervising coroners to better record and track their review and revision actions, was fully implemented in all 10 regions across the province in August 2021.

- *track coroner errors to identify systemic issues through both the regional supervising coroner reviews and the quality assurance unit, and take appropriate actions such as providing more training to help reduce errors, and performing more reviews of reports from coroners with higher error rates;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that no regional supervising coroners kept records of issues they had identified in their reviews to determine whether certain coroners were repeating the same errors. As well, the Office's quality assurance unit that reviews a sample of coroners' final investigation reports after the supervisor had reviewed them, did not have procedures for performing additional reviews on the work of coroners at higher risk of completing erroneous death investigation reports. At our request, the Office analyzed the errors found in quality assurance reviews in 2017. The top major errors were improperly recording factors that contributed to the death, such as drug or alcohol abuse, and not correctly recording the location of death.

At the time of our follow-up, the Office had standardized its workflow of file review and approval to have two layers of reviewer in each regional office of death investigation reports. This will allow the Office to better detect and track systemic issues to inform training sessions in the future. With the case management system implemented province-wide in August 2021, the Office can also develop a system report that allows for the tracking of systemic issues on an aggregate level for each regional supervising coroner to act on accordingly.

- *provide reports to regional supervising coroners on the rate their coroners indicate a death investigation is not warranted;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not require coroners to provide documentation to support their rationale for deciding death investigations were not warranted. In addition, the Office had never estimated how frequently coroners indicated that a death investigation was not warranted, and did not provide reports to regional supervising coroners on the rate their coroners accepted death investigations versus informing dispatch that an investigation was not warranted.

At the time of our follow-up, the Office implemented a new case management system in August 2021 in which coroners are required to complete a report for all cases that are routed to them, including those that do not result in a death investigation. Once the coroner submits a case, it will be reviewed by the regional supervising coroner. In addition, the system's export data function enables the regional supervising coroners to export all non-coroner cases and complete the desired analysis, including the rate at which a death investigation is not pursued by a coroner. The Office also plans to develop a system report to monitor on an aggregate level the rate at which coroners indicate a death investigation is not warranted.

- *require all coroners to provide documented rationale to the Office when they determine a death investigation is not warranted;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that coroners did not submit documentation of their rationale for deciding when death investigations were not warranted in 56% of the cases based on the sample of files we reviewed.

At the time of our follow-up, the Office implemented a new case management system in August 2021. The system requires a mandatory submission on the reasons why an investigation was not undertaken.

Prior to the full implementation of the system, the Office had, since July 10, 2020, required coroners to submit a form to the regional office for all cases of deaths reported in a long-term-care home that they decline for investigation, and encourages coroners to submit this form for all other deaths that they determine a death investigation is not warranted.

- *require regional supervising coroners to review such cases to ensure the rationale documented was reasonable;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the final July 2019 report of the Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System recommended that the Office require a coroner who decides not to perform a death investigation to complete a standard document setting out the reasons for the decision. This document should then be submitted to both the regional supervising coroner and the Office within specified timelines.

At the time of our follow-up, the Office implemented a new case management system in August 2021. The system requires a mandatory submission on the reasons why an investigation was not undertaken. In addition, coroner investigators screen and manage calls for death investigation service involving apparent natural deaths. The majority of these cases do not proceed to a coroner's investigation. The coroner investigators have produced a record of all these interactions and captured them in the system since the beginning of March 2021.

- *identify all significant areas of coroners' work that require their judgment and timely response, including the rate at which they order autopsies and collect and critically review this information regularly.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not track certain data that could help inform the regional supervising coroners' assessments of their coroners' decision-making in managing deaths reported to the Office. Such data included, for example, how often each coroner answers or returns phone call requests from the dispatchers to conduct death investigations, how often each coroner orders an autopsy for a death investigation, and how frequently coroners make errors in completing death investigation reports.

At the time of our follow-up, the Office implemented a new case management system in August 2021. The system has the functionalities that allow for greater oversight and review of case management by coroners. This includes being able to assess time-sensitive responses, for example, when coroners decide to decline death investigations or to not order an autopsy, in time for the regional supervising coroners to review these decisions and intervene where necessary. The system also allows for tracking of the rate at which autopsies are ordered.

## Gaps Identified in Oversight of Pathologists' Autopsy Work

### Recommendation 5

*To support the provision of consistent, high quality autopsies across Ontario, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office):*

- *define in policy the situations where the rotation process does not need to be observed for autopsies of criminally suspicious cases, and document in the peer review report when these exceptions apply;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that 11% of autopsy cases related to criminally suspicious deaths between January 2013 and June 2019 were not assigned to reviewers in the manner prescribed by policy. The

policy requires cases to be centrally assigned by pathology administrators, by rotating through all forensic pathologist reviewers. While the Chief Forensic Pathologist can override the rotation policy if he determines this to be appropriate, the Office did not require the rationale to be documented and did not track when this occurred.

At the time of our follow-up, the Office's policy, effective from October 13, 2020, now defines situations when the standard rotational assignment of peer reviews may not be followed. These include situations of urgent turnaround, a conflict of interest was declared with the reviewer pathologist scheduled to review that case, or the case requires special expertise. The policy also requires such exceptions to be put in writing and submitted to the Chief Forensic Pathologist or delegate with the rationale for approval.

- *monitor that autopsy cases of criminally suspicious deaths are assigned on a rotation basis as per Office policy;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that in certain circumstances, such as when a forensic pathologist has expertise with a particular type of case, the rotational policy was set aside. In these cases, forensic pathologists either directly requested that another forensic pathologist review their work, or requested the pathology administrator in charge of the peer review process to assign it to a particular forensic pathologist.

At the time of our follow-up, the Office in October 2020 updated its peer review workflow process to ensure autopsy cases of criminally suspicious deaths are assigned on a rotation basis to "Category A" forensic pathologists. The workflow process indicates that the Office's forensic pathology administrators are responsible for randomly selecting peer reviewers through a rotation. The administrator follows the random assignment of cases except when there is a known familiar relationship between the originating pathologist and reviewing pathologist, or

if the case is a pediatric case, which may be reviewed by the Child Injury Interpretation Committee if certain criteria are met. The manager of the unit monitors that the workflow process is followed by staff. In addition, the Office can run reports in its information system to show the number of peer reviews each pathologist has performed in a given year, and has done so during 2021 to monitor workflow of the peer review process and ensure the peer review caseload is distributed evenly among pathologists.

- *define in policy the situations that warrant performance interventions, such as training, direct supervision or removal from the register of pathologists and forensic pathologists, and communicate this policy to staff;*

**Status: In the process of being implemented by December 2021.**

### Details

In our 2019 audit, we noted that the Chief Forensic Pathologist is responsible for the supervision and direction of pathologists under the *Coroners Act*. However, the Office did not have policies that described circumstances that warrant interventions such as training, suspension or removal from the pathologist register.

At the time of our follow-up, the Office indicated that under the current Pathologist Register, there is no formal mechanism to appeal a decision of the Chief Forensic Pathologist. The Office expected to, by September 2021, overhaul its Pathologist Register policy framework to respond to recommendations of the Auditor General and the Death Investigation Oversight Council (Council) and to ensure transparency, due process, effective communication and clear roles and responsibilities. Specifically, it aims to clarify accountabilities for medical directors, adopt a quality improvement philosophy, rebrand/restructure several committees related to forensic pathology, and define situations that warrant performance interventions. The Office expects to submit updates to the Register to the Forensic Pathology Advisory Committee and the Council for approval by September 2021, and implement needed changes by December 2021.

During 2020, the Office completed a number of related steps, including:

- preparing a fact sheet that provides an overview of the Register and key issues analysis based on lessons learned in administering the Register, and providing this to stakeholders to support discussions;
  - obtaining preliminary input from key stakeholders including the Death Investigation Oversight Council, the College of Physicians and Surgeons of Ontario, the Canadian Association of Pathologists and the Royal College of Physicians and Surgeons of Canada Anatomical Pathology Committee; and
  - establishing a Memorandum of Understanding with the College of Physicians and Surgeons of Ontario to enhance collaboration, assistance and information sharing between the Office and the College, such as to allow information sharing with the Office when the College investigates a public complaint or conducts an investigation in respect of a College member who is a forensic pathologist.
- *revise the transfer payment agreement with regional hospital-based forensic pathology units to allow the Office to obtain more detailed quality assurance data, particularly on the types of errors made by forensic pathologists and pathologists, and follow up on any missed reports;*  
**Status: In the process of being implemented by April 2023.**

### Details

In our 2019 audit, we noted that the Office did not obtain copies of performance appraisals of forensic pathologists from regional directors at hospital-based forensic pathology units to whom the forensic pathologists report. The Office could not consider this information when making decisions on whether to retain or remove the physician from the pathologist register. As well, regional units did not always submit quarterly summary reports of their reviews for 2013/14 to 2018/19 to the Office as required and various units did not review the required number of non-criminally suspicious cases.

At the time of the follow-up, the Office updated the regional hospital-based forensic pathology units' report-back templates, which were approved by the Chief Forensic Pathologist in July 2020 and sent to regional units in August 2020 with the 2020/21 transfer payment agreement. The Office notes that regional units can use this new annual report-back template to report types of errors made by pathologists and the Office will follow up on missed reports. The template captures metrics such as targeted and actual number of routine autopsies, court appearances per pathologist, and the number of quality control reviews completed by the unit's medical director for each pathologist. In addition, in December 2020, medical directors of the regional units began having laptops and access to internal information management systems to share timely information about pathologists' backlog and quality concerns for early intervention.

As well, in September 2020, the Office established the Forensic Pathology Advisory Subcommittee – Professional Roles to provide advice to the Chief Forensic Pathologist on how transfer payment agreements can be improved regarding performance management of pathologists at regional units. The subcommittee reported in March 2021 to the Chief and Deputy Chief Forensic Pathologists. The Office indicated that the subcommittee's recommendations will inform the external review (explained in **Recommendation 10**), following which the transfer payment agreements could be amended, as early as 2023/24.

- *track all errors by pathologists and forensic pathologists and use this information to inform appropriate intervention of staff, such as training.*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not centrally track which pathologists the Chief Forensic Pathologist had required to undergo performance intervention.

At the time of our follow-up, the Office had established a new standard operating procedure

on non-conforming work. This was effective since October 2020 and defines what constitutes an error in autopsy work. The policy also describes the process of communicating a finding of an error between the reviewer pathologist and the autopsy pathologist—including the education opportunity with more junior pathologists if experience is identified as a factor, when to escalate the matter to more senior people in the Office and the regional unit, and clarifies that the Chief Forensic Pathologist is obligated by law to report serious professional misconduct or incompetence issues to the College of Physicians and Surgeons of Ontario.

As well, the Office in October 2020 began using an information tool to provide an analysis of errors identified in autopsy reports in visual format to the management team. Using this information tool, the Office summarized that about 1% of its autopsy reports in 2020 were amended. Detailed information about errors is recorded in the Office’s information management system.

## Weaknesses in Body Storage Practices

### Recommendation 6

*To safeguard evidence needed for death investigations and maintain the dignity of the deceased, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service:*

- *develop minimum standards for both community hospitals and regional hospital-based forensic pathology units to apply to bodies that form part of a death investigation performed at these locations that require them to secure and maintain bodies at appropriate temperatures;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that while the Office had transfer payment agreements with each regional hospital-based forensic pathology unit in the area of morgue management, they do not address

the operation and security of the cold storage rooms, where bodies may be held while in the custody of the coroner and pathologist. As well, the Office did not have agreements with or information on community hospital policies and procedures for body storage and did not receive reports from these hospitals about their ability to store bodies for death investigations. The absence of arrangements for body storage had resulted in misidentification or degradation of bodies at three regional hospital-based forensic pathology units in 2019.

At the time of our follow-up, the Office has now included body management standards in its 2020/21 transfer payment agreements with all regional units. As well, through the Ontario Hospital Association’s (Association) communication to all hospitals in February 2021, the Office distributed best practice guidelines for body management at Ontario hospitals to ensure consistent body management storage practices for all deaths. The Office had partnered with the Association in establishing these guidelines.

- *revise transfer payment agreements with the regional hospital-based forensic pathology units to include standards on body management and monitor compliance.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the transfer payment agreements with each regional hospital-based forensic pathology unit merely required that the unit be “equipped and up-to-date” but did not address the operation and security of the cold storage rooms.

At the time of our follow-up, the Office has now included body management standards in its 2020/21 transfer payment agreements with all regional units. The standards include, for example, requirements that each gurney or storage shelf should have a unique identifier to mark its location, bodies must not be stored on the floor, only one body is allowed per gurney or storage shelf, and cooler temperatures must be electronically monitored 24 hours a day, seven days a week.

### Recommendation 7

*To reduce the risk of inappropriately releasing bodies in the Toronto Forensic Pathology Unit, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service develop policies to describe the proper and systematic storage of bodies and for performing inventories of bodies, and to monitor compliance.*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we noted that no standard operating procedures existed at the Toronto Forensic Pathology Unit for performing an inventory of bodies. We performed a body inventory in the Toronto unit in May 2019 and identified 10 errors in body location.

At the time of our follow-up, the Office has started recruiting new additional staff to improve its ability to manage bodies. These new staff, consisting of morgue technologists and dispatch/mortuary assistants, started in March 2021. The Office posted the advertisement to hire additional morgue technologists in April 2021 and filled these positions in September 2021.

As well, the Office developed a cooler management policy to provide direction to pathology staff in the Toronto unit, which became effective in June 2020. The policy includes a description of what each cooler and each freezer is to be used for and the temperature ranges of these pieces of equipment.

In addition, the Office in January 2020 began using a log to document its weekly inventory and tracking of errors in the Toronto unit. The Office uses this process as part of its monitoring that staff have conformed to the standard operating procedures. Furthermore, the Office created a new role dedicated to body management in the Toronto unit. This role has been staffed since March 2021.

## Thousands of Deaths Under-reported to the Office

### Recommendation 8

*To strengthen its ability to investigate all deaths defined as reportable under the Coroners Act, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office):*

- *track and assess the groups of people—for example whether police, hospital staff or members of the public—reporting deaths into the Office;*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we identified about 2,300 deaths in 2018 that appeared to meet the criteria for reportable deaths under the *Coroners Act* that were not reported to the Office. These deaths included adverse effects of drugs and medications, deaths resulting from fractures, dislocations or other traumas, and deaths during pregnancies. While police and health-care workers report the majority of deaths to the Office, everyone is required under the Act to contact the police or a coroner when certain types of deaths occur. However, the Office did not electronically track the identity or details about the person reporting a death.

At the time of our follow-up, the Office continued to rely on the dispatchers to collect reporting person, agency or institution information. With the new case management fully implemented in August 2021, this information is now recorded and available for aggregate analysis. The system tracks types of caller, such as police, Fire Marshal, Ministry of Labour and physicians.

- *develop a communication strategy (with a public education component) to educate relevant parties from the medical community and law enforcement on the legislative requirement to report deaths for investigation.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Office did not electronically track the identity or details about the person reporting a death. The lack of such information made it difficult for the Office to know how to develop a public education campaign to improve the public's understanding about reporting deaths.

At the time of our follow-up, we found that the Office in March 2021 approved a communication strategy, which includes leveraging existing public education resources available on the ministry website and Ontario.ca, development of education content by Queen's University for the health-care sector on legislative requirement on reporting deaths for investigation, and continuing outreach and education delivered by regional supervising coroners to law enforcement and the medical community.

Regional supervising coroners also provide ongoing education to hospitals and other justice sector partners on the requirement of reporting deaths to the Office. During the COVID-19 pandemic, the Office has participated in the development and delivery of education programs that are now offered virtually. For example, the Office expects to fully develop education materials that can be offered interactively online on death investigations in the long-term care sector by March 2022. As well, the Office has two information guides for families and loved ones—one on death investigations in Ontario and the other specifically for deaths in long-term-care homes—that provide information on the types of deaths that must be reported to a coroner. These guides were developed in 2014 and July 2020, respectively.

## Review of Service Delivery Model Needed

### Recommendation 9

*To improve the accountability and cost-efficiency of Ontario's death investigation services, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service:*

- *develop a process to track forensic pathologists' scene attendance and the impact of such attendance on the death investigation;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Toronto Forensic Pathology Unit was not tracking scene attendance by forensic pathologists. In contrast, outside of Toronto, forensic pathologists at the six regional hospital-based forensic pathology units made a total of 41 scene visits in 2017/18.

At the time of our follow-up, we were informed that the Office rolled out a new process in December 2020 that requires all pathologists to submit post-mortem examination records using a new form. The new form includes mandatory fields about scene attendance, such as to indicate whether the pathologist attended the scene, if the scene visit was prospective or retrospective, and whether the scene attendance added value to the post-mortem examination. Based on the Office's analysis of all completed records up to early May 2021, pathologists attended the scene in two of the almost 3,600 autopsy cases completed since late December 2020. In both cases, the pathologists indicated that scene attendance was of value to the post-mortem examination.

- *assess the costs and benefits of including forensic pathologists at death scenes, and the types of scenes that their expertise helps improve the quality of the death investigation;*

**Status: Fully implemented.**

## Details

In our 2019 audit, we noted that the Office did not assess whether one regional unit that conducted almost 70% of the forensic pathology scene visits in 2017/18 had found scene visits to provide value. As well in 2018, the Office terminated a pilot project to review the benefits of having forensic pathologists attend certain death scenes such as those related to sexual violence, dismembered or buried bodies, and homicides in a concealed location, without evaluating whether it helped improve death investigations. We surveyed other Canadian provinces and found that forensic pathologists either do not attend death scenes or do so only in rare circumstances.

At the time of our follow-up, the Office had conducted an evaluation on scene attendance in early 2020. The evaluation included examining the practices of forensic pathologist scene attendance in other provinces (Alberta, British Columbia, Manitoba, Nova Scotia and Saskatchewan) and reviewing the forensic pathologist training program requirements. The evaluation also considered that forensic pathologists are able to review and analyze scene photos or videos virtually without attending the scene, and did so in 99% of the homicide autopsy cases in 2018. The Office concluded in its evaluation that there is no added value of physical scene attendance by a forensic pathologist. However, the Office continues to encourage forensic pathologists to physically attend scenes in certain complex cases, such as those related to sexual violence, dismembered or buried bodies, and homicides in a concealed location.

- *evaluate staffing model alternatives such as changing the current workforce of coroners with other non-physician professionals or forensic pathologists when autopsies are involved, and making coroner positions full time, and implement changes required.*

**Status:** In the process of being implemented by December 2022.

## Details

In our 2019 audit, we noted that the Office's long-term plan was to introduce a service delivery model composed of full-time trained health-care professionals, likely including physicians, nurses and paramedics, to improve efficiencies of death investigations. The Office had not analyzed the cost and time of having a full-time staff person conduct death investigations as compared to the fee-for-service part-time physician coroner model that was in place when we completed the audit.

At the time of our follow-up, the Office, in September 2020, began an analysis and consultations with internal staff and external stakeholders to evaluate potential service delivery models for death investigators. By March 2021, it had also completed a jurisdictional scan that looked at the scope of work, remuneration structure and appointments and training requirements of death investigators in eight provinces and territories.

The Office has started the process of engaging a third-party vendor to further develop the service delivery model, including staffing options. The Office expects to complete developing the service delivery model and staffing options by March 2022 and fully implement its chosen options by fall 2022. The Office anticipates that the new model will involve the use of service level agreements with contracted death investigators that will encompass various expectations including remuneration, appointment periods, continuing education requirements, conflict of interest attestation and adherence to quality standards. Currently there is no formal employment contract; the Chief Coroner directly appoints coroners.

In the interim, the Office has employed non-physicians, such as nurses who assist in investigating certain deaths, such as apparent natural deaths, drug-related deaths and medical assistance in dying deaths, and physician assistants who assist forensic pathologists in the Toronto unit to help with certain types of autopsies. These roles were in place as of January 2020, after the completion of our 2019 audit.

### Recommendation 10

*To demonstrate that it is receiving value-for-money from regional hospital-based forensic pathology units, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service review its funding to these units for workload and cost-effectiveness and revise as necessary.*

**Status:** In the process of being implemented by April 2023.

### Details

In our 2019 audit, we noted that the Office did not ensure that its funding to the six hospital-based regional forensic pathology units was used for autopsies, staff or any other measurable factor. The cost for each autopsy varied between \$1,569 and \$2,610 at the regional units in 2018/19. As well, the Office had not assessed the actual costs needed to operate the forensic pathology service program. Funding amounts for each regional unit, which varied from \$100,000 to \$570,000 per year, were determined about a decade prior and had not changed.

At the time of our follow-up, the Ministry has approved a total of an additional COVID-19 relief funding of \$600,000 for the five forensic pathology units to recognize additional workload pressures during the pandemic. The Office notified these units of the additional payments in February 2021. As well, the Ministry provided a new transfer payment of \$50,000 to a hospital in southwestern Ontario to sustain forensic pathology services in that area, effective 2020/21.

In addition, the Office plans to engage an external third-party in 2021/22 to review the transfer payment funding model as well as the resource requirements of the regional units. The Office expects this review will be completed by summer 2022. The results of this review will be used to reform the transfer payment funding model for hospital-based regional forensic pathology units. Depending on when the external review is finalized, the new funding model could be rolled out for the fiscal year 2023/24.

Furthermore, the Hamilton forensic pathology unit stopped taking new cases in March 2020 and officially disbanded in September 2020. The Office noted

that the decision to close that unit was operational, responsive to the government's mandate for the Office to modernize Ontario's death investigation system to be more effective and efficient, and to invest resources where they provide the most meaningful impact for citizens. The Office stated that closing the Hamilton unit allowed it to maximize the government's investment in the Forensic Services and Coroners Complex, where the Toronto unit is located. The Complex is co-located with the Centre of Forensic Sciences, the Office of the Fire Marshal and Emergency Management, which helps staff collaborate and share resources during investigations.

The Office also noted that the resources available at the Complex allow for a more comprehensive, efficient and sustainable death investigation process. While the Office has conducted a preliminary analysis of turnaround time of autopsies for Hamilton and Toronto between 2018 and 2020, it indicated that due to factors such as the pandemic and exacerbation of the opioid crisis, the effect of transferring cases from the Hamilton catchment area to the Toronto unit will not be fully known until the end of 2021. Based on the preliminary analysis, in 2020, the Toronto unit, which took on additional cases formerly conducted by the Hamilton unit, completed autopsy reports within 69 days of starting the autopsy, compared to 104 days in 2019. In comparison, Hamilton, which conducted much fewer autopsies in 2020 compared to 2019 because it was winding down its operation, had a turnaround time of 133 days in 2020 as compared to 207 days in 2019.

The Office explained that it does not consider the turnaround time of when autopsies are performed as compared to the date of intake to be a good measure because the Toronto unit has a practice of performing imaging scans on nearly all cases prior to the autopsy, which adds to the turnaround time. In any case, according to the Office, in the one-year period ending May 27, 2021, of the more than 6,000 autopsy cases the Toronto unit performed, only one was autopsied beyond four days from intake—four days is the internal threshold established since January 2020 for the Toronto unit. This was due to

Trillium Gift of Life needing to recover organs prior to the autopsy because the deceased was an organ donor. In May 2020, the Office implemented a new two-day turnaround time standard for all criminally suspicious and homicide cases in the Toronto unit to provide more timely service to the police.

## Public Reporting on Office's Activities Not Timely or Not Available

### Recommendation 11

*To increase its transparency and be more accountable to the public for its death investigation work, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service annually report on performance and provide updates in future years if statistics pertaining to a particular year are revised.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Ontario Forensic Pathology Service last shared its annual results with stakeholders for the year ending July 2017, and last published its annual report for the year ended July 2015. Similarly, the Chief Coroner last published its results for the four-year period ending 2015. Other provinces including Newfoundland and Labrador and Quebec had published more recent results.

At the time of our follow-up, the Office committed to publishing its results annually.

In March 2021, the Ministry posted the Chief Coroner annual report for the period 2015 to 2019 on its website. The Office indicated that there is at least a one-year lapse on reporting death statistics due to the investigation process. It expects to finalize 2020 data and release it on the government's Open Data website by March 2022. The Office also expects to release data from 2020 onwards on this website.

As well, the Ministry posted the Forensic Pathology annual reports for the period July 27, 2015 to July 26, 2016 and July 27, 2016 to July 26, 2017 in April 2020, and for the period July 27, 2017 to March 31, 2019 in April 2021. The Office publicly released the 2019/20 annual report in October 2021.

### Recommendation 12

*To better serve and be transparent to the public in its role in preventing further deaths and protecting the living, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service (Office):*

- *make the current status of implementation and responses to recommendations made by inquests and Death Review Committees publicly available online;*

**Status: Will not be implemented.** The Office of the Auditor General continues to support the implementation of this recommendation so that the public can be aware of whether or not positive changes to systems and processes result from situations studied through inquests and reports of the Death Review Committees.

### Details

In our 2019 audit, we noted that while death review committees and inquests, together with one expert panel, produced about 600 written recommendations that were published in 2018, the responses were rarely publicly reported. The Chief Coroner argued that the number of updates from ministries and other organizations that receive death review committee or inquest recommendations may not justify the time and cost of formatting responses for their website from hard copy and translating them into French.

At the time of our follow-up, the Office indicated that inquest recommendations are made public and responses to the recommendations are available by request and on online legal research sites. The Office asserted that it does not have the authority or mandate to require respondents to provide the current implementation status of inquest and death review committee recommendation for the purposes of making that information available to the public. The Office's position is that the public should make their own inquiries on the implementation status of these recommendations directly to the receiving government body or organization. Since November 2016, the Office of the Chief Coroner has stopped publishing the status of inquest recommendations.

- *communicate to the public the Office's position regarding the usefulness and practicality of these recommendations.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation so that there is transparency that the Office of the Chief Coroner does not follow up on the implementation of inquest or Death Review Committee recommendations to see that changes have been made to avoid premature and unnecessary deaths.

### Details

In our 2019 audit, the Office informed us that recommendations made under its authority should not be considered binding and the Office did not have specific insights to know whether these recommendations are fully implementable. The Office had never publicly indicated that it does not validate whether these recommendations can be implemented.

At the time of our follow-up, the Office indicated that its mandate does not include publicly commenting on the usefulness and practicality of inquest and death review committee recommendations and argued that doing so could potentially undermine the credibility of those bodies. The Office noted that presiding coroners, expert committee chairs and regional supervising coroners endeavour to ensure that recommendations are practical, based on the evidence at hand. The findings are used to generate recommendations to help improve public safety and prevent deaths in similar circumstances. The Office further added that recommendations by juries and expert committees are not mandatory but represent the voice of the community and should be considered in the prevention of future deaths.

### Recommendation 13

*To reduce the occurrences of preventable premature deaths and improve public safety, we recommend that the Office of the Chief Coroner and Ontario Forensic Pathology Service collect relevant information to analyze deaths, identify trends and provide the information to government and other organizations that can use this information in policy development.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we noted that the Office performed limited analysis on the data it collected to identify death patterns or trends. Such data included circumstances of death, location of death and manner of death. Without analyzing this data, the Office was missing an opportunity to use its information to prevent or reduce the risk of further deaths, such as those in correctional facilities and those resulting from high temperatures—heat-related deaths related to climate change have been an issue of growing public concern.

At the time of our follow-up, the Office, in 2020 and 2021, began collecting information, identified trends and shared data with government and other organizations that could use this information in policy development. Examples include:

- The Office shared mortality data related to opioid, drugs and alcohol in Sudbury and surrounding area to the Sudbury Opioid Surveillance Committee and the Mushkegowuk Special Task Force for Healthier Communities in February 2020 and drug-related deaths to the Region of Peel in March 2021.
- The Office shared mortality data related to suicides between 2016 and June 2020 to public health partners in February 2021.
- The Office shared mortality data related to homeless deaths in the Toronto area to public health partners, generally monthly.
- The Office, in partnership with the Ontario Drug Policy Research Network, Public Health Ontario and the Centre on Drug Policy Evaluation, released a preliminary report in November 2020 on opioid-related deaths during the COVID-19 pandemic. An updated report including data up to the end of 2020 was released in May 2021.
- In 2020, data collection related to opioid-related deaths was expanded to include routine reporting on stimulant toxicity and suspect drug-related deaths to identify early trends. This information is shared with the Ministry of Health monthly and public health partners quarterly.

- The Office shared findings on fatalities in the mining sector between 2001 and 2017 at a mining health and safety conference in March 2021.
- The Office conceptualized the COVID-19 and manner of death project in July 2020 and began work on this project in January 2021 to extract data and analyze the impact of COVID-19 and related responses on manners on death. The Office completed this project in spring 2021 and was awaiting approval to publish this work in a journal.
- In 2021, the Office released a report on COVID-19-related deaths of temporary foreign agricultural workers in 2020.

In addition, to further increase the Office's ability to collect and analyze data, it was in the process of establishing a new Death Analytics for Safety and Health Unit. The unit is expected to apply public health sciences to analyze and disseminate death data, with a goal to advance community safety programs and services as well as prevention and intervention programs. Once it is fully staffed, expected by November 2021, the unit will include a team lead, two epidemiologists and a research assistant.

## Oversight Role of Death Investigation Oversight Council Cannot be Effectively Executed

### Recommendation 14

*To improve the effectiveness of oversight of the Office of the Chief Coroner and Ontario Forensic Pathology Service, we recommend that the Ministry of the Solicitor General revisit the terms of reference and authority of the Death Investigation Oversight Council.*

**Status: In the process of being implemented by March 2023.**

### Details

In our 2019 audit, we noted that the Death Investigation Oversight Council made about 60 recommendations to the Office in the last five years, but does not have the authority to require the Office to implement these recommendations. As well, the Office did not engage with the Council on

a decision to close one of its regional hospital-based forensic pathology units until the government's annual budget planning cycle was complete. The Council was established to oversee the Chief Coroner and the Chief Forensic Pathologist by advising and making recommendations to them on matters such as financial resource management, strategic planning, quality assurance and accountability mechanisms.

At the time of our follow-up, we noted that the Ministry approved, in December 2020, that the Council procure an external vendor to develop a strategic plan for the Council for the years 2021 to 2025. The Ministry expects that the strategic plan will be completed by March 2022, and the terms of reference of the Council will be updated by March 2023.

In addition, the Council was undergoing a judicial review related to a decision it made in 2019. The Council expected this review to be completed in late 2021. Following that, it expects to recommend to the Ministry that a review of legislative and regulatory authority of the Council be conducted by the end of 2022.

## Chapter 1

### Section 1.09

Ministry of Children, Community and Social Services

# Ontario Disability Support Program

Follow-Up on VFM Section 3.09, *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1			1		
Recommendation 2	3		2	1		
Recommendation 3	3	1		2		
Recommendation 4	3	3				
Recommendation 5	1			1		
Recommendation 6	2	1	1			
Recommendation 7	4	2	2			
Recommendation 8	2				2	
Recommendation 9	2	2				
Recommendation 10	2	1	1			
Recommendation 11	5	1		4		
Recommendation 12	3			3		
Recommendation 13	3			3		
Recommendation 14	1			1		
Recommendation 15	1		1			
Recommendation 16	4		1	3		
Recommendation 17	2		1	1		
Recommendation 18	7			7		
Recommendation 19	3			3		
<b>Total</b>	<b>52</b>	<b>11</b>	<b>9</b>	<b>30</b>	<b>2</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>21</b>	<b>17</b>	<b>58</b>	<b>4</b>	<b>0</b>

## Overall Conclusion

The Ministry of Children, Community and Social Services (Ministry), as of August 25, 2021, has fully implemented 21% of the actions we recommended in

our *2019 Annual Report*. The Ministry has also made progress in implementing an additional 17% of the recommendations.

The Ministry has fully implemented or made progress in implementing recommendations such as updating its directives to prevent financially ineligible

Ontario Works recipients from transferring to the Ontario Disability Support Program (ODSP), by clearly indicating that Ontario Works is responsible for performing mandatory Canada Revenue Agency (CRA) and Equifax Canada Inc. verification checks. In addition, the Ministry was also in the process of following up with ODSP recipients for whom it did not have a Social Insurance Number (SIN) to obtain it, and to perform a CRA verification check to confirm their eligibility for ODSP.

So that ODSP disability applications are effectively assessed, the Ministry reviewed its target for the number of disability applications it expects its triage adjudicators to complete, and established a new target range of between 13 and 16 applications each day. As well, the Ministry implemented an adjudication quality assurance framework to regularly review the appropriateness of disability adjudication decisions, as well as a process to monitor and investigate significant differences in the rates that adjudicators approve applications as disabled. In addition, so that only eligible applicants are provided with ODSP benefits, the Ministry completed a review and analysis of the impact of Ministry attendance on the outcome of Social Benefits Tribunal (Tribunal) hearings, and in January 2021, set a target to attend 90% of Tribunal hearings pertaining to disability adjudication.

So that only applicants who meet the definition of a disabled individual receive ODSP benefits, the Ministry also updated its ODSP adjudication framework to be consistent with the regulations under the *Ontario Disability Support Program Act, 1997* (ODSP Act). The updated framework now requires adjudicators to set a medical review date unless the adjudicator is satisfied that the person's condition, impairment and restrictions are not likely to improve. As well, so that ODSP benefits are only provided to eligible recipients, the Ministry took steps to reduce the backlog of overdue medical reviews from 19,000 in March 2019, to 12,450 at the end of April 2021.

However, the Ministry has made little progress on 58% of the recommendations. The Ministry has not established a risk-based time frame for ODSP caseworkers to periodically review and confirm the

continued financial eligibility of all ODSP recipients. In addition, the Ministry has not completed a cost-benefit analysis to determine the optimal number of eligibility verification reviews of ODSP recipients it should complete annually to maximize savings to the program and ensure only eligible recipients receive ODSP benefits. As well, the Ministry has not yet taken steps to enhance its systems and processes to determine and record the cause of overpayments, in order to enable it to reduce the length of time it takes to identify overpayments and to minimize their occurrence.

The Ministry has yet to implement a process to monitor whether all non-disabled adults on ODSP have been referred to Ontario Works employment assistance activities as required. In addition, the Ministry has not made progress in exploring options to increase the number of ODSP recipients referred to employment supports to help increase their economic independence.

The Ministry also reported that two (4%) of the recommendations that were directed to the Social Benefits Tribunal (Tribunal) would not be implemented. The Tribunal indicated that it would not be implementing recommendations to review the reasonableness of the rate that different Tribunal members overturn and uphold Ministry disability decisions, because doing so is not in keeping with the fundamental principle of adjudicative independence. While we recognize the importance of Tribunal member independence, we continue to support the implementation of these recommendations so that only eligible individuals are provided with ODSP benefits. As noted in our 2019 audit, we found significant differences in the rates that different Tribunal members overturn Ministry decisions. For example, based on our review of 2018/19 Tribunal decisions, we identified that while a member overturned 28% of Ministry decisions, a different member overturned 93% of Ministry decisions.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Ontario Disability Support Program (ODSP) is a social assistance program under the Ministry of Children, Community and Social Services (Ministry) that provides income support for Ontarians with disabilities who are in financial need. An employment-support program is also available to ODSP recipients to help them prepare for, obtain or maintain a job so that they can live as independently as possible. In 2020/21, the Ministry provided ODSP income support to more than 520,000 individuals (511,000 in 2018/19) comprising recipients and their qualifying family members.

In 2020/21, the program cost \$5.5 billion. From the time of our audit of ODSP in 2009 to our 2018/19 audit, the cost of the program had increased by approximately 75% from \$3.1 billion in 2008/09 to approximately \$5.4 billion in 2018/19. A significant contributing factor to the rising cost is the increased number of individuals and families receiving ODSP. Since 2008/09, the average monthly number of ODSP cases—a single individual or a family unit—had increased by 50%. However, we found that the Ministry had not investigated or studied the key reasons for caseload growth to identify whether corrective action in its delivery and administration of the program was needed.

Our significant findings included the following:

- Over 40% of ODSP applicants were confirmed to be disabled after a cursory review of their application—a 56% increase from the time of our previous audit. The Ministry determined these applicants to be disabled and to qualify for ODSP through its triage process, which was an expedited process intended to be a cursory review of a completed application to determine if the medical evidence clearly identified an applicant is disabled.
- The Ministry had no process to assess the appropriateness of disability approval decisions. We found that in almost 20% of the approved applications we reviewed, it was not clear from the application and the adjudicator's rationale how the applicant met the definition of a person with a disability.
- The Ministry rarely set medical reviews to confirm recipients were still eligible for ODSP. Across all stages of adjudication, the number of approved disability applications that were approved as disabled for life increased from 51% at the time of our previous audit to 80% in 2018/19. In over 40% of the cases we reviewed, it was not clear how the adjudicator made the decision that no medical review was required.
- The Social Benefits Tribunal continued to overturn about 60% of the Ministry's not-disabled decisions appealed to the Tribunal. The rate of overturned Ministry decisions varied from 28% for one Tribunal member to 93% for another member, but there was no internal decision review at the Tribunal for quality or consistency.
- Caseworkers often did not complete mandatory verification checks with third parties such as the Canada Revenue Agency and Equifax Canada Inc. to confirm that applicants were financially eligible for ODSP.
- Ineligible recipients likely remained on ODSP because caseworkers rarely assessed recipients' ongoing eligibility, which could lead to overpayments.
- Between April 2015 and March 2019, the Ministry carried out only about 8,300 eligibility verifications instead of the over 508,000 it should have performed according to its directives. Based on the level of overpayments identified in the cases it completed in 2017/18 that we sampled, we calculated the Ministry might have identified a further \$375 million in overpayments and terminated a further 11,700 cases, leading to annual savings of approximately \$165 million.
- Approximately 42,000 fraud allegations had not been investigated on time, and caseworkers were not trained to investigate fraud to ensure only eligible recipients were receiving income support.
- Since the time of our previous audit in 2009, the Ministry had overpaid recipients nearly

\$1.1 billion and written off approximately \$400 million in overpayments.

- Employment outcomes for individuals on ODSP were not improving. Fewer than 2% of disabled adults were referred to the Ministry's employment supports, and about 75% of dependent family members who were not disabled were not participating in mandatory Ontario Works employment assistance activities, reducing their likelihood of obtaining employment and reducing their family's dependence on ODSP.

We made 19 recommendations, consisting of 52 action items, to address our audit findings. We received commitment from the Ministry of Children, Community and Social Services that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry that effective November 8, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Ministry Has Not Assessed Why ODSP Caseload Has Grown by 50% in Last Decade

#### Recommendation 1

*We recommend that the Ministry of Children, Community and Social Services investigate and identify the extent that either its policies and procedures to administer and deliver the Ontario Disability Support Program and/or its non-compliance with these policies and procedures have contributed to caseload growth, and take corrective action so that only individuals who are eligible for ODSP receive benefits from the program.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that since our previous audit of the Ontario Disability Support Program (ODSP) in 2009, the average number of cases had increased by 50%, from approximately 247,500 in 2008/09 to 370,700 in 2018/19. In contrast, the population of Ontario had grown by 12% over the same period. The substantial increase in the caseload since our previous audit was a key contributing factor to the 75% increase in program costs over the past decade. Despite the impact to the program's overall cost, we noted that since 2011, the Ministry had not investigated or studied the key reasons for caseload growth to assess whether the growth is reasonable, whether it reflects the changing needs of Ontarians, or whether, and by how much, it is related to the Ministry's administration of the program. We noted several areas in the Ministry's administration and delivery of ODSP that can be improved and may have contributed to the increase in the program's caseload and costs.

In our follow-up, we found that the Ministry had begun to take action to address this recommendation. The Ministry had analyzed the extent that its policies and procedures in the administration and delivery of ODSP have contributed to caseload growth between 1986 and 2019, and planned to conduct further analysis on the period from 2008/09 to 2018/19 to consider more operational factors, including how non-compliance with ODSP policies and procedures may have contributed to caseload growth. The Ministry indicated it expects to complete this analysis by June 2022. Thereafter, the Ministry will determine applicable corrective action, and a timeline for taking such action.

## Caseworkers Do Not Verify Completeness, Accuracy of Applicant-Declared Income and Assets to Verify Financial Eligibility

### Recommendation 2

To better identify and prevent applicants who are not financially eligible for the Ontario Disability Support Program (ODSP) from receiving benefits, we recommend that the Ministry of Children, Community and Social Services (Ministry):

- implement a process to monitor and to take corrective action in instances where local ODSP offices and their caseworkers are not complying with the requirement to verify the accuracy and completeness of each applicant's declared income and assets using the third-party information sharing agreements the Ministry has in place;

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that ODSP caseworkers frequently did not undertake third-party verification checks to confirm applicants were eligible for ODSP. ODSP caseworkers are required to check whether the information provided by applicants regarding their assets and income is accurate and complete by using outside sources such as the Canada Revenue Agency (CRA) and Equifax Canada Inc. (Equifax). Our review of a sample of files at three of the four local offices we visited found that caseworkers did not carry out one or more of the mandatory Equifax or CRA checks in the majority of the files we reviewed.

In our follow-up, we found that the Ministry had not made progress toward implementing this recommendation. The Ministry indicated that it plans to automate the performance of third-party verification checks during the application to ensure that third-party verification checks are consistently completed on all applications prior to an eligibility decision. The Ministry indicated that it plans to implement automated third-party checks in the spring of 2022.

- provide mandatory, relevant and comprehensive training for caseworkers on how to interpret the results of third-party checks, and to identify and investigate discrepancies between the information applicants have declared and the information obtained from third-party checks;

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we found that in instances where caseworkers had carried out mandatory third-party verification checks, they did not always identify and follow up on significant discrepancies that could affect an applicant's eligibility. We were told during our audit that caseworkers would require additional training to be able to identify and follow up on such discrepancies.

In our follow-up, we found that the Ministry had developed a course for interpreting third-party verification reports. The Ministry informed us that the course would be mandatory for all front-line ODSP staff, and that all front-line staff will have to complete the training by March 31, 2022.

- review the information held in the Social Assistance Management System to identify and collect all missing information, such as a Social Insurance Number, required to carry out third-party checks.

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we found that, as of March 2019, there was no Social Insurance Number (SIN) information for approximately 19,400 adults, equivalent to approximately 4% of adults on the ODSP caseload. As a result, for these individuals, the Ministry would not be able to carry out third-party verification checks with CRA as its policy requires.

In our follow-up, we found that the Ministry developed a new Social Assistance Management System (SAMS) report to capture clients for whom

a SIN is missing. The Ministry advised us that it began sending this report to ODSP field staff in January 2021 and directed staff to follow up with ODSP recipients to obtain their SIN and perform the mandatory third-party CRA verification. The Ministry expects to have obtained missing SIN numbers, or to have taken action where a recipient has not provided their SIN, such as suspending the case, by March 2022.

### Recommendation 3

*To prevent financially ineligible Ontario Works recipients from transferring to the Ontario Disability Support Program (ODSP) and receiving income support that they are not entitled to, we recommend that the Ministry of Children, Community and Social Services:*

- *update its directives, policies and business procedures to clearly define and communicate Ontario Works responsibilities for performing third-party checks prior to transferring recipients to ODSP, and ODSP caseworker responsibilities in instances where these checks have not been performed;*

**Status: Fully implemented.**

- *implement a process to monitor compliance with these requirements; and*
- *put in place mechanisms to hold Ontario Works service managers accountable in instances of non-compliance with ODSP requirements.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we noted that applicants who are in immediate financial need can apply to Ontario Works first to receive Ontario Works financial assistance while they go through the medical application and assessment process to assess medical eligibility for ODSP. In these cases, an Ontario Works office will check the applicant's residency and financial eligibility for Ontario Works and ODSP. However, we found that Ontario Works caseworkers often do not carry out mandatory CRA and Equifax third-party checks

to verify applicant income and assets, to determine financial eligibility for ODSP. In addition, ODSP caseworkers did not subsequently carry out one or more of these required third-party checks once the file was transferred to ODSP. As well, the Ministry informed us that ODSP caseworkers are not required to review whether Ontario Works caseworkers performed third-party checks. Therefore, there is a risk that financially ineligible applicants are transferring from Ontario Works to ODSP.

In our follow-up, we found that the Ministry had updated its directives and communicated them to Ontario Works and ODSP staff in March 2021 to indicate that Ontario Works was responsible for performing mandatory third-party Equifax and CRA checks prior to transferring recipients to ODSP, and that such checks have to have been completed within 12 months of the date the recipient's file is transferred to ODSP. The updated directives also state that ODSP caseworkers are responsible for ensuring these third-party verification checks have been performed – in instances where they have not been performed, ODSP caseworkers are responsible for performing them.

In our follow-up, we also found that the Ministry had not made progress in implementing a process to monitor compliance with the updated requirements for completing third-party verification checks, or to put in place mechanisms to hold Ontario Works service managers accountable in instances of non-compliance with requirements to complete mandatory third-party verification checks. The Ministry advised us that it planned to undertake a quality assurance review to assess compliance with updated requirements, and that the results would be used to make decisions on future monitoring activities. The Ministry also indicated that it would be working to design a strengthened accountability model for Ontario Works by January 2023 that includes a new performance framework and an enhanced service agreement, and that as part of this process, the Ministry would explore including compliance requirements related to third-party checks.

## Despite Increasing Approval Rates, Ministry Does Not Review Disability Decisions for Appropriateness

### Recommendation 4

*So that all applicants who meet the Ontario Disability Support Program's definition of a disabled individual receive benefits, we recommend that the Ministry of Children, Community and Social Services:*

- *review the reasonableness of its targets and expectations for the number of disability applications it expects its triage adjudicators to complete and to update its targets accordingly;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that the Ministry had a target for its adjudicators to review between 20 and 25 ODSP applications in the triage stage each day. However, we found that the Ministry could not demonstrate how it determined that the target could be achieved while making appropriate decisions on whether applicants are disabled. We also found that the Ministry had never carried out a study to obtain and analyze data to determine the average time needed to effectively assess ODSP applications at any of its adjudication stages in order to set appropriate targets.

In our follow-up, we found that the Ministry in consultation with its adjudicators, reviewed the reasonableness of its target for the number of disability applications it expects its triage adjudicators to complete, and established a new target range in September 2020 of between 13 and 16 applications each day.

- *implement a formal process to regularly review the appropriateness of decisions to approve and reject applicants as disabled; and*
- *monitor and investigate significant differences in the rates that adjudicators approve applicants as disabled and take steps to facilitate corrective*

*actions where differences are determined to be unreasonable.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the percentage of ODSP disability applications approved by different adjudicators differed drastically, but the Ministry did not review the reasonableness of these differences to assess whether adjudicator decisions are appropriate. For example, in the triage stage where all new applications undergo a cursory review, we found that in 2018/19 while one adjudicator who reviewed almost 4,200 applications approved just 20% of them, two adjudicators, including an adjudicator who reviewed over 500 applications, approved all of them. The Ministry did not analyze differences in approval rates to determine if they are reasonable, or if follow-up action was needed to ensure that adjudicator decisions are consistent and made in accordance with the ODSP Act and Ministry policies.

In our follow-up, we found that the Ministry had developed and implemented an adjudication quality assurance framework in July 2020 to regularly review the appropriateness of disability adjudication decisions. By May 2021, the Ministry had reviewed 226 decisions, and made changes as a result of these reviews to 11 of the 226 decisions. The Ministry indicated that it plans to review approximately 270 decisions annually.

In our follow-up, we also found that the Ministry had developed an ongoing process to monitor and investigate significant differences in the rates that adjudicators approve applications as disabled, and to take corrective action when necessary. The Ministry analyzed adjudicator approval rates over a one-year period to determine the median approval rate and selected those adjudicators that were furthest from the norm for review. Based on its review of the decisions of 15 adjudicators, the Ministry concluded that overall adjudicator decision-making was reasonable and in compliance with the ODSP Act and its regulations. Although the Ministry indicated that it did not observe overall trends that required corrective action

for all adjudicators, it provided feedback to adjudicators to change their decision in some specific cases.

### Recommendation 5

*So that only applicants who meet the Ontario Disability Support Program's definition of a disabled individual receive benefits, we recommend that the Ministry of Children, Community and Social Services update the Adjudication Unit's handbook and triage guidelines to reflect advances in treatment associated with medical conditions where there have been significant changes that may no longer render individuals disabled, or permanently disabled.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we noted that adjudicators determine whether a condition and related impairments are substantial primarily by referring to the Adjudication Unit's handbook and triage guidelines. We found that because the handbook and guidelines had not been updated since their inception in 2004, some applicants are incorrectly approved as disabled even though their condition does not have substantial impact on their activities of daily living. In our review of a sample of ODSP applications approved as disabled, we found several instances where the medical condition and related impairments of the applicants did not result in a substantial restriction on their daily living activities, which is a requirement to establish disability under the ODSP Act. This included several individuals that were approved as disabled for life due to contracting HIV despite having no substantial restrictions to their daily living activities. The Ministry told us that it had not updated its guidelines concerning HIV in over 15 years, and thus its policy had not taken into consideration medical advances since that time. The Ministry's guidelines for adjudicators indicate that confirmed cases of HIV are to be deemed disabled with no requirement for a medical review. We noted that in the last five years, more than 2,000 applicants had been approved as disabled because they had HIV.

In our follow-up, we found that the Ministry had replaced its handbook and triage guidelines with an updated handbook in 2020. The Ministry advised us that the intent of the new handbook was to reflect advances in treatment associated with medical conditions. The Ministry also advised us that it planned to work with the Ministry of Health and external HIV stakeholders regarding a potential update to the HIV adjudication guidelines. However, the Ministry could not provide a time frame for doing so.

### Recommendation 6

*So that only applicants who meet the Ontario Disability Support Program's (ODSP) definition of a disabled individual receive benefits, we recommend that the Ministry of Children, Community and Social Services:*

- *record the name and address of health-care professionals who complete disability applications, as well as any concerns about these applications identified by adjudicators in its information system, to analyze and identify trends, and take corrective action where needed;*

**Status:** In the process of being implemented by April 2022.

- *review and assess the appropriateness of applications completed by physicians that complete a disproportionately high number of disability applications.*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we found that the Ministry does not record basic information, such as the name and address, of health-care professionals who complete disability applications in its information systems. In addition, we found that the Ministry did not have a process to track concerns about disability applications completed by specific health-care professionals. As a result, the Ministry was unable to monitor trends that may warrant further investigation, such as health-care professionals who complete a high volume of applications, or concerns about a specific health-care professional's completed applications.

We obtained data from the Ministry of Health and found that some health-care professionals completed a disproportionately high number of disability application forms. For example, we noted that over the last five years, one physician had completed an average of 240 disability applications per year, compared with an average of four per year among all physicians who completed such forms.

In our follow-up, the Ministry advised us that it is in the process of undertaking technological enhancements to its Disability Adjudication Database to add the functionality for recording the names and addresses of health-care professionals who complete disability applications and any concerns identified in these applications. In addition, the Ministry advised us that it is developing a process for health-care professionals to submit disability applications online, which will include the name and address of the health-care professional who completes the application. The Ministry plans to implement these changes by April 2022.

In our follow-up, the Ministry also identified that in 2020, it had put in place an annual process to analyze and identify trends related to disability applications and the health-care professionals who complete them, and a process for taking corrective action on quality issues identified in the completion of disability applications.

In the fall of 2020, the Ministry completed an analysis for the 2018/19 and 2019/20 fiscal years of disability applications, utilizing data from the Ministry of Health, and identified 95 health-care professionals who had completed a disproportionate number of disability applications. The Ministry noted that it then assessed a 10% sample of the disability applications completed by each of these health-care professionals to identify quality problems in their completion. The Ministry indicated that its assessment did not identify any irregularities or concerns that required corrective action.

## Ministry Determines 80% of Applicants It Finds Disabled to Be Disabled for Life; Rarely Assigns Medical Reviews Required by Legislation

### Recommendation 7

*So that only applicants who meet the Ontario Disability Support Program's definition of a disabled individual receive benefits, we recommend that the Ministry of Children, Community and Social Services:*

- *analyze by disability type the increase in the proportion of cases that it does not assign a medical review, and assess whether these increases are reasonable;*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we noted that across all stages of adjudication, the number of approved disability applications that were not assigned a medical review date increased from 51% in 2008/09, at the time of our last audit, to 80% in 2018/19. This represents a 57% increase in the percentage of approved applicants who receive ODSP benefits for life. Because the Ministry had not studied the reasons for the increase, we analyzed the Ministry's decisions to not assign a medical review by type of disability. We discovered that certain conditions, including neuroses and psychoses, experienced the most significant increases.

In our follow-up, we found that the Ministry had completed an analysis by disability type of the assignment of medical review dates to disabled applicants and determined that the increases in the proportion of cases that it did not assign a medical review were reasonable based on the demographic changes of ODSP applicants and as a result of improved mental health information provided to the Ministry.

In addition, to this analysis, in February 2021, the Ministry implemented a quarterly adjudication file review process. This process will include

assessing the appropriateness of whether a medical review date is assigned, and where a medical review date is assigned – the appropriateness of the time frame for the review. The Ministry expects to have completed a sufficient number of file reviews to help determine whether the increase in the proportion of cases not assigned a medical review is reasonable by March 2022.

- *revisit the actions taken since 2015/16 that contributed to the increase in cases it does not assign a medical review, and take corrective measures where these actions have led to decisions that are not consistent with the regulations under the Ontario Disability Support Program Act, 1997 (ODSP Act);*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we noted that across all stages of adjudication, the number of approved disability applications that were not assigned a medical review date increased from 51% in 2008/09, at the time of our last audit, to 80% in 2018/19. We discovered that certain conditions, including neuroses and psychoses, experienced the most significant increases. Although the Ministry could not identify specific reasons for these increases, it provided a list of actions taken since 2015/16 to reduce the number of medical reviews assigned that may have contributed to the increases. In addition, we found that the Ministry's guidance for adjudicators for setting all medical review dates was not consistent with the regulations under the ODSP Act.

In our follow-up, we found that the Ministry had completed an assessment of the actions it had taken since 2015/16 that may have contributed to the increase in cases it does not assign a medical review. The Ministry made changes that include updating the ODSP adjudication framework in 2020 to be consistent with regulations under the ODSP Act. In addition, in July 2021, the Ministry updated its requirements for obtaining evidence in support of medical review

decisions and documenting the rationale for such decisions so that they are clearly supported and consistent with the regulations under the ODSP Act. The Ministry noted that it plans to complete an analysis by March 2022, to assess the impact of its updated requirements on decisions to assign a medical review.

- *review and implement changes to the Adjudication Unit's policies and guidelines where they are not consistent with the principles of the ODSP Act; and*
- *review and update its requirements for both obtaining evidence in support of medical review decisions and documenting the rationale for such decisions so that they are clearly supported and consistent with the regulatory requirements under the ODSP Act.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we noted that regulations under the ODSP Act state that adjudicators should set a date to review decisions confirming an individual is disabled, unless the adjudicator is satisfied that the person's condition, impairment and restrictions are not likely to improve. However, we found that the Adjudication Unit's ODSP adjudication framework does the opposite: it puts the onus on adjudicators to determine that the condition, impairment, and restrictions are likely to improve in order to assign a medical review date. This change in interpretation relative to the regulations under the ODSP Act means it is more difficult to conclude that a medical review date is required than it is to conclude that it is not.

In our 2019 audit, we also found that the Ministry requires more documentation if an adjudicator assigns a medical review than it does for when the adjudicator decides that no medical review is required. Our review of a sample of adjudication decisions identified that in over 40% of the cases we reviewed, the file did not contain an explanation of how the adjudicator determined that the applicant's condition, impairment and restrictions were unlikely to improve and that no medical review was required.

In our follow-up, we found that in 2020, the Ministry updated the Adjudication Unit's ODSP adjudication framework to be consistent with the regulations under the ODSP Act. The updated framework requires adjudicators to set a medical review date unless the adjudicator is satisfied that the person's condition, impairment and restrictions are not likely to improve. In addition, in July 2021, the Ministry updated its requirements for obtaining evidence in support of medical review decisions and documenting the rationale for such decisions so that they are clearly supported and consistent with the regulations under the ODSP Act. The Ministry noted that these updates were communicated to its adjudicators.

## Majority of Non-disabled Decisions Still Overturned by Tribunal

### Recommendation 8

*So that only eligible individuals are provided with Ontario Disability Support Program income support, we recommend that the Social Benefits Tribunal (Tribunal), while respecting Tribunal member independence:*

- *review the overturn and uphold rates for reasonableness between Tribunal members and determine whether any changes in training or other tools are needed to foster greater quality; and*
- *make improvements where needed.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

### Details

In our 2019 audit, we found that 10 years after our last audit of ODSP in 2009, the Social Benefits Tribunal (Tribunal) continues to overturn about 60% of the Ministry's decisions appealed to the Tribunal where the Ministry has found applicants not disabled and therefore not eligible for ODSP benefits. Senior representatives from Tribunals Ontario informed us that the decision to overturn the non-disabled

decision lies solely with the member who conducts the hearing. There is no internal review of decisions for quality or consistency. In addition, we noted a high variation in Tribunal member decisions. We reviewed the decisions made from hearings in 2018/19 and found, for example, that while one member overturned 28% of Ministry decisions, a different member overturned 93% of the Ministry's decisions.

In our follow-up, the Tribunal informed us that it would not be taking steps to implement this recommendation. The Tribunal indicated that reviewing records of the overturn rate of Tribunal members for reasonableness is not in keeping with the fundamental principle of adjudicative independence.

### Recommendation 9

*So that only eligible individuals are provided with Ontario Disability Support Program income support, we recommend that the Ministry of Children, Community and Social Services (Ministry):*

- *review the impact of Ministry attendance on the outcome of Tribunal hearings, to determine whether officers should attend all hearings, or if not, the optimal number of hearings to attend to minimize overall program costs, and to ensure that the Ministry's position is effectively explained and supported at hearings; and*
- *select Tribunal hearings to attend based on the risk of the Ministry's decision being overturned in the Ministry's absence.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we reviewed Ministry and Tribunal data and found that the Ministry's case presenting officers (officers) appeared in only 16% of Tribunal hearings in the last 10 years, including 28% in 2018/19, to provide the Ministry's legal submissions and rationale for denying the applicant's appeal. The Ministry explained that it does not have sufficient human resources to attend all the Tribunal hearings. However, we found that the Tribunal upheld the Ministry's decisions to deny eligibility at a

significantly higher rate when an officer was present at a hearing. Between 2009/10 and 2018/19, 48% of Ministry decisions were upheld by the Tribunal with an officer in attendance compared with 38% when an officer did not attend.

In our 2019 audit, we also found that with the exception of a very small number of Tribunal hearings, the Ministry does not prioritize the cases to be heard by the Tribunal to determine which cases its officers should attend, including in which cases there is a higher risk of its decision being overturned. Instead, the Ministry encourages officers to select locations where a minimum of three hearings a day are scheduled to maximize the number of hearings that its officers attend.

In our follow-up, we found that the Ministry completed a review and analysis of the impact of Ministry attendance on the outcome of Tribunal hearings and determined that the Ministry should attend all of the hearings. The Ministry set a target in January 2021 to attend 90% of Tribunal hearings pertaining to disability adjudication based on the volume of scheduled hearings and taking into consideration that there would be hearings that officers would not be able to attend on short notice. The Ministry noted that it will continue to monitor the volume of Tribunal hearings and assess the Ministry's resources to continue to attend the majority of Tribunal hearings.

We also found that the Ministry had updated its hearing selection and prioritization guideline in 2020 so that hearing attendance is based on the risk of the Ministry's decision being overturned in the Ministry's absence.

### Recommendation 10

*So that only eligible individuals are provided with Ontario Disability Support Program (ODSP) income support, we recommend that the Ministry of Children, Community and Social Services (Ministry):*

- *review whether the high overturn rate of the Ministry's decisions at the Social Benefits Tribunal has affected the Ministry's ability to reach disability decisions that are consistent with the ODSP Act;*

**Status: Fully implemented.**

- *assess the suitability for ODSP of models for appeals in other jurisdictions and propose alternatives to the Ontario government for an appeals framework that enhances the consistency of disability decisions between the Ministry and the appeals body with the ODSP Act.*

**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we noted that after our 2009 audit the Ministry committed to address the high rate at which the Tribunal overturned ODSP decisions related to whether an individual is disabled. The Ministry advised us that in an effort to reduce the number of applicant appeals to the Tribunal, and to reduce the number of its decisions overturned, it took action such as providing additional training to Ministry adjudicators, and updating its adjudication framework in 2017 to increase the consistency of decision-making. We found that while the number of appeals to the Tribunal declined, the percentage of Ministry decisions overturned by the Tribunal actually increased slightly from 59% in 2008/09 to 60% in 2018/19.

We noted that in British Columbia, its Employment and Assistance Appeal Tribunal, which hears appeals on disability decisions for social assistance, rescinded less than 5% of the appeals it heard on disability decisions in 2017/18.

In our follow-up, we found that the Ministry had surveyed its adjudicators and officers to assess whether the high overturn rate of the Ministry's decisions at the Tribunal affected the Ministry's ability to reach disability decisions that are consistent with the ODSP Act. According to the Ministry, 78% of respondents indicated that they do not believe their ability to render not-disabled decisions is impacted by the Tribunal's overturn rate. However, only 21% of respondents indicated the Tribunal's decision-making processes are aligned with the ODSP Act.

In our follow-up, we also found that the Ministry had completed a scan of the appeals frameworks in other jurisdictions to understand and assess

alternative appeal mechanisms and potential lessons learned for social assistance. The Ministry subsequently proposed alternatives to the government for an appeals framework that could increase consistency with the ODSP Act. The Ministry advised us that it is in the process of refining its proposed alternatives to the government and expects to provide the government with additional information by December 2022.

## Ineligible Recipients Likely Remain on ODSP

### Recommendation 11

*So that only eligible recipients continue to receive Ontario Disability Support Program (ODSP) benefits, we recommend that the Ministry of Children, Community and Social Services (Ministry):*

- *establish a risk-based timeframe for ODSP caseworkers to periodically review the eligibility of all ODSP recipients;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that caseworkers rarely review and update recipient application information to confirm their continued financial eligibility and to prevent ineligible recipients from continuing to receive benefits. At the four ODSP offices we visited, we found that in 58% to 100% of the files we reviewed in our sample, the recipient's application information had not been updated for at least five years. In many cases, it was much longer, including one recipient whose information had not been updated since 2005.

In our follow-up, we found that the Ministry had not made progress toward implementing this recommendation. The Ministry indicated that in the future, it plans to address the recommendation by implementing a risk-based eligibility determination process to monitor the ongoing eligibility of all ODSP recipients.

- *implement a process to identify deceased ODSP recipients on a timely basis to prevent overpayments;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that despite having an agreement to obtain data from the province's death registry to help identify deceased ODSP recipients who were still being paid benefits, the Ministry does not regularly use this information to identify deceased recipients on a timely basis and prevent overpayments. We obtained death registration data from the Ministry of Government and Consumer Services that we analyzed and used to identify 110 individuals who were deceased but continued to be included in the ODSP caseload as of March 2019. Although in most of these cases the payments the Ministry issued to these individuals were cancelled, we found that as of September 2019, income support payments were issued to 26 of these individuals. As a result, we identified overpayments of approximately \$540,000 relating to payments made between December 2006 and September 2019.

In our follow-up, we found that in March 2021, the Ministry had implemented a monthly data match for all ODSP recipients against the Ontario Death Registry in order to identify deceased ODSP recipients on a timely basis and to prevent overpayments.

- *review the backlog of cases that ODSP directives required to be subject to an eligibility verification review over the past four fiscal years, and design and execute a plan to identify and carry out reviews on these cases based on their relative risk;*
- *review the results of the eligibility verification reviews and carry out a cost-benefit analysis to determine the optimal percentage of eligibility verification reviews the Ministry should complete on an annual basis to maximize savings to the program; and*

- *put in place a plan to complete the number of eligibility verification reviews determined to be optimal to maximize savings to the program.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry's key process to oversee and confirm the eligibility of ODSP recipients, and verify that they are receiving the correct amount of income support, is its eligibility verification review. Ministry directives state that 3% of all ODSP recipient cases will be selected for an eligibility review each month. Based on selecting 3% of the caseload each month, we calculated that the Ministry should have performed approximately 508,300 eligibility verification reviews in the last four years (April 1, 2015, to March 31, 2019). However, we found the Ministry completed only 8,262 of these eligibility reviews, or only 1.6% of the total reviews it should have performed.

We noted that in 2017/18, the Ministry selected cases for eligibility verification at random rather than risk. Out of the 6,181 reviews it completed in 2017/18, it identified overpayments in 18% of the cases totalling about \$4.65 million. This is equivalent to an average overpayment of almost \$4,200 in each of these cases. Based on these results, if all of the 508,300 reviews required by the Ministry's directives had been completed, the Ministry may have identified a further \$375 million in additional overpayments that it could have prevented from increasing and started to recover from recipients.

In our follow-up, we found that the Ministry had not reviewed the backlog of cases that ODSP directives require to be subject to an eligibility verification and had not targeted completing eligibility verification reviews of 3% of all ODSP recipient cases each month as its directives require – instead, the Ministry informed us that it currently has a target to complete eligibility verification reviews of 3% of all ODSP recipient cases per year. We also found that the Ministry has yet to complete a cost-benefit analysis to determine the optimal percentage of reviews the Ministry should complete on an annual basis; however,

the Ministry indicated that it plans to complete such an analysis by January 2022.

### Recommendation 12

*To maximize the benefits of the eligibility verification process, we recommend that the Ministry of Children, Community and Social Services:*

- *enhance its systems and processes to record and analyze the causes that led to undetected changes in recipients' financial eligibility;*
- *clearly communicate where such instances are occurring for review by caseworkers; and*
- *take action to address these causes to minimize their occurrence.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry collects data on the results of the eligibility verification reviews it performs, including whether the review resulted in a recipient's termination or identifying an overpayment to the recipient. However, we found that the Ministry did not analyze the underlying reasons, such as an undeclared spouse, that led to any of these changes. Without consolidated data to understand the most common causes of terminations and overpayments identified through the eligibility verification reviews, the Ministry is unable to use the results of the reviews to identify which of its processes it needs to improve to prevent and reduce these occurrences. In addition, we found that results from the eligibility verification reviews were not clearly communicated to caseworkers so they could learn from the findings and apply that to their future work.

In our follow-up, we found that the Ministry had not made progress toward implementing these recommendations. The Ministry advised us that it planned to make system enhancements to fully capture all eligibility verification review outcomes so it can better analyze the causes that led to undetected changes in recipients' financial eligibility, and to develop and implement a formal process to communicate

observations from these reviews by December 2021. Thereafter, the Ministry plans to establish a process to take action to prevent the causes that led to undetected changes in recipients' financial eligibility.

### Recommendation 13

*So that only eligible individuals receive Ontario Disability Support Program (ODSP) benefits, and that overpayments to recipients are identified and minimized, we recommend that the Ministry of Children, Community and Social Services take steps to:*

- *provide training to caseworkers on how to assess and investigate allegations of fraud;*
- *conduct a review of its process for assessing and investigating allegations of disability fraud and clearly communicate roles and responsibilities; and*
- *implement a process to monitor whether allegations of fraud have been reviewed and investigated within required time frames and take corrective action where these time frames have not been met.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that as of March 2019, there was a backlog of approximately 42,000 fraud allegations that had not been assessed within the Ministry's required time frame of 15 business days. Sixty percent of these 42,000 allegations were over a year old.

We also found that the Ministry does not periodically provide training to caseworkers on how to assess and investigate fraud, and approximately half of the caseworkers who responded to our survey indicated that they had not received the training they need to capably review, investigate and close fraud allegations. At the four local ODSP offices we visited, we found that steps taken to investigate fraud allegations were not always sufficient. For example, at one of the ODSP offices we visited, we noted instances of closed investigations where recipients were asked to merely sign a statement denying the fraud allegations. At

another office, we found instances where investigations were closed but it was not evident that caseworkers took any action at all before closing the investigation.

In our 2019 audit, we noted that although most fraud allegations relate to financial matters, a number are also related to allegations of disability fraud. In such cases, the Ministry expects caseworkers to forward these allegations to the Disability Adjudication Unit (Adjudication Unit) because caseworkers do not have access to an individual's medical information. However, we found that this process was not working effectively. Only one-third of caseworkers who responded to our survey indicated they would refer an allegation of disability fraud to the Adjudication Unit. Moreover, the Adjudication Unit advised us that it had not received any allegations of disability fraud from caseworkers in the past year, or in the recent past prior to that.

In our follow-up, we found that the Ministry had made little progress in implementing these recommendations. The Ministry noted that it had revised its process for assessing and investigating allegations of fraud, and that it was introducing the revised process to its local ODSP offices in phases throughout 2021. The Ministry indicated that it expects to provide training on the new process to all caseworkers, as well as administrative support clerks and managers involved in assessing and investigating fraud allegations by the end of 2021. In addition, the Ministry indicated that by the end of 2021, it plans to implement a process and tools to monitor the performance of the revised process for assessing and investigating allegations of fraud.

The Ministry also told us that it expects to complete a review of the roles and responsibilities related to investigating allegations of disability fraud, and to communicate and reinforce these roles to Ministry staff by the end of 2021.

### Recommendation 14

*To reduce the number and size of overpayments to recipients, we recommend that the Ministry of Children, Community and Social Services enhance its*

*systems and processes to determine and record the cause of overpayments, to analyze the root causes and take action to reduce the length of time to identify them, and minimize their occurrence.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry's Social Assistance Management System (SAMS) determines the reason that overpayments have occurred. However, these system-generated reasons are too general for the Ministry to understand the most common systemic causes of overpayments. Without this information, the Ministry cannot analyze how they occurred to identify how to prevent or reduce future overpayments.

In our follow-up, we found that the Ministry had not yet taken steps to address this recommendation. Although the Ministry has not established a timeline for addressing this recommendation, the Ministry indicated that it plans to assess and analyze potential system enhancements to better document overpayment creation reasons and identify root causes in order to take preventative action.

### Recommendation 15

*So that the Ministry of Children, Community and Social Services (Ministry) only provides Ontario Disability Support Program (ODSP) payments to eligible recipients, and overpayments to ineligible individuals are minimized, we recommend that the Ministry carry out medical reviews on a timely basis in accordance with its requirements to determine whether recipients continue to have disabilities that meet the eligibility requirements for ODSP.*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we noted that as of March 2019, the Ministry had not followed up on approximately 19,000 recipients whose medical reviews were overdue, and more than half of these were overdue by at least two years or more. Because medical reviews

have not been conducted, there is a possibility that these recipients' medical conditions have improved and they no longer medically qualify for ODSP.

In our follow-up, we found that the Ministry had taken steps to reduce the backlog of overdue medical reviews from 19,000 in March 2019, to 12,450 at the end of April 2021. The Ministry informed us that it expects to complete the remaining overdue medical reviews by December 2021.

## Most Non-disabled Adults Not Participating in Required Employment Assistance Activities

### Recommendation 16

*To improve the employment outcomes of non-disabled adults on the Ontario Disability Support Program (ODSP), we recommend that the Ministry of Children, Community and Social Services:*

- *review and update its process for referrals to Ontario Works employment assistance to ensure that all referrals are identified and acted upon on a timely basis;*
- *implement a process to monitor whether all non-disabled adults have been referred to Ontario Works employment assistance or have a valid waiver in place;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that as of March 2019, there were approximately 57,000 non-disabled adults in family units on the ODSP caseload. We reviewed the Ministry's data and found that approximately 43,000 or 75% of these adults were not participating in employment assistance activities even though their requirement to do so had not been waived.

At the four ODSP offices we visited, we selected a sample of files with non-disabled adults who were not participating in employment assistance activities and determined that in almost all cases they either should have been participating or there was

insufficient documentation to support why they were not. For example, we found that 45% of the non-disabled adults had not been referred to Ontario Works employment assistance activities by their ODSP caseworker, and about 20% of the non-disabled adults had received a waiver from participating in employment assistance activities but the waiver had expired.

In our follow-up, we found that the Ministry had made little progress toward implementing these recommendations. In February 2019, the Ontario government announced a plan to transform employment services. The plan includes a new service delivery model to integrate social assistance employment services into Employment Ontario under the Ministry of Labour, Training and Skills Development (MLTSD). MLTSD selected three service system managers for three different catchment areas where the prototype for the new employment services model began to be provided in January 2021. The Ministry identified that the transformation of employment services is targeted to be rolled out across the province by the end of 2023.

In the meantime, the Ministry noted it planned to enhance ODSP caseworker awareness of Employment Ontario's suite of training and employment supports and to review the ODSP non-disabled caseload in order to refer them to employment assistance activities or to ensure that a valid waiver from participating in employment assistance activities is in place.

- *take corrective action in instances where ODSP offices and their caseworkers are not complying with the requirement to refer non-disabled adults to Ontario Works employment assistance, or ensure that valid waivers are in place;*

**Status:** In the process of being implemented by March 2022.

#### Details

In our follow-up, the Ministry indicated that it had sent reports to front-line Ministry staff at ODSP offices in November 2020, identifying non-disabled adults who were not referred to employment assistance activities and who did not have a valid waiver

in place from participating in such activities. ODSP offices are expected to review these individuals and refer them to Ontario Works. The Ministry identified that it provided follow-up reports to ODSP offices in March 2021, and planned to produce follow-up reports again in November 2021 to review its progress. The Ministry identified that it expects to have referred all non-disabled adults to employment assistance activities, or to ensure that they have a valid waiver in place from participating in such activities by March 2022.

- *put in place mechanisms to hold Ontario Works service managers accountable in the instances of non-compliance with responsibilities in relation to participation for non-disabled adults on ODSP.*

**Status:** Little or no progress.

#### Details

In our follow-up, we found that the Ministry had made little progress toward implementing this recommendation. The Ministry identified that by January 2023, the Ministry would design a strengthened accountability model for Ontario Works that includes a new performance framework and an enhanced service agreement. As part of the new accountability model, the Ministry indicated that it will explore including compliance requirements related to participation in employment assistance activities for non-disabled adults on ODSP.

## Large Caseloads Impact Ability of Caseworkers to Carry Out Roles and Responsibilities Effectively

### Recommendation 17

*So that Ontario Disability Support Program (ODSP) caseworkers can effectively carry out their responsibilities designed to achieve program expectations and requirements, we recommend that the Ministry of Children, Community and Social Services (Ministry):*

- *assess workloads and processes to establish a roadmap that clearly identifies the Ministry's*

*intermediate and longer-term actions to improve the ability of caseworkers to handle ODSP cases;*

**Status:** In the process of being implemented by June 2022.

### Details

In our 2019 audit, we found that the Ministry had not established benchmarks for ODSP caseworker caseloads to ensure that caseworkers are able to meet their obligations and to execute their responsibilities efficiently and effectively. We also found that the average caseworker's caseload increased from 266 cases at the time of our previous audit of ODSP in 2009, to 323 cases in 2019. Fifty-four percent of caseworkers who responded to our survey indicated that they were unable to manage their caseload to effectively carry out all of the duties and responsibilities expected of them.

In our follow-up, we found that the Ministry released its Vision for Social Assistance Transformation in February 2021 that outlines plans for a new social assistance delivery model where municipalities provide life stabilization support for ODSP recipients. The Ministry identified that as part of its design of a new delivery model it will also develop a staffing model to define the roles and responsibilities of caseworkers, and that the staffing model will factor in workloads and caseloads. The Ministry expects to complete the design of the new delivery model by June 2022.

- *implement the actions identified in the roadmap so that program requirements can be met.*

**Status:** Little or no progress.

### Details

In our follow-up, we found that the Ministry had not yet taken steps to address this recommendation. The Ministry indicated that it intends to complete the implementation of the new social assistance delivery model, including the associated staffing model, by June 2024.

## Ministry Refers Few ODSP Recipients to Employment Supports

### Recommendation 18

*To better help Ontario Disability Support Program (ODSP) recipients to increase their economic independence, we recommend that the Ministry of Children, Community and Social Services (Ministry):*

- *periodically provide information on employment supports to all ODSP recipients who can benefit from them;*
- *assess the disabilities of recipients on the ODSP caseload to determine the proportion and number of recipients who can benefit from participating in employment supports;*
- *explore options to increase the number of ODSP recipients referred to employment supports to help increase the proportion of recipients who become more economically independent;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the aim of ODSP employment supports is to assist people with disabilities to increase their economic independence through employment. Participation in the program is optional. Even so, we identified that between 2012/13 and 2018/19, just 2% of recipients took part in the employment supports program in any given year.

At the four ODSP offices we visited, we found that in the vast majority of cases we reviewed, caseworkers discussed employment supports with recipients when they first began to receive ODSP benefits. In our survey of caseworkers, 75% told us that actively engaging with ODSP clients was between somewhat and very helpful in assisting them to meet their long-term goals, including employment goals. However, we found that ongoing contact with recipients was infrequent.

In our 2019 audit, we also noted that the Ministry tracks the types of disabilities all ODSP recipients

have, including those participating in employment supports, and it tracks how many individuals caseworkers refer to employment supports service providers. However, we found that the Ministry has not assessed and does not know how many individuals on the ODSP caseload could benefit from participating in employment supports activities.

In our follow-up, we found that the Ministry had not made progress toward implementing these recommendations. The Ministry had not yet taken steps to periodically provide information on employment supports to all ODSP recipients who can benefit from them.

The Ministry indicated that with the transformation of employment services (described in **Recommendation 16**), which is targeted to be rolled out across the province by the end of 2023, it will obtain more information from ODSP recipients interested in employment services. ODSP recipients interested in employment services will complete the Common Assessment tool – an employment readiness assessment tool, shared between the Ministry and Employment Ontario.

The Ministry also expects that with the full implementation of the transformation of employment services by the end of 2023, there will be an increase in the number of ODSP recipients referred to employment supports. The Ministry noted that ODSP caseworkers will have more time to work with ODSP recipients to help them become employment ready, and to refer them to Employment Ontario when appropriate.

- *track additional information from employment support service providers on employment outcomes, monitor whether recipients obtain long-term employment and earn sufficient income to exit from ODSP, and take corrective action where outcomes do not meet Ministry expectations;*
- *review the services provided by employment support service providers to determine whether they are meeting recipients' needs and assess and take steps to ensure they provide value for money;*

- *obtain data from the Ministry of Labour, Training and Skills Development to identify individuals who have been provided similar employment support services by both Employment Ontario service providers and ODSP service providers, and take action to recover payments where two service providers have been paid for the same job placement; and*
- *work with the Ministry of Labour, Training and Skills Development to put in place processes that prevent payment to two different service providers for the same employment outcomes.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the Ministry tracks little information about whether ODSP recipients obtain employment in steady, long-term jobs. In addition, although the Ministry does track the total number of individuals who leave ODSP due to employment income, the Ministry does not track the proportion of those individuals who participated in employment supports who left the program because they earned enough to no longer require ODSP support. We noted that an evaluation of the employment supports program commissioned by the Ministry in 2012 highlighted that just 1.5% of ODSP recipients who participated in the program were able to exit ODSP due to their employment earnings.

In our 2019 audit, we also found that the Ministry does not evaluate how service providers use the funding they receive, or what services they provide to ODSP recipients to ensure that the Ministry obtains value for money. We visited 13 service providers and found that the services available to participants varied considerably among providers. For example, some providers paid for some training for participants, such as to achieve basic industry certificates, while others did not. Some providers also had recreation facilities or wellness activities available such as a fitness centre.

We also found that the Ministry does not monitor how service providers achieve their job placements. Our audit identified a risk that some ODSP

employment service providers may be paid for job placements achieved in part or in whole by enrolling their clients in Employment Ontario programs, which are funded by MLTSD. We also found that there is a risk that job placements are being recorded as achieved by both Employment Ontario service providers as well as ODSP employment supports providers, even though they may relate to the same client and the same placement. This would mean that both the Ministry and Employment Ontario may have paid to place the same individual in employment.

In our follow-up, the Ministry identified that it had not made progress toward implementing these recommendations. As described in **Recommendation 16**, social assistance employment services are being integrated into Employment Ontario under MLTSD. The transformed employment services are targeted to be rolled out across the province by the end of 2023. The Ministry identified that the scope of the transformation of employment services includes the development of a monitoring and evaluation framework that is intended to ensure that recipients' needs are met, and that value-for-money is achieved.

## Ministry Has Not Developed Outcome Indicators and Targets to Evaluate if ODSP Goals are Achieved

### Recommendation 19

*To measure and improve the efficiency and effectiveness of the Ontario Disability Support Program (ODSP) for those using its supports and services, and to increase accountability of the program to Ontario taxpayers, we recommend that the Ministry of Children, Community and Social Services:*

- *design and implement performance indicators and related targets for intended program and recipient outcomes;*
- *implement a process to monitor the performance of the program against these indicators and targets and take corrective action where targets are not being met; and*

- *report publicly on the effectiveness of ODSP.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that the Ministry has not determined what the desired outcomes for the ODSP program and its recipients are, or developed corresponding performance indicators to track whether these outcomes are met. In addition, we found that the Ministry does not publicly report on any performance measures related to ODSP.

In our follow-up, we found that the Ministry had made little progress in implementing these recommendations. The Ministry has developed a performance measurement framework for ODSP and designed performance indicators to measure program and recipient outcomes. However, the Ministry has not set targets for all its indicators and has not yet established a time frame for doing so. The Ministry indicated that following the release of the performance measurement framework, it will develop a set of monitoring reports to establish and report on performance against outcome targets.

## Chapter 1

### Section 1.10

Ministry of Finance

# Ontario Financing Authority

Follow-Up on VFM Section 3.10, *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	4		3		1	
Recommendation 2	2			2		
Recommendation 3	1				1	
Recommendation 4	2	1			1	
Recommendation 5	1			1		
Recommendation 6	2	1	1			
Recommendation 7	2		2			
Recommendation 8	2					2
Recommendation 9	1			1		
Recommendation 10	3		3			
<b>Total</b>	<b>20</b>	<b>2</b>	<b>9</b>	<b>4</b>	<b>3</b>	<b>2</b>
<b>%</b>	<b>100</b>	<b>10</b>	<b>45</b>	<b>20</b>	<b>15</b>	<b>10</b>

## Overall Conclusion

The Ministry of Finance (Ministry) and the Ontario Financing Authority (OFA), as of October 22, 2021, have fully implemented 10% of the actions we recommended in our *2019 Annual Report*. The Ministry and the OFA have made progress in implementing an additional 45% of the recommendations.

The Ministry has fully implemented recommendations to request the OFA to remit its surplus administrative fees back to the Ministry and the OFA began assessing all foreign debt issuances as an

alternative to domestic debt issuances prior to executing them.

The Ministry is in the process of implementing recommendations such as developing evidence-based, long-term targets for debt sustainability and monitoring these targets against the province's financing needs and payment obligations.

The Ministry has made little progress on 20% of our recommendations, including developing and testing scenarios that consider the impacts of economic shocks (for example, the 2008 financial crisis) and using this information to advise the government on response strategies to these economic shocks.

Unfortunately, the Ministry and the OFA said that they would not be implementing three or 15% of the recommendations. The recommendations that the Ministry and the OFA will not be implementing are:

- clearly defining what constitutes “extraordinary circumstances” that enable the government to plan to run deficits;
- requiring public bodies to reduce the province’s cost of debt by borrowing through the OFA where provincial interest savings could be achieved; and
- discontinuing the practice of the OFA charging public bodies administrative fees for borrowing through the OFA that increases their cost of borrowing, despite these costs being fully funded by the Ministry.

We continue to encourage the Ministry and the OFA to implement these recommendations.

An additional two or 10% of our recommendations are no longer applicable because of changes to proposed accounting standards that addressed the underlying issues associated with our recommendations.

The status of actions taken on each of our recommendations is described in this report.

## Background

In 1993, following the 1990 recession, the provincial government created the Ontario Financing Authority (OFA) to manage the province’s debt, borrowing and investing as a separate board-governed agency. The OFA operates under a Memorandum of Understanding with direct reporting to the Ministry of Finance (Ministry). Its responsibilities also include managing the province’s liquid reserves, which represent borrowed funds held as cash and short-term investments. As well, the OFA provides financial advice to the government and manages the operations of the Ontario Electricity Financial Corporation. In addition, public-sector bodies, such as hospitals, universities and agencies, can do their borrowing through the OFA.

Between 1993/94 and 2020/21, the average annual increase in net debt—the difference between the province’s total financial liabilities and assets—was \$10.8 billion. By 2020/21, net debt had risen to \$374 billion (\$338 billion in 2018/19) from \$81 billion in 1993/94. Between 1993/94 and 2020/21, the average annual increase in debt—the outstanding borrowings of the province—was \$12.0 billion. By 2020/21, debt had risen to \$405 billion (\$354 billion in 2018/19) from \$81 billion in 1993/94.

Our audit in 2019 confirmed that the OFA was effective in its investing operations and assessing short-term risks. However, the OFA had not sufficiently analyzed long-term debt sustainability—that is, the province’s future ability to repay debt. The Ministry, in turn, had not established long-term targets in conjunction with the government to inform debt and expenditure decision-making by using an analysis of debt sustainability that considered the impact of and recovery steps needed to respond to potential future economic shock.

The lack of long-term debt sustainability planning could prolong the impacts from a future economic shock, such as what we are seeing now from COVID-19.

We found that the OFA continued to incur significant costs in its debt management activities without formally assessing whether the province obtained value from these expenditures. The OFA needed to assess the potential for future significant savings to the province, in the areas highlighted below:

- As of March 31, 2019, public government bodies had borrowed \$7.7 billion, between 1996/97 and 2018/19, outside the OFA, resulting in \$258 million in additional interest costs to the province because the public bodies borrowed directly from financial institutions or through issuing their own bonds, rather than through the OFA, which can issue debt at lower interest rates. The public bodies acquired this debt at a higher cost, primarily because either they did not know they could borrow through the OFA, or the OFA would not provide their desired repayment terms.
- The OFA spent \$508.9 million on commissions to groups of banks, called syndicates,

between 2014/15 and 2018/19 to issue its domestic debt. The OFA had not formally assessed whether it should expand its use of debt auctions, which alternatively, do not carry any significant costs to the province and are commonly used by public borrowers of similar size.

- The OFA issued debt in foreign markets between 2014/15 and 2018/19 that cost the province \$47.2 million more in interest costs than if the debt had been issued in Canada. We found no evidence that the OFA assessed whether these increased costs were needed for the province to manage the risk associated with issuing debt primarily in Canada.
- Holding excess liquid reserves cost the province up to \$761 million in additional interest payments between 2014/15 and 2018/19 because the province earned less interest on the reserves than it paid on funds borrowed to maintain the reserves. The OFA never had to use the liquid reserves, which were \$32.6 billion on average in fiscal 2018/19, because it had always been able to borrow to meet short-term needs even during the 2008 financial crisis. While maintaining sufficient liquid reserves is important for reducing the province's risk of not meeting its short-term needs, the OFA had not conducted a cost/benefit analysis to determine the optimal amount of liquid reserve to hold so that these needs could be met without unnecessary excess costs being incurred.
- Between 2007/08 and 2018/19, the OFA charged its administrative costs to public government bodies that had borrowed through it, yet its administrative costs were ultimately funded by the Ministry of Finance. As of October 2019, a \$32.2-million surplus was being held in a bank account that had not been invested to earn interest at a higher rate or was not used to reduce the province's debt.

OFA may decide to incur \$54 million of additional annual interest costs if it changes its debt refinancing practices in order to avoid having volatility in the province's consolidated financial statement resulting from the use of a new required accounting standard. An anticipated change in a key accounting

standard in 2021/22 would have resulted in fluctuations (subsequently delayed to 2022/23 as a result of COVID-19) appearing in the annual financial statement debt if the OFA's current approach to managing fluctuations appearing in the annual financial statement currencies and the Canadian dollar is used, but not if a more expensive approach is used. The OFA told us it was considering using the more expensive approach to avoid the accounting volatility that would contribute to a difference in the financial statements between the provincial budget and actual results. In 2020, the Public Sector Accounting Board approved amendments to the accounting standards that address the underlying issue raised in our 2019 report.

We made 10 recommendations, consisting of 20 action items, to address our audit findings. We received commitment in 2019 from the Ministry of Finance and the Ontario Financing Authority that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and October 2021. We obtained written representation from the Ministry of Finance and the Ontario Financing Authority that effective November 2, 2021 they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Ministry Should Formally Assess Sustainability of Province's Debt Burden and Develop Long-Term Plan to Address Debt Burden

#### Recommendation 1

*To increase the ability of the Ministry of Finance (Ministry) to achieve long-term sustainability for the provincial debt, we recommend that the Ministry:*

- *clearly define “extraordinary circumstances” as set out in the Fiscal Sustainability, Transparency and Accountability Act, 2019;*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

### Details

In our 2019 audit, we found that under the *Fiscal Sustainability, Transparency and Accountability Act, 2019* (and previously under the *Fiscal Transparency and Accountability Act, 2004*), the government is required to plan for a balanced budget each year unless, as a result of “extraordinary circumstances,” the government determines it is necessary for the province to run a deficit. Since this legislation was enacted, the province has planned to run a deficit in most years. In Ontario, unlike other Canadian jurisdictions with balanced-budget legislation, the extraordinary circumstances that enable the government to plan for a deficit have not been clearly defined. For example, in 2018/19 the provincial government identified the extraordinary circumstance as: “The government believes that the best way to deliver prosperity to more people in Ontario is by continuing to invest in the economy, and in public services that promote greater fairness and opportunity across the province.” In comparison, Quebec outlines that a deficit may be incurred only for a disaster that has a major impact on revenues or expenditures, a significant deterioration of economic conditions, or a change in federal transfer payment programs.

At the time of our follow-up, the Ministry said that it does not intend to clearly define the “extraordinary circumstances” that permit a deficit to be budgeted. The Ministry reviewed balanced-budget legislation across Canada, but believed none provided a clearer definition of when budget deficits can be planned. The Ministry will continue to include its rationale in the budget for what it believes would be the extraordinary circumstance justifying it to plan for an annual deficit and develop a recovery plan to achieve a balanced budget at some point in the future.

We believe that in order to protect the long-term sustainability of the province’s finances, the Ministry

should clearly define the “extraordinary circumstances,” under which a provincial government in Ontario would be permitted to budget a deficit.

- *identify relevant measures to assess debt sustainability;*

**Status:** In the process of being implemented by March 2023.

### Details

In our 2019 audit, we found that the Ministry had not assessed what level of provincial debt would be sustainable and whether the province would be able to withstand an economic shock such as a recession. The 2019 budget contained a debt-burden-reduction strategy and announced that the government’s objective was to have Ontario’s net debt-to-GDP ratio continue to be below 40.8% by 2022/2023. However, we found that there were no measures in place related to debt sustainability in any formal, long-term plan. The province sets its annual budget for projected revenues and expenses, and the Ontario Financing Authority (OFA) creates a plan to acquire enough debt to meet the needs of any annual projected funding shortfall.

In our follow-up audit, we found that the Ministry had identified two new measures of debt sustainability: net debt-to-revenue and interest on debt-to-gross domestic product (GDP). As well, the Ministry planned to identify other potential measures of debt sustainability by March 2023.

- *develop formal, evidence-based long-term targets and plans to meet them; and*
- *monitor these measures and assess the impact on the province’s current and projected financing needs, and the cost of debt.*

**Status:** In the process of being implemented by the 2022/23 fiscal year.

### Details

In our 2019 audit, we found that there were no targets in place related to debt sustainability in any formal, long-term plan.

In our follow-up, the OFA said it has been focused on issuing debt for the province to address the impact

of COVID-19. As such, the Ministry and the OFA have not yet set evidence-based debt sustainability targets or developed plans to meet them. The OFA continues to forecast (an assessment of likely future performance based on current information) what net debt-to-GDP will be under the current planned operations—50.5% in 2024/25 and 2025/26—and set a new goal of keeping net debt-to-GDP below 50.5% (the prior goal was keeping it below 40.8% by 2022/2023).

The OFA and the Ministry said that they will work toward addressing the recommendation by the 2023 Budget, and plan to incorporate targets—measures of improvement from current performance—based on analysis of debt sustainability. Once these targets have been developed, the Ministry plans to monitor these measures and assess the impacts.

## The Province Lacks Plans to Respond to Impact on Debt and Operations from an Economic Shock

### Recommendation 2

*So that the Ministry of Finance (Ministry) is better informed about the province’s ability to withstand potential new economic shocks and about potential scenarios to consider when faced with new significant economic impacts, we recommend that the Ministry request that the Ontario Financing Authority:*

- *develop and test scenarios that consider the impacts of potential economic shocks (for example, the 2008 financial crisis); and*
- *use the information from these tests to advise the Ministry on optimal borrowing levels and on the response strategies, such as fiscal and economic policies, it could apply in the event of economic shocks.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that the Ministry has not empowered the OFA to proactively advise the government on how to manage the sustainability of the provincial debt burden or respond to economic

shocks. During the audit, the OFA told us that it has advised the Ministry that targets and measures for debt sustainability, including the assessment of probable economic shock scenarios that could have a negative impact, are critically important. However, at the time of the audit the OFA did not provide guidance on selecting the economic shock scenarios or perform any assessment of these scenarios.

In our follow-up, we found that the Ministry did not begin addressing this recommendation prior to the economic shock associated with COVID-19. In response to COVID-19, the OFA reached out to the Bank of Canada to form a co-ordinated borrowing response for all provinces. The OFA indicated that it planned to reach out to the Bank of Canada in response to any future economic shocks. Other than this, we found that the OFA’s processes have not yet changed. The Ministry considers only different projections of potential recovery and there is no planning for any future economic shocks. Without this planning, the province could be slow to respond to another economic shock (as it was during the 2008 financial crisis), affecting its ability to reduce the impacts and potentially resulting in prolonged impacts to its credit rating.

## Hospitals, School Boards and Colleges Acquired Over \$2.7 Billion of Debt Outside of OFA, Incurring More than \$204 Million in Higher Interest Costs in Five Years

### Recommendation 3

*To reduce the interest cost incurred on the province’s debt, we recommend that the Ministry of Finance reassess public entities’ borrowing options to require public bodies to borrow through the Ontario Financing Authority where savings to the province could be achieved.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

### Details

We found in our 2019 audit that as of March 31, 2019, public government bodies had borrowed \$7.7 billion outside the OFA, resulting in \$258 million in additional interest costs to the province because the public bodies borrowed directly from financial institutions or through issuing their own bonds, rather than through the OFA, which can issue debt at lower interest rates. The public bodies acquired this debt at a higher cost, primarily because they did not know they could borrow through the OFA, or the OFA would not provide their desired repayment terms.

In our follow-up, we found that the Ministry performed a qualitative versus a quantitative assessment of options for borrowings by public bodies and decided that it will not require public bodies to borrow through the OFA. Potential cost savings were not compared with the administrative costs associated with the OFA providing these loans for either short-term or long-term borrowings. Instead, the OFA will increase its education and outreach to encourage public bodies to borrow through it. Despite the significant savings that could be achieved by requiring public bodies to borrow through the OFA, according to the Ministry, this education and outreach approach will be taken, in part because some public bodies may object to provincial involvement.

Our Office continues to hold the view that in order to obtain significant savings for taxpayers, the Ministry should require public bodies to borrow through the OFA where savings to the province, and therefore taxpayers, could be achieved.

## OFA's Surplus from Loan Administration Charges to Public Bodies Not Used to Reduce Debt Costs or Earn Interest

### Recommendation 4

To reduce the province's debt, we recommend that:

- the Ministry of Finance request that the Ontario Financing Authority provide to the province its surplus administrative fees earned to date;

**Status: Fully implemented.**

### Details

We found in our 2019 audit that the OFA has been accumulating a surplus by charging government bodies administrative costs for managing loans. Since the Ministry provided funding to cover all of OFA's costs, including the administration of these loans, this administrative charge had resulted in a surplus. The surplus was held in the OFA's bank account and had not been invested to earn interest at a higher rate or used to reduce the province's debt.

In our follow-up, we found that in November 2020, the OFA remitted \$30 million of this surplus to the province and plans to remit future surplus funds in excess of \$5 million. The Ministry said that the OFA retaining \$5 million of the surplus funds is a prudent measure to ensure that a minimal amount of funds is available for emergency requirements. The OFA indicated that in four years it would review its policy of retaining \$5 million of the surplus and submitting only the surplus funds above \$5 million annually.

- *the Ontario Financing Authority review and revise the administrative fees it charges to keep them at or below its actual administrative costs, so that public bodies do not have to borrow more money just to pay administrative fees to the Ontario Financing Authority.*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.**

### Details

We found in our 2019 audit that the OFA charges government bodies that have borrowed through it, administrative costs that are ultimately funded by the Ministry of Finance, to manage the loans.

In our follow-up, we found that the OFA decided to continue charging administrative fees for managing loans to government bodies. The OFA indicated that without charging these additional fees, government bodies would not properly consider the true costs of proposed projects. In 2020/21, the OFA began remitting this surplus to the province annually.

Our Office continues to recommend that the OFA discontinue its practice of charging government bodies administrative fees that are also fully funded by the government. These fees, while increasing the cost to government bodies—and as a result increasing motivation for them to acquire higher-cost debt outside of the OFA—result in an unnecessary bureaucratic administrative process. Government bodies are required to incur more debt to pay these administrative fees to the OFA, whereby the OFA in turn would have excess funds to then transfer the excess fees to the province. As mentioned, government bodies have to request higher provincial funding in order to continue to pay the OFA's fully funded administrative fees. Further, the OFA then annually incurs additional costs to have a private-sector company determine whether its method of calculating the administrative costs is reasonable.

## Province Could Save Commission Expenses by Expanding the Use of Debt Auctions

### Recommendation 5

*To reduce the cost of issuing debt, we recommend that the Ontario Financing Authority perform a formal assessment of its domestic debt-issuing strategy and consider the costs and benefits of increasing the amount of debt it issues through auctions.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that between 2014/15 and 2018/19, the OFA issued \$112 billion domestic debt and spent \$508.9 million on commissions paid to groups of banks, called syndicates, to issue its domestic debt without formally considering expanding its use of debt auctions, which are less costly, to better align with common practices for large, regular issuers of debt. There are no commission costs and minimal other costs when the OFA issues debt through auctions. Between 2014/15 and 2018/19, the OFA issued debt through auctions four times.

In our follow-up, we found that the OFA researched the potential sources of costs and benefits associated with expanding its debt auctions and determined that the province should target one or two auctions a year and consider issuing debt in terms greater than four years. However, the OFA had not yet quantified the potential costs of expanding its debt auctions nor compared the costs to the known savings in commissions. The OFA plans to complete a comprehensive analysis on expanding its use of auctions subsequent to the current economic circumstances, which it indicated make auctions unviable.

## OFA Does Not Formally Assess Cost of and Need for Issuing Debt in Foreign Markets

### Recommendation 6

*To further minimize the interest costs of debt assuming a reasonable level of risk, we recommend that the Ontario Financing Authority:*

- *formally assess the amount and frequency of debt it should issue in foreign markets;*

**Status:** In the process of being implemented.

### Details

We found in our 2019 audit that the OFA does not formally assess whether the increased cost of issuing debt in foreign markets benefits the province. Between April 1, 2014 and March 31, 2019 debt issued in international markets cost the province an additional \$221.8 million. The OFA said its reasons for issuing debt in foreign markets included:

- to mitigate the risk of oversaturating the domestic market, which would result in higher costs; and
- to avoid potential costs of re-entering foreign markets.

In our follow-up, we found that the Ministry and the OFA researched the potential sources of costs and benefits associated with issuing debt in foreign jurisdictions. For example, in its *2020-21* and *2021-22 Financing and Debt Management Plans*, the OFA identified that “the Province tries to minimize its domestic

borrowing costs throughout the year and ensure that the supply of new domestic debt is in line with investor demand. Significantly more domestic funding would require higher [interest rates].” However, the higher interest costs associated with increased domestic funding have not yet been compared with the increased interest costs the Ministry incurs when issuing debt in foreign markets.

The OFA did, however, include in both its *2020-21* and *2021-22 Financing and Debt Management Plans*, analysis of the historical interest rate impact on foreign issuances compared to equivalent domestic borrowings. The OFA said it has delayed its full assessment of issuing debt in foreign markets due to the state of the financial markets resulting from the COVID-19 pandemic. The OFA plans to include an assessment of the amount and frequency of debt it should issue in foreign markets.

- *document its assessment of the costs and benefits of issuing debt in foreign markets instead of domestically before issuing debt, and retain this information to support current decisions and inform future ones.*

**Status: Fully implemented.**

### Details

In May 2020, the OFA began assessing all foreign debt issuances prior to executing them and reporting that information to its internal Risk Management Committee. The assessments included the cost to issue the foreign debt. For example, in May 2020 when contemplating issuing \$1.75 billion US bonds, the OFA identified that this would cost roughly 0.06% (\$1.05 million per year) above a similar sized issuance in Canada. The OFA indicated that the benefits of issuing these US dollar bonds included spreading out debt maturities. The OFA approved and issued this debt.

## OFA Has Not Established Optimal Amount of Costly Liquid Reserve to Hold

### Recommendation 7

*To reduce the costs of holding more liquid reserve than needed while still staying within a reasonable risk tolerance level, and enable the savings to go to paying debt and interest costs, we recommend that the Ontario Financing Authority:*

- *analyze the province’s cash-flow requirements and establish an optimal liquid reserve target, considering the costs and benefits (such as the risk of being unable to meet immediate cash needs and the risk of impacting the province’s credit rating) of holding different levels of its liquid reserve;*

**Status: In the process of being implemented by June 2022.**

### Details

We found in our 2019 audit that the OFA had never performed a cost/benefit analysis to determine the optimal level of liquid reserve needed to meet the short-term cash requirements of the province without excess costs. At the time of the audit, the OFA set the minimum amount of liquid reserve at one month’s worth of cash requirements. Our audit found that holding a liquid reserve above this level had cost the province up to \$761 million in additional interest between 2014/15 and 2018/19 because the province earns less interest on the reserves than it pays on funds borrowed to maintain the reserves.

In our follow-up, we found that the OFA had not yet set an optimal liquid reserve target to compare liquid reserve levels with throughout the year. In its *2020-21 Financing and Debt Management Plan*, the OFA targeted a year-end liquid reserve level. The OFA determined that at year-end it would target maintaining liquid reserve levels equal to the next three-month’s cash requirements (April through June of the next year). The OFA plans to develop ranges of liquid reserves to maintain throughout the year by June 2022.

- regularly monitor and report on the amount of the reserve and the costs and benefits of effectively managing it.

**Status:** In the process of being implemented after June 2022.

### Details

In May 2021, the OFA began discussing the costs of liquid reserves on a monthly basis at its Risk Management Meetings and posting its annual average liquid reserves on its website. Once target ranges are developed by June 2022 (as outlined above), the OFA will begin monitoring and reporting on its performance against these.

## OFA Plans to Spend \$54 Million More a Year for Financial Statement Debt to Avoid Potential Budget to Actual Accounting Variances in the Province's Consolidated Financial Statements

### Recommendation 8

*To better maximize value for money in the business practices of the Ontario Financing Authority (OFA), and to follow the new accounting standard should it be effective as currently proposed in 2021, we recommend that the OFA:*

- incorporate the impact of the potential volatility arising from implementing the change in accounting standards in its debt planning; and
- use the most cost-effective methods to manage the risk of fluctuations in exchange and interest rates.

**Status:** No longer applicable.

### Details

We found in our 2019 audit that changes in accounting standards that were expected to take effect in 2021 could have resulted in the OFA choosing to incur higher-than-necessary costs for its foreign currency transactions. The OFA would incur these costs in order to make the province's interest on debt and net debt numbers align more closely with

the numbers projected in the provincial budget. It estimated to do so would cost the taxpayers an extra \$54 million per year.

In 2020, the Public Sector Accounting Board approved amendments to the accounting standards for foreign currency translation and financial instruments. These amendments address the underlying issue raised in our 2019 report—that the OFA would no longer use forward contracts due to the previous standards not allowing hedge accounting for this type of contract. The narrow-scope amendments will come into effect April 1, 2022. They will allow hedge accounting and the OFA will continue to use both currency swaps and forward contracts as cost-effective methods to manage the risks of fluctuations in exchange and interest rates.

## No Operational Reviews of OFA's Organizational Structure and Staffing Levels

### Recommendation 9

*To enable operational efficiencies at the Ontario Financing Authority (OFA) that will improve value for money, we recommend that the Ministry of Finance, in conjunction with the OFA, evaluate and determine the optimal organizational structure and staffing size to cost-effectively achieve the province's debt management objectives.*

**Status:** Little or no progress on comparing staffing size and compensation with debt managers in other Canadian jurisdictions.

### Details

We found in our 2019 audit that the OFA has an operating structure that is unique in Canada, being the only provincial debt management agency, and that the Ministry had never reviewed OFA's operations to determine whether its staffing level and mix were optimal to achieve its mandate in a cost-effective manner. Specifically, it had more than twice the number of debt managers of any other province and the federal government. Further, 23 of the OFA's debt management staff receive performance pay, which

is not done in other provinces or the federal government, and are being paid significantly more than their comparable counterparts.

In our follow-up, we found that in March 2021, staff from the Ministry completed an organizational review of the OFA. The Ministry determined that it would be challenging to compare the OFA's compensation to other provinces and therefore this was not done as part of this review. Recommendations from this review included that the OFA:

- split the Chief Finance and Risk Officer function into two roles, Chief Finance Officer and Chief Operating Officer;
- receive the same level of information technology and human resources supports that other agencies and ministries receive;
- review its legal branch and other legal support to reduce duplication and gaps; and
- establish a staffing approval process that includes an estimated return-on-investment for incremental staff.

The Ministry indicated that it was waiting for government decisions concerning future broader public sector executive compensation prior to reviewing the compensation of OFA's debt managers.

## OFA Lacks Measures to Adequately Report on Performance

### Recommendation 10

*To effectively measure and report on all significant activities within its mandate, we recommend that the Ontario Financing Authority:*

- *identify objective outcome measures of performance for all its activities;*
- *set reasonable targets and regularly reassess the relevance and effectiveness of these targets, updating them as needed;*
- *publicly report on its targets and the results achieved.*

**Status:** In the process of being implemented by the end of the 2022/23 fiscal year.

### Details

We found in our 2019 audit that the OFA lacked objective performance measures. Of the OFA's 33 performance measures, 25 were reporting and operating requirements, such as calculating interest on debt monthly, and meeting with credit rating agencies. Of the remaining eight, half lacked evaluation criteria. As well, the OFA did not publicly report on many of its measures and where it did report, in most cases it did not disclose its performance against its targets.

In our follow-up, we found that the OFA, in its 2020-2023 Business Plan, had developed four new performance measures. These related to enhancing cybersecurity, maintaining information technology systems, modernizing work arrangements and cross-training OFA staff. Objective measures were developed for one of these and under development for another one. Two needed to be reassessed due to the impacts of the COVID-19 pandemic.

The OFA has committed to assessing and updating its other performance measures to be outcome-based by fiscal 2022/23. The OFA also plans to implement reasonable targets for these measures and publicly report on the results achieved. The OFA said that the progress on expanding its identification and assessment of outcome-based performance measures has been delayed due to the province's need for additional debt as a result of the COVID-19 pandemic.

## Chapter 1

### Section 1.11

Treasury Board Secretariat

# Oversight of Time-Limited Discretionary Grants

Follow-Up on VFM Section 3.11, *2019 Annual Report*

## RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2		2			
Recommendation 2	1			1		
Recommendation 3	1			1		
Recommendation 4	2	1	1			
Recommendation 5	3	1	1	1		
Recommendation 6	1			1		
Recommendation 7	1			1		
Recommendation 8	2	2				
Recommendation 9	1			0.8	0.2	
Recommendation 10	6	2.8	0.2	2.8	0.2	
Recommendation 11	1			1		
Recommendation 12	1			1		
Recommendation 13	2		1	1		
<b>Total</b>	<b>24</b>	<b>6.8</b>	<b>5.2</b>	<b>11.6</b>	<b>0.4</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>28</b>	<b>22</b>	<b>48</b>	<b>2</b>	<b>0</b>

## Overall Conclusion

The Treasury Board Secretariat; the Ministry of Government and Consumer Services; the Ministry of Economic Development, Job Creation and Trade; the Ministry of the Environment, Conservation and Parks; the Ministry of Heritage, Sport, Tourism and Culture Industries; the Ministry of Indigenous Affairs; and the Ministry for Seniors and Accessibility, as of

August 31, 2021, have fully implemented 28% of the actions we recommended in our *2019 Annual Report*. An additional 22% of recommended actions were in the process of being implemented.

Fully implemented recommendations included the Treasury Board Secretariat reinforcing the requirements of the Transfer Payment Accountability Directive with ministries, with respect to the use of exemptions and the need to document the rationale for funding decisions. As well, at least one granting

ministry implemented our recommendation to require grant recipients to submit audited segmented financial information (Ministry of Heritage, Sport, Tourism and Culture Industries; and Ministry for Seniors and Accessibility); use a risk-based approach to select which grant recipients to visit to verify the use of funding provided (Ministry of Heritage, Sport, Tourism and Culture Industries); select grant recipients on a risk-based approach for invoice testing (Ministry of Heritage, Sport, Tourism and Culture Industries; Ministry of Economic Development, Job Creation and Trade; and Ministry of the Environment, Conservation and Parks); and take corrective action, including recovering funds from those grants recipients that don't meet their obligations (Ministry of Economic Development, Job Creation and Trade; and Ministry of the Environment, Conservation and Parks; and Ministry for Seniors and Accessibility).

Recommendations in the process of being implemented included showing time-limited discretionary grants separately from government funding for ongoing programs in the Estimates of the Province and the Public Accounts of Ontario, and implementing practical solutions that will make the Grants Ontario system user-friendly, effective and efficient.

However, little progress has been made on 48% of the actions we recommended. These included disclosing details of all grant opportunities on the Grants Ontario system (now known as the Transfer Payment Ontario system ) website, publicly disclosing on one platform all recipients of government funding received directly through a ministry or indirectly through a flow-through organization, and communicating the need for all ministries to use the government-wide Grants Ontario system and all relevant and applicable modules available in the system.

The status of actions taken on each of our recommendations is described in this report.

## Background

In 2020/21, the province provided about \$4.7 billion (\$3.9 billion in 2018/19) annually in time-limited grants to third parties to pay for activities that are intended to benefit the public and help achieve public policy objectives. These grants were discretionary, meaning the province was not required to provide funding for these activities to meet statutory obligations. The ministries were responsible for determining the level of funding for their specific grant programs in their annual budgets, based on their objectives and priorities. The Treasury Board Secretariat was responsible for reviewing the final allocation of these grants for each ministry based on government priorities, political direction and the economic climate.

The following were our significant findings in our 2019 audit:

- The government reported all grant payments together in the Public Accounts and the Estimates of the Province of Ontario, without differentiating between those for time-limited activities (funded through discretionary grants) and those for the delivery of government services (for example, to hospitals for health care or to school boards for education). Without being able to identify which grant payments are for time-limited projects and which are for ongoing programs, Members of Provincial Parliament did not have the necessary information on which to base funding allocation decisions in times of fiscal constraint or changing government priorities.
- Public disclosure of government grants was not always consistent or transparent. For grant recipients that were paid directly by ministries, their names and amounts received were disclosed in the province's Public Accounts. However, we identified eight organizations that had received \$402 million in grant funding from the province in 2018/19 and

had then disbursed those funds to other parties not disclosed in the Public Accounts. While some of these flow-through organizations listed the grant recipients and amounts awarded to them on their own websites, disclosure of grant recipient information was inconsistent and difficult to find.

- Some grant recipients that did not meet evaluation criteria received funding under ministerial discretion. From 2016/17 to 2018/19, all applicants to the Ministry of Heritage, Sport, Tourism and Culture Industries' (Ministry) Celebrate Ontario grant program that had achieved the minimum required score were approved for grant funding. However, the grant program had also provided almost \$6 million in funding through ministerial discretion to 132 applicants that had not achieved the minimum required evaluation score. The explanation justifying these approvals was that these applications fell under a certain priority category, but there was no other documented justification on file explaining why the Minister chose to fund a certain applicant over another in the same category that had a higher score. The Ministry had not requested an exemption from Treasury Board as required by the Transfer Payment Accountability Directive for the grants that were awarded under ministerial discretion.
- Most grant programs did not consider an applicant's need for funding during the selection process. Only two of the 15 grant programs we reviewed considered the need for grant funding as part of the selection process. We noted that the Ontario Scale-Up Vouchers Program, where the objective was to accelerate the growth of start-up technology companies, provided \$7.65 million in 2018/19 to businesses that already had a significant amount of resources available to them. Prior to receiving support from the program, 27 recipients combined had raised \$491 million in capital.
- Ministries relied mostly on self-reported information to assess whether the recipients used grant funding as intended. In our review of 15 grant programs, we selected a sample of recipients and noted that some recipients had claimed ineligible

expenditures. For example, under the Ontario 150 Partnerships program, the Ministry provided \$75,000 in funding to an organization to promote women's engagement in politics and to host an event at Queen's Park. However, the organization claimed the majority of the expenditures for consulting work performed by its executive director at a rate of \$675 per day, even though regular staff salaries were not eligible for funding under this program.

- Ministries did not verify the performance results reported by recipients for reasonableness. One recipient we spoke with informed us that they had simply guessed at the number of attendees and the amount spent by visitors at their event. The Ministry had deemed some performance results unreliable but had not followed up with recipients and did not take this into consideration in subsequent grant funding decisions.

We made 13 recommendations, consisting of 24 action items, to address our audit findings.

We received commitment from the Treasury Board Secretariat, the Ministry of Government and Consumer Services and granting ministries that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between May 2021 and September 2021. We obtained written representation from the Treasury Board Secretariat; the Ministry of Government and Consumer Services; the Ministry of Economic Development, Job Creation and Trade; the Ministry of the Environment, Conservation and Parks; the Ministry of Heritage, Sport, Tourism and Culture Industries; the Ministry of Indigenous Affairs; and the Ministry for Seniors and Accessibility that effective November 24, 2021, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Discretionary Grant Information and Disclosures

### Recommendation 1

*To improve transparency in government reporting and allow the members of the legislative assembly to have better information with which to make informed funding allocation decisions, we recommended that the Treasury Board Secretariat:*

- *show time-limited discretionary grants separately from government funding for ongoing programs in the Estimates of the Province and the Public Accounts of Ontario;*

**Status: In the process of being implemented by September 2022.**

### Details

In our 2019 audit, we reported that both the Public Accounts of Ontario and the Estimates of the Province grouped all transfer payments to third parties together, without differentiating between those for time-limited activities and those for the delivery of government services, whether legislated or not. Therefore, it was difficult to confirm how much of the transfer payments provided in the year were for ongoing programs, such as education grants to school boards, versus time-limited discretionary grants.

In our follow-up, we found that Treasury Board Secretariat had sent instructions in October 2020 to all ministries to compile an inventory of all transfer payment programs. With these instructions, Treasury Board Secretariat aimed to create a single source of all government transfer payment programs (including discretionary and entitlement programs). The instructions noted that discretionary programs (often referred to as grants) are to be captured to maintain a central list of these programs and to make these programs available in the Estimates of the Province and the Public Accounts of Ontario. Treasury Board Secretariat was able to compile a list by March 2021. However, at the time of our follow-up, the discretionary grant information had not been made public. Treasury Board Secretariat is planning to review

the 2021/22 Public Accounts instructions to determine if additional guidance will be required for ministries in order to publicly report their transfer payment programs (including time-limited discretionary grants) by September 2022.

- *compile and maintain a central list of all time-limited discretionary grant programs.*

**Status: In the process of being implemented by March 2022.**

### Details

In our 2019 audit, we found that the government did not have a centralized list of time-limited discretionary grants and there was no clear or consistent understanding and reporting of discretionary grants across the ministries. We noted that the purpose of the central list and disclosure would be to allow legislators to make informed decisions in times of fiscal constraint or changing government priorities.

In our follow-up, we found that the Treasury Board Secretariat had worked with all ministries to compile a list of all transfer payment programs. However, the list compiled does not identify programs that can be cut without impacting essential services such as health care. In addition, the list does not identify whether the recipient needs to apply for the funding program. To illustrate, the Ministry of Health's annual transfer payments to hospitals to fund services under the *Public Hospitals Act* is listed as an ongoing discretionary grant. In another example, the Home for Good - Ending Homelessness program, which is intended to provide support payments for 20 years, ending in 2040, is identified as a time-limited discretionary grant. However, some grants under the Ministry of Heritage, Sport, Tourism and Culture industries to support Sport Culture Attractions Agencies and Athlete development are considered discretionary ongoing programs without a definite end date instead of time-limited discretionary grants that can be eliminated. Treasury Board Secretariat will examine the feasibility of including additional information, such as the type and criticality of programs, into their 2022/23 budgeting process in March 2022.

### Recommendation 2

*To inform the public about all grant programs available, we recommend that the Ministry of Government and Consumer Services disclose on the Grants Ontario System details on current and upcoming grant opportunities.*

**Status:** Little or no progress.

#### Details

At the time of our audit, only 25% of the time-limited discretionary grants in the Grants Ontario system (now known as the Transfer Payment Ontario system) were listed on Grants Ontario's public website, describing the purpose of grant funding and eligibility requirements. The decision of whether or not to list the grants publicly was made based on input from the granting ministry. For the grants not listed on the Grants Ontario website or not yet transferred to the Grants Ontario system, it was difficult to find a description of the grants and their eligibility requirements on the respective ministries' websites. This prompted us to recommend that the Ministry of Government and Consumer Services disclose on the Grants Ontario system details about current and upcoming grant opportunities.

At the time of our follow-up, we found that the Ministry had made little progress on implementing our recommendation. The Ministry of Government and Consumer Services gives other ministries starting new grant programs in the system the choice of whether to publicly disclose the existence of the grant program on the government's website. The Ministry noted that the ownership of transfer payment programs resides with the program ministry, and the Transfer Payment Ontario Branch is not responsible for program launch information on the public website. At the time of our follow-up, only 28 grant opportunities were listed on the public website.

### Recommendation 3

*To increase transparency and greater accountability for government funding, we recommend that the Treasury Board Secretariat, in conjunction with granting ministries, publicly disclose on one platform all recipients*

*of government funding received directly through a ministry or indirectly through a flow-through organization, by granting program.*

**Status:** Little or no progress.

#### Details

In our 2019 audit, we found that recipients of time-limited discretionary grants were not always publicly disclosed or if disclosed, the recipients were not linked to the grant program. As well, we found that recipients of time-limited discretionary grants funded indirectly by the government through organizations that act as flow-through entities, were not disclosed in the province's Public Accounts.

At the time of our follow-up, we found that the Treasury Board Secretariat was planning to implement a project team to consider the costs and benefits of this recommendation, along with implementation options given the complexity around IT solutions, information gathering and privacy issues.

## Grants Ontario System

### Recommendation 4

*To encourage more ministries to use the government-wide Grants Ontario system and all relevant and applicable modules available in the system for the administration of their grants, we recommend that the Transfer Payment Ontario Branch within the Ministry of Government and Consumer Services:*

- *develop a plan with specific timelines to address concerns with the system raised by ministry staff and external users in its user satisfaction surveys;*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we reported that user satisfaction with the Grants Ontario system (now known as the Transfer Payment Ontario system) was low. According to surveys conducted in 2018, 41% of ministry users and 51% of external users found the system difficult to navigate. Most difficulties encountered by external users related to finding their way around the system

(70%); downloading or uploading an application (57%); downloading or uploading a report (50%); attaching documents (50%); and uploading organization profile information (37%). Most difficulties encountered by ministry staff involved querying the system (28%); case view (22%); payments (22%); and reports (22%).

In our follow-up, we found that the Ministry of Government and Consumer Services had developed a plan to conduct user research and engagement sessions in fall/winter 2021 with internal and external stakeholder groups, to further understand the user experience. Based on the feedback received, the Ministry plans to implement targeted improvements starting in March 2022.

- *implement practical solutions that will make the Grants Ontario system user-friendly, effective and efficient.*

**Status:** In the process of being implemented by March 2022.

### Details

In our follow-up, we found that the Ministry of Government and Consumer Services had implemented new enhancements in 2020 aimed at making the system more user-friendly and efficient by adding headings that identify the grant program, adding instructions to clearly outline the application process, allowing applicants to opt in or out of multiple draft creations to avoid confusion during the application process, adding a drop-down menu to make it easier to attach files and adding a progress bar that helps track the progress of each application. In addition, the Ministry is planning to implement a new dashboard to alert program staff of activities related to the program, including new submissions, status of applications, payments, report backs received, etc.

Despite the improvements implemented in 2020, the most recent applicant survey in September 2021 noted that about 35% of respondents still found the system difficult or very difficult to use compared to 51% in 2019. The applicant survey also found similar concerns to what was noted in our 2019 audit

with slight improvements. The survey respondents noted that 53% had difficulty navigating the system (compared to 70% in 2019), 46% had difficulty in downloading and uploading applications (compared to 57% in 2019), and 47% had difficulty attaching documents (compared to 50% in 2019). Navigating the site, downloading/uploading applications and attaching documents remained the most noted concerns. As noted earlier, the Ministry is working to understand the needs of users and to implement improvements based on user feedback starting in March 2022.

### Recommendation 5

*To maximize the benefits of a complete government-wide grants database that produces comparable, consistent and reliable reporting, we recommend that the Treasury Board Secretariat, in conjunction with the Transfer Payment Ontario Branch:*

- *reinforce the communication that all ministries are to use the government-wide Grants Ontario system and all relevant and applicable modules available in the system for the administration of their grants once the concerns raised by ministry staff and external users with respect to the system have been addressed;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that some ministries were not using the mandatory Grants Ontario system (now known as the Transfer Payment Ontario system). As of September 2019, only 53% of the time-limited grant programs had implemented the mandatory system. Furthermore, for those grant programs that were using the system, most were not using all available modules. For example, 100% were not using the standardized contracts module, 97% were not using the risk assessment module, and 72% were not using the performance measures module.

In our follow-up, we found that the Treasury Board Secretariat announced a new directive in January 2021, entitled the Transfer Payment Consolidation

Operational Directive that requires all new transfer payment programs to be onboarded to the Transfer Payment Ontario system. In addition, all ministries were directed by the Treasury Board Secretariat to work with the Ministry of Government and Consumer Services to develop a plan to transition their existing transfer payment programs/IT systems, as well as those of their provincial agencies, onto Transfer Payment Ontario and report back to Treasury Board/Management Board of Cabinet through the 2021/22 Multi-Year Planning process by March 2021. All transfer payment programs are to be transferred to the Transfer Payment Ontario system, with the exception of programs that provide support payments (for example, the Ontario Disability Support Program or Ontario Health Insurance Plan).

The Transfer Payment Consolidation Operational Directive requires all ministries to use only three of the 23 modules in the system, which consists of the modules for contracting, reporting (report backs) and making payments to grant recipients. Provincial agencies that are or will be using the system are only required to use the contracting and reporting modules. Although provincial agencies are not required to use the payment module, they are required to record payment data in the system. The Treasury Board Secretariat continues not to require ministries and agencies to use the risk assessment and performance measures modules, among others.

- *clearly define all key inputs to be entered into the Grants Ontario system and ensure all ministries are entering information consistently;*

**Status:** In the process of being implemented by September 2023.

### Details

In our 2019 audit, we found that most provincial-level reporting generated from the Grants Ontario system was not useful because the ministries, along with not using all available modules, were not collecting data in a manner that was easily transferable to the Grants Ontario system. For example, some ministries were simply attaching a scanned file or email attachment

to the system that could not be read by the system or used to generate reports.

In our follow-up, we found that the Ministry of Government and Consumer Services had established a Transfer Payment Ontario Data Governance Council, which is responsible for the application of the data governance framework, prioritization for the data governance initiatives, and approval of Transfer Payment Ontario data standards. In May 2021, a data catalogue with 55 input terms and their definitions was communicated to users of the Transfer Payment Ontario system.

The Ministry of Government and Consumer Services, Treasury Board Secretariat and Ministry of Children, Community and Social Services are planning to establish a data governance body by September 2023 to support the implementation of the enterprise data governance strategy.

- *monitor utilization of the system.*

**Status:** Fully implemented.

### Details

At the time of our follow-up, we found that the Ministry of Government and Consumer Services was monitoring on a quarterly basis the utilization of all 23 modules in the Transfer Payment Ontario system.

### Recommendation 6

*To manage the Grants Ontario system cost-efficiently, we recommend that the Transfer Payment Ontario Branch within the Ministry of Government and Consumer Services develop workload and efficiency measures and review its staffing model on an ongoing basis.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we reported that from fiscal 2015/16 to fiscal 2018/19, the annual cost of operating the Grants Ontario system increased by over 120% (from \$4.0 million to \$8.9 million), the number of staff grew 228% (from 17.5 to 57 full-time-equivalent positions) and the number of grant programs on the system increased by 268% (from 88 to 324

programs). Further, the initial cost of developing the system was less than its ongoing costs because of the high number of staff in the Transfer Payment Ontario Branch. We further noted that the Branch did not have workload and efficiency measures needed to assess if its staffing levels were appropriate, and the Branch did not have plans to deploy implementation staff elsewhere once all ministries were transferred onto the mandatory system.

In our follow-up, we found that the staffing level for the Transfer Payment Ontario Branch had further increased to 64 staff as of September 2021 from 57 in 2019. The Ministry of Government and Consumer Services stated that it uses an activity tracking tool to measure staff effort on program implementation activities and results will be reviewed annually to ensure the cost efficiency of the staffing model considering the Branch's role in supporting the government's priority of transfer payment consolidation. However, we noted that the only measure the Transfer Payment Ontario Branch is using for its implementation staff is the tracking of total hours per activity. In addition, the Branch also measures productivity at the group level (operations and maintenance, and customer services). However, there were no measures in place to assess the efficiency or workload of individual staff.

### Recommendation 7

*In order that government funding is provided only to grant applicants in good standing with provincial statutes when the grant constitutes a significant monetary amount, we recommend that the Treasury Board Secretariat require ministries to verify an applicant's status with respect to outstanding environmental and labour violations and any outstanding taxes before making a grant payment.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that prior to awarding grants, most granting ministries did not check whether grant applicants (that is, businesses) were in violation of any provincial legislation such as those relating to

environmental protection or occupational health and safety, or whether applicants were under investigation for such things. Granting ministries also did not ensure whether the applicant had provincial taxes owing.

In our follow-up, we found that the Treasury Board Secretariat had completed initial research and analysis to identify jurisdictional best practices related to verifying transfer payment recipients' status with respect to outstanding environmental, labour, and tax violations. In addition, the Treasury Board Secretariat told us that it was assessing options with ministries to confirm a recipient's compliance with provincial statutes on an enterprise-wide basis. The options under consideration include having the regulatory ministries verify compliance with specific statutes; establishing a definition of compliance that would include reference to formal allegations, tickets or orders; requiring tax compliance verification; and an attestation of compliance with environmental, labour and tax laws from the transfer payment recipients that would refer to convictions only. Treasury Board Secretariat plans to implement updates to the Transfer Payment Consolidation Operational Directive by adding an attestation of compliance for recipients. The revision is expected to be released in December 2021, with an effective date of January 1, 2022. However, an attestation alone from the recipient without further verification would not ensure an applicant's good standing with respect to environmental and labour violations.

## Grant Programs Tested—Selection and Funding of Grant Recipients

### Recommendation 8

*To provide funding to grant recipients in an objective and transparent manner based on their applications submitted, we recommend that:*

- *the Ministry of Heritage, Sport, Tourism and Culture Industries follow the Transfer Payment Accountability Directive in selecting grant recipients and seek Treasury Board/Management Board*

*of Cabinet approval prior to awarding grant funding to recipients that did not meet eligibility criteria and were selected under the Minister's discretion;*

**Status: Fully Implemented.**

### Details

During our audit, we found that for grant programs offered by the Ministry of Heritage, Sport, Tourism and Culture Industries, some grant recipients did not meet evaluation criteria, but were awarded funding under the discretion of Ministers. Specifically, from 2016/17 to 2019/20, the Ministry awarded \$8.4 million in grants under the Celebrate Ontario grant program to about 200 recipients for various festivals and events. This Ministry also awarded \$1.2 million to low-scoring applicants based solely on ministerial discretion under two programs intended to celebrate Canada's 150th birthday: \$700,000 in total funding to 13 recipients under the Ontario 150 Partnerships grant program and \$520,000 to 15 recipients under the Ontario 150 Community Celebration grant program. This practice was contrary to the government's Transfer Payment Accountability Directive.

During our follow-up, we found that the Ministry of Heritage, Sport, Tourism and Culture Industries had updated its 2020 application guide for the Celebrate Ontario grant to outline that only applications with a score of at least 55 out of 100 would be eligible for consideration. (An additional ten bonus points were awarded for Francophone and Indigenous events.) As indicated in the 2020 approval note, all 259 events presented for Minister approval for funding met the scoring eligibility criteria.

- *Treasury Board Secretariat reinforce the requirements of the Transfer Payment Accountability Directive with ministries, with respect to the use of exemptions and the need to document the rationale for funding decisions.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we reported that the Transfer Payment Accountability Directive provides direction on determining a recipient's eligibility and requirements for documenting funding decisions. A ministry that wants an exemption from part or all of the directive, only for exceptional circumstances, must seek Treasury Board/Management Board of Cabinet approval. In addition, the ministry must set out the rationale for the exemption in a business case. We noted the Ministry of Heritage, Sport, Tourism and Culture Industries had not requested an exemption from the Treasury Board Secretariat for any of the grant programs we tested where grants were awarded under ministerial discretion.

In our follow-up, we found that the Treasury Board Secretariat launched a new training portal in February 2020 on the Ontario Public Sector intranet that is available to all public sector employees to increase their knowledge of transfer payment rules and capacity to comply with requirements. One of the training modules on the training portal (called Requirement for Funders) describes the requirement for program staff to document evidence that the recipients are selected based on eligibility criteria and that all recipients met all eligibility criteria to receive funding. This module also indicates that the rationale for funding must be documented. The Treasury Board Secretariat also added a tip sheet that states that funders must seek Treasury Board/Management Board of Cabinet approval if, in exceptional circumstances, they require an exemption from all or part of the Transfer Payment Accountability Directive. This includes situations where funders may wish to select a recipient that has not clearly met the established eligibility criteria.

### Recommendation 9

*In order to provide funding where most needed, we recommended that the granting ministries provide grant funding to recipients based on need and establish evaluation criteria that better assess whether funding for projects is needed in order for the project to proceed.*

**Status:**

**Ministry of Indigenous Affairs – Will not be implemented.** The Office of the Auditor General continues to believe this is a significant recommendation and continues to recommend that the Ministry of Indigenous Affairs implement it.

**Ministry of Economic Development, Job Creation and Trade; Ministry of the Environment, Conservation and Parks; Ministry of Heritage, Sport, Tourism and Culture Industries; and Ministry for Seniors and Accessibility – Little or no progress.**

**Details**

In our 2019 audit, we found that for 11 grant programs we reviewed across five ministries, the applicant's need for funding was not considered when determining the amount of funding awarded to a grant recipient. For another grant program (the Jobs and Prosperity Fund provided by the Ministry of Economic Development, Job Creation and Trade), where the Ministry had established evaluation criteria to assess whether funding for projects was needed in order for the project to proceed, the need for government support accounted for only 5% of the evaluation criteria. Since this program started in 2015, only two of 31 grant recipients indicated that their projects would not go ahead without provincial funding.

In our follow-up, we found that the Ministry of Heritage, Sport, Tourism and Culture Industries, for its 2020 Celebrate Ontario program, added a 5% scoring component for events occurring during non-peak seasons (October 1 to May 31) or in rural northern communities and an additional 10% was added to all events operated by Francophone or Indigenous (First Nations, Métis or Inuit) applicants. Although this Ministry asked applicants about their plans in the event they did not receive provincial funding, this was not incorporated into the scoring or evaluation of the applicant.

The Ministry of the Environment, Conservation and Parks and the Ministry for Seniors and Accessibility do not assess whether funding for projects is needed in order for the project to proceed, according to the grant evaluation criteria established for their grant programs.

The Ministry of Economic Development, Job Creation and Trade, and the Ministry of the Environment, Conservation and Parks had not taken any action to address the recommendation.

The Ministry of Indigenous Affairs said that it would not be implementing this recommendation because its grant programs are designed to deliver a baseline funding at a flat amount per community, regardless of workload or need.

**Monitoring of Grant Recipients****Recommendation 10**

*To help ensure grant recipients spend funds for the purposes intended, we recommend that the granting ministries improve the effectiveness of their monitoring processes by:*

- *recalculating funding based on final reported costs, where applicable;*

**Status:**

**Ministry of the Environment, Conservation and Parks; Ministry of Indigenous Affairs; Ministry for Seniors and Accessibility; and Ministry of Heritage, Sport, Tourism and Culture Industries – Fully implemented.**

**Ministry of Economic Development, Job Creation and Trade – Fully implemented at the time of our 2019 audit.**

**Details**

In our 2019 audit, we found that for a sample of events we reviewed that were funded under the Celebrate Ontario grant program offered by the Ministry of Heritage, Sport, Tourism and Culture Industries, the Ministry was not reviewing reports of the actual expenditures submitted by recipients and adjusting the grant amount based on the review. As a result, we noted that 42% of events we sampled were overpaid by \$63,700 in total. We also found that 30% of events we sampled received their final payment without ever submitting a final report.

In our follow-up, we found that the Ministry of Heritage, Sport, Tourism and Culture Industries added a checklist for the Celebrate Ontario 2020

program to support staff in their review of the final report. The Ministry recalculated the funding allocations based on actual spending and reduced the final payments to the recipients to account for the amount underspent.

The Ministry of the Environment, Conservation and Parks implemented a checklist in November 2020, requiring a reconciliation of the grant recipients' final expenses in relation to the funding provided, for the purpose of recovering excess funding. In addition, both the Ministry of Indigenous Affairs and the Ministry for Seniors and Accessibility provided evidence of a reconciliation process and instances of recovery of funds not used by grant recipients.

- *requiring recipients to submit audited segmented financial information, where appropriate given the amount of funding awarded;*

**Status:**

**Ministry of Heritage, Sport, Tourism and Culture Industries; and Ministry for Seniors and Accessibility – Fully implemented.**

**Ministry of Economic Development, Job Creation and Trade; and Ministry of the Environment, Conservation and Parks – Little or no progress.**

**Ministry of Indigenous Affairs – Will not be implemented. The Office of the Auditor General continues to believe this is a significant recommendation and continues to recommend that the Ministry of Indigenous Affairs implement it.**

### Details

In our 2019 audit, we found that three of the grant programs we reviewed required grant recipients to submit audited financial statements with segmented information to provide independent verification of how funds were spent. This represented two of the four grant programs we tested that were administered by the Ministry of Heritage, Sport, Tourism and Culture Industries, and one of the six grant programs we tested that were administered by the Ministry of Economic Development, Job Creation and Trade.

In our follow-up, we found that:

- the Ministry of Heritage, Sport, Tourism and Culture Industries requires recipients that received over \$100,000 in funding to provide audited segmented financial information;
- the Ministry of the Environment, Conservation and Parks has implemented a transfer payment checklist for all new transfer payment programs or agreements started on or after November 1, 2020. The checklist reminds the reviewer to assess whether recipients periodically submit audited financial information, but has not set any requirement for audited financial statements;
- the Ministry of Economic Development, Job Creation and Trade requires audited segmented financial information for its large grant programs but has not implemented this to all grant programs run and funded by the Ministry;
- the Ministry of Indigenous Affairs will not be implementing this recommendation because the Ministry believes it must consider the recipient's cost of providing audited segmented financial information. However, the recommended item only requires recipients to submit audited segmented financial information, where appropriate, given the amount of funding awarded; and
- the Ministry for Seniors and Accessibility does not require audited segmented financial information from recipients that receive over \$100,000 in funding. According to this Ministry, due to the low dollar value of the funding it is not economically feasible for some recipients to provide audited segmented information.
- *using a risk-based approach to select which grant recipients to visit and verify that funded activities are taking place as intended;*

**Status:**

**Ministry of Heritage, Sport, Tourism and Culture Industries – Fully implemented.**

**Ministry of Economic Development, Job Creation and Trade; Ministry of the Environment, Conservation and Parks; Ministry of Indigenous Affairs; and Ministry for Seniors and Accessibility – Little or no progress.**

## Details

In our 2019 audit, we found that for seven of 15 grant programs we tested, granting ministries did not visit any recipients to confirm that the funded activities were taking place effectively. For one ministry which visited sites, the visits were mainly for promotional purposes and relationship building. Where grant program recipients/events of various ministries were visited by ministry staff to verify whether the grant activities were conducted according to the terms of the funding agreement, those visited were not selected based on risk.

In our follow-up, we found that:

- the Ministry of Heritage, Sport, Tourism and Culture Industries requests its staff to conduct a visit of at least two events, targeting only those of high or medium risk;
- the Ministry of Economic Development, Job Creation and Trade uses a risk assessment tool to assess risk for each recipient, but there are no guidelines on how the risk assessment influences which recipients to visit;
- the Ministry of the Environment, Conservation and Parks has implemented a transfer payment checklist that identifies recipients in financial or operational difficulty that may compromise their ability to meet the stated funding objectives, for the purpose of conducting on-site visits to verify funding activities are taking place. However, there is a risk that some recipients who are not in financial or operational difficulty may also not be performing activities as intended;
- the Ministry of Indigenous Affairs has not developed a plan to travel into communities due to COVID-19, but told us that it plans to implement a travel plan when the travel restrictions are lifted; and
- the Ministry for Seniors and Accessibility told us that the program staff informally attend events and visit recipients' sites, when possible and where geographically feasible. However, the Ministry had not developed a risk-based approach to visiting recipients to verify that funded activities are taking place as intended.

- *selecting recipients for invoice testing using a risk-based approach;*

**Status:**

**Ministry of Economic Development, Job Creation and Trade; and Ministry of Heritage, Sport, Tourism and Culture Industries – Fully implemented at the time of our 2019 audit.**

**Ministry of the Environment, Conservation and Parks – Fully implemented.**

**Ministry of Indigenous Affairs; and Ministry for Seniors and Accessibility – Little or no progress.**

## Details

In our 2019 audit, we found that ten grant programs that did not require grant recipients to submit audited financial statements, verified grant recipient spending by testing invoices on a sample basis. Five of these grant programs were administered by the Ministry of Economic Development, Job Creation and Trade and two were administered by the Ministry of Heritage, Sport, Tourism and Culture Industries. For both ministries, for all their other grant programs we selected for testing, grant recipients were required to submit audited financial statements.

In our follow-up, we found that:

- the Ministry of the Environment, Conservation and Parks implemented a transfer payment checklist in November 2020 stating that if a recipient is identified as a high-risk recipient, then invoices and other documents were requested to verify funding was used as intended; and
  - the Ministry of Indigenous Affairs and Ministry for Seniors and Accessibility had not implemented any new guidelines on invoice testing.
- *verifying performance results reported for reasonability;*

**Status:**

**Ministry for Seniors and Accessibility – In the process of being implemented by March 2022.**

Ministry of Economic Development, Job Creation and Trade; Ministry of the Environment, Conservation and Parks; Ministry of Heritage, Sport, Tourism and Culture Industries; and Ministry of Indigenous Affairs – Little or no progress.

### Details

In our 2019 audit, we found that for more than 90% (14 of 15) of the grant programs we reviewed, ministries relied on performance results reported by grant recipients to assess progress toward meeting public policy objectives, without verifying these performance results.

In our follow-up, we found that:

- the Ministry for Seniors and Accessibility had plans to enhance instructions for regional staff to verify performance results for reasonability by March 2022;
  - the Ministry of the Environment, Conservation and Parks; the Ministry of Heritage, Sport, Tourism and Culture Industries and the Ministry of Indigenous Affairs have not taken any action to require program staff to verify the performance results reported by recipients; and
  - the Ministry of Economic Development, Job Creation and Trade, although it receives annual audited information which may contain some performance results, has not implemented any guidelines on the need for verifying performance results for all grant programs.
- *taking timely corrective action, including recovery of funds, with those recipients that do not meet their obligations according to grant requirements.*

**Status:**

Ministry of Economic Development, Job Creation and Trade – Fully implemented at the time of our 2019 audit.

Ministry of the Environment, Conservation and Parks; and Ministry for Seniors and Accessibility – Fully implemented.

Ministry of Heritage, Sport, Tourism and Culture Industries; and Ministry of Indigenous Affairs – Little or no progress.

### Details

In our follow-up, we found that:

- the Ministry of the Environment, Conservation and Parks has implemented a checklist that reminds staff to make funding adjustments (include funding recovery), where necessary, based on a program area review of performance reports and other monitoring activities on a monthly basis;
- the Ministry of Indigenous Affairs does not verify expenditures but instead relies on recipients to report any underspending in order to recover unspent funds;
- the Ministry of Heritage, Sport, Tourism and Culture Industries implemented a guideline in 2020 that required corrective actions only in cases where grant recipients miss the reporting requirements but not for any other instances of non-compliance; and
- in its 2021/22 program guidelines, the Ministry for Seniors and Accessibility has formally incorporated the requirement for recovery of funds from recipients that do not meet their obligations according to grant requirements.

### Recommendation 11

*To confirm that the province is receiving the expected long-term benefits from grant funding, we recommend that the Ministry of Economic Development, Job Creation and Trade implement a process to continue monitoring the progress of recipients after the completion of funding arrangements when providing funds with goals of long-term benefits.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that although the Ministry of Economic Development, Job Creation and Trade was funding companies with the expectation of increasing production, sales and exports to benefit Ontario's economy over the long term, the Ministry did not have any contractual agreement to be able to monitor the long-term progress of recipients beyond the term of the funding agreement. Such was the

case for the Jobs and Prosperity Fund – New Economy Stream, where it was unknown whether jobs created or retained during the funding period were retained after the agreement ended. Similarly, for youth that were provided with skills training and related work experience under the Youth Skills Connections – Industry Partnerships program, the Ministry had not followed up beyond the term of the funding agreement to assess whether the grant recipients were still employing the individuals they trained.

In our follow-up, we found that the Ministry of Economic Development, Job Creation and Trade had attempted to receive post-project annual reporting for three years following the end of funding under the Jobs and Prosperity Fund - New Economy Stream. However, the Ministry could not provide evidence of the information reported for the three years past the period of the funding arrangement. The Ministry had not tried to monitor long-term outcomes for any of its other grant programs.

## Performance Results Not Measured or Reported Publicly

### Recommendation 12

*To monitor the impact of grant funding and provide transparency, we recommend that the Treasury Board Secretariat, in conjunction with granting ministries, develop outcome-based performance measures for all discretionary grant programs as applicable, set reasonable targets to measure progress and report this information publicly.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that for most grant programs tested, the performance measures were primarily activity-based rather than outcome-based. Activity-based measures count actions, but not whether those actions are effective in achieving the desired outcomes. We also found that most grant programs lacked performance targets and that results were not being reported publicly.

In our follow-up, we found that the Treasury Board Secretariat had engaged with ministries in March 2021 to start working on developing consistent outcomes. The Treasury Board Secretariat completed a jurisdictional scan of current key performance indicators that are being reported in other jurisdictions. The Treasury Board Secretariat told us that it is planning to obtain an agreement from all ministries to establish outcomes and to ensure that reporting on the key performance indicators be implemented by December 2021. Currently, the Treasury Board Secretariat has not discussed the implementation of reasonable targets for the performance measures. It further told us that it expects to collect data to establish baseline data to use to establish future targets. These new measures and targets will be implemented into new funding agreements.

## Overlap Between Ministries

### Recommendation 13

*To minimize the risk of multiple ministries funding the same entity for the same or similar activities and to streamline reporting where justified, we recommend that:*

- *the Treasury Board Secretariat, along with granting ministries, consolidate grant programs that support similar initiatives for a particular sector into one grant program under one ministry;*

**Status:** In the process of being implemented by March 2023.

### Details

In our 2019 audit, we found that there was potential overlap between grant programs offered by the same ministry and another ministry. Specifically, the Ministry of Indigenous Affairs offered multiple grant programs for similar types of activities. For example, the New Relationship Fund, the Support for Community Negotiations, and the Participation Fund all provided funding to First Nations to support Indigenous communities participating in land claims. In addition, the Ministry of Energy, Northern

Development and Mines also had a grant with the same name (Participation Fund) to help support Indigenous communities and organizations participating in regulatory processes under the *Mining Act* and in economic development activities associated with mineral exploration and development.

In our follow-up, we found that as part of the 2021/22 Multi-Year Planning process, the Treasury Board Secretariat provided templates for ministries to report on their plans to onboard transfer payment programs to the Transfer Payment Ontario system. The templates request ministries to describe how they plan to (1) identify opportunities to consolidate similar programs (within and across ministries) in similar sectors or with similar recipients; (2) integrate agreements where more than one program in the ministry funds the same recipient; and (3) outline the timelines for consolidating similar programs and integrating agreements. According to the template, if a ministry does not plan to consolidate similar programs or integrate agreements when more than one program funds the same recipient, the ministry must provide a rationale, including the list of programs under consideration and explain why integration is not possible and/or will not accomplish positive outcomes.

The Treasury Board Secretariat told us that it plans to perform additional analysis of ministry transfer payment programs based on supplementary information provided by ministries as they onboard programs to the Transfer Payment Ontario system and increase module use. This analysis is expected to examine potential opportunities to consolidate programs across ministries. The Treasury Board Secretariat also told us that it expects to consult with ministries to identify further consolidation opportunities, and any challenges. Treasury Board Secretariat plans to complete the analysis and ministry consultations by the end of 2022/23.

- *where consolidation of funding into one program is not possible, that granting ministries streamline*

*reporting activities, in accordance with the Transfer Payment Operational Policy.*

**Status: The Ministry of Heritage, Sport, Tourism and Culture Industries and the Ministry of Indigenous Affairs – Little or no progress.**

### Details

In our 2019 audit, we noted instances where ministries were not following the government's Transfer Payment Operational Policy (effective May 1, 2018), which requires a ministry to streamline and consolidate reporting if program areas within one ministry are funding the same recipient. During the audit, we identified about 1,500 grant recipients that received funding from more than one grant program in 2018/19 – 66% received funding from different programs administered by the same ministry and the remaining 34% received funding from grants administered by different ministries. Based on the programs we selected for review, two ministries (the Ministry of Indigenous Affairs and the Ministry of Heritage, Sport, Tourism and Culture Industries) were funding the same recipient through multiple grant programs within their own ministry, but neither had streamlined the reporting for these recipients. Similarly, for recipients receiving grants from multiple ministries for a similar activity—as in the case of First Nations receiving grants from both the Ministry of Indigenous Affairs and the Ministry of Energy, Northern Development and Mines, reporting requirements had also not been streamlined.

In our follow-up, we found that the Ministry of Heritage, Sport, Tourism and Culture Industries and the Ministry of Indigenous Affairs are participating in the Treasury Board Secretariat's Transfer Payment Consolidation initiative with a goal of reducing the administrative burden. The ministries continue to work toward onboarding programs into the Transfer Payment Ontario system and plan to perform future analysis on possible consolidation of funding arrangements.

## Chapter 1

### Section 1.12

Ministry of Finance

# Provincial Support to Sustain the Horse Racing Industry

Follow-Up on VFM Section 3.12, 2019 Annual Report

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3	1	1	1		
Recommendation 2	3			1	2	
Recommendation 3	2	1	1			
Recommendation 4	2	1		1		
Recommendation 5	1			1		
Recommendation 6	1		0.5		0.5	
Recommendation 7	1				1	
Recommendation 8	1				1	
Recommendation 9	2				2	
<b>Total</b>	<b>16</b>	<b>3</b>	<b>2.5</b>	<b>4</b>	<b>6.5</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>19</b>	<b>16</b>	<b>25</b>	<b>40</b>	<b>0</b>

### Overall Conclusion

The Ontario Lottery and Gaming Corporation (OLG), and the Ministry of Finance and the Alcohol and Gaming Commission of Ontario (AGCO), as of June 28, 2021, have fully implemented 19% of the actions we recommended in our *2019 Annual Report*. An additional 16% of recommended actions were in the process of being implemented.

Fully implemented recommendations included completing an impact study of the horse racing industry on Ontario's economy; assessing the impact of OLG's marketing campaign in attracting customers to horse racing; and following up on deficiencies noted during audits or investigations to ensure corrective action has been taken. Examples of recommendations in process included constructing a long-term plan toward self-sustainment of horse racing through wagering revenues and other options; working with

the industry to bring in new direct revenue streams and to increase wagering revenue; and publicly disclosing information on racetrack operations including wagering revenue, purses paid, and the distribution of the provincial tax reduction by racetracks. OLG informed us that for all recommendations requiring an amendment to the long-term funding agreement, it will need to negotiate changes with all parties to the agreement and obtain approval from the Ministry of Finance.

Little progress has been made on 25% of the actions we recommended. These included OLG periodically reviewing feedback from members of Ontario Racing and the industry on the composition of the Ontario Racing Board and nominee selection processes, to assess the ongoing effectiveness of the Board and take corrective action if necessary; and AGCO conducting proactive oversight on racetracks in a regular basis.

For another 40% of our recommended actions, the OLG and AGCO informed us that they would not be implemented. These include:

- working with racetracks to collect and monitor all suspicious transactions, including withdrawals over \$10,000, and to report potential money laundering transactions to law enforcement, where necessary, because according to OLG, the determination of whether a particular sector should be designated as a regulated entity for the purpose of money laundering, and in turn, subject to monitoring and reporting responsibilities, is a federal responsibility;
- having racetracks submit audited financial statements with segmented information for horse racing operations, because Ontario Racing, Ontario Racing Management and the Woodbine Entertainment Group are of the opinion that segmented financials would not provide an accurate comparison of racetrack performance since racetracks may have unique operating structures and varying fiscal year-end dates, and doing so would create an additional financial burden to racetracks;
- restricting racetracks from making large discretionary payments, such as donations or large

severance payments, because under the current funding agreement negotiated between the province and the horse racing industry OLG has no authority over racetrack operations to dictate how tracks spend their non-government provided funding;

- requiring Ontario Racing Management and racetracks to publicly disclose the names and salaries of employees making over \$100,000, because Ontario Racing, Ontario Racing Management and the Woodbine Entertainment Group agree there is no legislative authority that can be applied to the agreement to compel Ontario Racing to require Ontario racetracks and their private sector employees to make such disclosure; and
- requiring racetracks to publicly provide wagering take-out and payout information by pool.

The Office of the Auditor General continues to support the implementation of these recommended actions.

The status of actions taken on each of our recommendations is described in this report.

## Background

The province has been supporting the horse racing industry through various initiatives since 1996. Ontario's 15 racetracks rely on annual government funding of close to \$120 million (\$120 million as of 2018/19) to subsidize the horse racing industry in the province. In addition, 11 of these racetracks received about \$140 million in 2018/19 in annual lease revenues from the Ontario Lottery and Gaming Corporation (OLG) to host slot machines and cover the cost of valet parking and food services. (The amount received by racetracks to host slot machines in 2020/21 was not available because, under the new provincial gaming model, lease payments were made directly by the gaming service providers to the racetracks, and OLG told us it did not have access to this information.) Government agreements did not

require that these annual lease revenues be used to support horse racing operations.

Horse racing as a gaming operation had been in decline in Ontario since the legalization of lotteries in 1969. From 2018/19 to 2020/21, Ontarians' wagering on Ontario races and races outside the province had decreased by 38% and 19% respectively (44% and 15% between 2008/09 and 2018/19 respectively). Wagering by other Canadians on Ontario races had also decreased by 24% between 2018/19 and 2020/21 (48% between 2008/09 and 2018/19). The decrease in wagering over the last two years is due to a large extent on the fact that live horse racing stopped due to COVID-19 pandemic restrictions.

In 2020/21, gross wagering on horse racing in Ontario totalled \$1.4 billion (\$1.6 billion in 2018/19), including bets on Ontario races placed from outside Ontario and bets placed inside the province on races held elsewhere. In 2020/21, Ontario racetracks paid out 88.5% (87.3% in 2018/19) to winning bettors and kept 11.5% or \$163 million (12.7% or \$203 million in 2018/19) in gross commissions, before taxes and operating costs. However, these wagering commissions have not been sufficient for the industry to cover racetrack operating costs and purses, the prize money paid to horse owners.

In our 2019 audit, we reported that even though the horse racing industry receives a significant amount of public funding, it lacked transparency and public accountability. Of the 15 racetracks, only one posted its financial statements on its website. There was no public reporting of gross wagers collected, wagering commissions by racetrack, how the provincial tax reduction on wagering was shared between the various racetracks and horse people, purses paid by racetracks, revenue and expenses related to a racing operation separate from other operations, and key statistics such as the current number of people who worked in the industry.

Our 2019 audit found these significant concerns:

- The goal of the five-year, \$500-million Horse Racing Partnership Funding Program that ran from 2014/15 to 2018/19 was to support racetracks in becoming more self-sustaining.

However, we found that the industry was not significantly closer to that goal than it was in 2013. In each of the five years, provincial funding consistently covered about 60% of purses paid to winning horse owners. Without government support, including lease revenue from hosting slot machines, all racetracks combined would have had an operating shortfall of \$170 million in 2018/19.

- With the introduction of the new 19-year funding agreement on April 1, 2019, the objective of government funding changed from transitioning the industry to become self-sustaining, to sustaining the industry for a long period of time. The agreement provides about \$120 million to the industry annually. Annual provincial funding was expected to drop to \$63.4 million by 2026/27, primarily due to a reduction in purse funding to the Woodbine Entertainment Group, since the Woodbine and Mohawk racetracks had been expanding gaming operations and were expected to earn additional casino lease revenue.
- The new long-term funding agreement did not include any clauses that would have allowed the province to terminate the agreement without cause. Furthermore, annual funding under the agreement was not reduced if a racetrack closed. Instead, the money would be redistributed among the remaining racetracks.
- Ontario had more racetracks than comparable jurisdictions, without sufficient wagering income to support them. Ontario had 15 racetracks in 2018/19. When compared to racetracks in the United States, Ontario served fewer people per racetrack than the states of California, Florida, New York, Pennsylvania and Ohio. Ontario had nine more racetracks than Pennsylvania, and six more than Florida, which had a 46% higher population than Ontario.
- The Woodbine Entertainment Group (Woodbine) had a significant role in negotiating the long-term funding agreement with OLG. Woodbine held two of 11 seats on the Board of Ontario Racing (a private industry association), which is responsible

for administering the new funding agreement, setting race days and distributing funding to racetracks. Ontario Racing Management, which supported operations for Ontario Racing's Board, is a wholly owned subsidiary of Woodbine. Also, the agreement includes language that effectively cancels the agreement if Woodbine's role is changed or eliminated.

We made nine recommendations, consisting of 16 action items, to address our audit findings.

The Ontario Lottery and Gaming Corporation committed that it would take action to address our recommendations.

The COVID-19 pandemic has significantly impacted horse racing on Ontario tracks. From 2018/19 to 2020/21 the number of racing days dropped by 20% with the bulk of the decrease (18%) occurring in 2020/21. In turn, total gross wagering decreased by 11.5% from 2018/19 to 2020/21, with the bulk of the decrease of 10.7% occurring in the last fiscal year. Since the time of our 2019 audit, gross wagering by Ontarians decreased by 24%, whereas wagering by foreign customers wagering on Ontario tracks increased by 4.5%.

## Status of Actions Taken on Recommendations

We conducted assurance work between April and August 2021. We obtained written representation from the Ontario Lottery and Gaming Corporation, the Ministry of Finance, and the Alcohol and Gaming Commission of Ontario that effective November 23, 2021, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Self-Sustainment of Horse Racing Through Marketplace Revenue

### Recommendation 1

*In order to reduce the horse racing industry's reliance on government funding and become self-sustaining, we*

*recommend that the Ministry of Finance and the Ontario Lottery and Gaming Corporation:*

- *complete its impact study of the horse racing industry on Ontario's economy;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Ontario had more racetracks than comparable jurisdictions, without the wagering income needed to support them. Further, we noted that the province had not conducted an economic impact study to look at the number of jobs being impacted or the economic activity generated by the horse racing industry, before finalizing both the five-year funding agreement for \$100 million a year that took effect April 1, 2014, or the latest 19-year agreement for \$120 million a year initially, that took effect April 1, 2019.

During our follow-up, the OLG provided us with a study completed in July 2020 that quantified the economic impact and employment levels of the horse racing sector in Ontario. The study indicated that the industry contributed \$1.9 billion to Ontario's Gross Domestic Product in 2018, of which \$1.5 billion went to horse people (like owners, breeders, groomers, jockeys, and trainers), \$400.1 million went to racetracks and \$37.8 million went to industry associations and government agencies. The study noted that the industry supported 22,965 jobs, of which 79% were horse people, 19% were people working at the racetracks and 1% were people working at industry associations and agencies. The study also noted that in 2018 the industry generated \$327 million in provincial tax revenue.

- *based on the results of the study, construct a long-term plan toward self-sustainment of horse racing through wagering revenues and other options;*

**Status: In the process of being implemented by 2026.**

### Details

In our 2019 audit, we reported that in 2012 the Drummond Report recommended that the horse-racing industry rationalize its presence in the gaming marketplace so that the industry is more appropriately sustained by the wagering revenues

it generates, than by sharing in the revenue generated by slot machines co-located with horse racing venues. At the time of our audit, the industry was not significantly closer to the goal of becoming self-sustaining than it was in 2013 and over the same time period, gross wagering had remained relatively unchanged and the government was still funding a significant portion of the purses (60%).

In fact, at the time of our follow-up, the parties to the original Long-Term Funding Agreement (OLG, Horse Racing Ontario, Ontario Racing Management Inc and Woodbine Entertainment Group) had negotiated three amendments to the agreement between April 2020 and January 2021, to:

- maintain stable annual funding to all 15 racetracks for the next five years;
- pay unused purse funding during the period when live horse racing stopped due to the COVID-19 pandemic directly to eligible owners to put toward the cost of racehorse training and care, and trainers and drivers; and
- postpone the claw back of purse funds tied to the Woodbine Entertainment Group Gaming Expansion from the third to the fourth year of the funding agreement.

These amendments, in effect, prevent changes to the existing size of Ontario's horse racing industry until March 2026. We were informed that their intent was to give the industry time to recover from the pandemic, preserve local employment and provide reliable support to racetracks until that time.

Also, in July 2020 Ontario Racing developed a draft horse racing sustainability plan. This plan considered the rationalization of underperforming racetracks and the redirection of savings to the remaining tracks or other industry initiatives. It also considered the economic impact on, for example, Gross Domestic Product and industry jobs. The plan included a high-level implementation timeline with major milestones.

The Ministry of Finance informed us that this plan was not finalized and submitted to the Ministry for approval. The Ministry also informed us that the government's priorities have shifted to focus on

economic stability and resiliency, that is, no change to the existing size of Ontario's horse racing industry. The Ministry informed us that a final sustainability strategy is expected from the industry before the completion of the five-year extension in 2026.

- *consider revisiting the latest agreement based on the results of the study.*

**Status: Little or no progress.**

### Details

According to the Ministry of Finance, the latest funding agreement will be revisited after a final sustainability strategy is submitted from Ontario Racing in 2026.

## OLG's Role in Horse Racing

### Recommendation 2

*In order to effectively monitor funding agreements with the horse racing industry, we recommend that the Ontario Lottery and Gaming Corporation:*

- *have racetracks submit audited financial statements with segmented information for horse racing operations;*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation. Under the current situation, the OLG is not performing sufficient due diligence over the use of government funding by racetracks as, for example, it does not use audited financial statements to assess the use of government funds.**

### Details

At the time of our audit, we found that OLG was relying mainly on self-reported information from racetracks to assess whether the racetracks used government funding according to the terms of the agreement. Although OLG received audited financial statements from racetracks a few months after receiving the self-reported information, much of the information OLG required for monitoring purposes could not be tied directly to the audited financial

statements. We also noted differences between the audited financial statements, and the information reported to OLG for two racetracks with the same year-end as OLG.

At the time of our follow-up, OLG informed us that it had had discussions with representatives from Ontario Racing, Ontario Racing Management and the Woodbine Entertainment Group during February to April 2021 to consider whether the long-term funding agreement should be amended to require racetracks to use a “segmented note” in their financial statements to help distinguish between racing-related and non-racing-related revenues and expenses. We were informed that the industry did not agree to an amendment that would require racetracks to submit audited segmented financial statements. According to the meeting minutes, the group is of the opinion that requiring segmented financials for racetrack operations would not provide an accurate comparison of racetrack performance, noting that racetracks may have unique operating structures and varying fiscal year-end dates. The group was also concerned that audited segmented information would also create an additional financial burden to racetracks. Instead, the group has decided to enhance the existing profit and loss reporting template used to report revenue and expenses information semi-annually to Ontario Racing. In June 2021, the OLG drafted an amendment to the semi-annual financial reporting requirement template within the long-term funding agreement, and told us it would be sending it to the Ministry of Finance in July 2021 for approval. However, this approach would not provide audit assurance on the accuracy of the information reported, and hence may not permit reliable racetrack-to-racetrack comparisons.

- *investigate significant differences or unusual items;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we reported that the OLG was only validating gross wagering amounts reported with

information received from the Canadian Pari-Mutuel Agency. The OLG was not verifying expenses reported by racetracks and the amount of purses paid. We also noted a situation where salary expenses reported by a racetrack to OLG were overstated, but OLG had not followed up with the racetrack to question the anomaly.

During our follow-up, OLG informed us that in the second quarter of fiscal 2020/21 it started to review discrepancies between projected and actual revenues and expenses by racetrack reported to it by Ontario Racing Management. OLG indicated that it identified and followed up on four discrepancies in total, but in each case, it could not provide us with supporting documents to explain the nature of the discrepancy. In our follow-up, we noted many discrepancies for various tracks which were not investigated.

- *restrict racetracks from making large discretionary payments, such as donations or large severance payments.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation. If the racetracks have sufficient funds to make donations, government funding to this extent likely is not needed.

### Details

In our 2019 audit, we reported that OLG was allowing racetracks that receive government support to make large donations and other discretionary payments. Based on our review of the racetracks’ audited financial statements, we identified two racetracks that made substantial donations to external parties – one racetrack donated \$4.8 million to a charitable foundation to increase its corporate profile, and another donated \$150,000 to help the municipality build a splash pad at a nearby park. We also noted that one racetrack paid \$250,000 in severance to a retiring senior staff member.

During our follow-up, we found that OLG had met with representatives from Ontario Racing, Ontario Racing Management and the Woodbine

Entertainment Group in February and March 2021 to discuss possible courses of action related to this recommendation. According to the long-term funding agreement, OLG's role is limited to overseeing how funds provided under the funding agreement are used, and not the daily operations of racetracks. We were informed that the parties to the funding agreement would not mutually consent to amending the agreement to address this recommendation. As we noted in our 2019 audit report, without financial support from the province for racetrack operations and purses, most racetracks would either close or significantly reduce the number of race days and size of purses. We would have expected that when the OLG was negotiating amendments to the long-term funding agreement between April 2020 and January 2021 (as described in **Recommendation 1**), that OLG would also have negotiated changes to the funding agreement that would have allowed it to implement our audit recommendations and improve oversight.

### Recommendation 3

*In order to further support the horse racing industry to become self-sustainable, we recommend that the Ontario Lottery and Gaming Corporation:*

- *assess the impact of its marketing campaign in attracting customers to horse racing;*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we reported that, since 2016, to increase awareness and consideration of horse racing as a gaming option, OLG had created two horse-themed slot games released through OLG's iGaming website (PlayOLG), and two horse racing-themed instant lottery games. However, the OLG had no data to assess whether the marketing initiatives generated increased wagering revenue for the industry overall. Further initiatives were planned for 2019/20 which included advertising on multiple media channels, event sponsorship, and supporting the broadcast of premier Canadian races.

During our follow-up, we found that in October 2020, OLG hired Ipsos, a market research and consulting firm, to conduct a research study to gain a better understanding of the horse racing customer. The objectives of the study were, among other things, to measure past and present players' awareness of racetracks and advertising recall, examine motivations for attending horse races and wagering, and examine attitudes toward horse racing. The study found that advertising awareness in 2020 was low and down from the prior year; television and online ads were the most impactful source of ad awareness, with the latter medium growing in importance; the primary reason for going to the track was the social experience of hanging out with friends and family; and overall, the interest in horse racing has remained steady or slightly lower than the prior year. OLG informed us that it will apply the insights gained from the study to future campaigns.

- *work with the industry to bring in new direct revenue streams and to increase wagering revenue.*

**Status: In the process of being implemented by March 2023.**

#### Details

Ontario Racing's 2020/21 annual Business Plan stated that it was intending to work with OLG to develop an action plan to facilitate the research of new racing-related gaming products, and explore revenue generating opportunities that may exist within the existing regulatory and legislative framework, as well as existing gaming contracts in place in the province. At the time of our follow-up, Ontario Racing had not developed an action plan to explore new revenue generating opportunities. However, we noted that efforts were being made to increase wagering revenue and bring in new direct revenue streams. For example:

- In 2019, the Woodbine Entertainment Group (Woodbine) launched a new wagering product (the new cross-track Pick 4 wager). However, we were informed that the product was not successful in attracting new customers and was discontinued.

- Woodbine expanded its simulcast reach to an additional international market in 2019/20 (Italy). At the time of our follow-up, its simulcast reach was in a total of 29 foreign markets. Between 2018/19 and 2020/21 foreign wagering revenue increased by 4.5%.
- In 2019/20, Woodbine developed a new horse racing app called Dark Horse and released it to customers in mid-2020. OLG did not have information on whether this app had attracted new customers and/or had an impact on wagering revenue.
- In the spring of 2019, Ontario Racing entered into an arrangement with the Daily Racing Form such that all Ontario racetracks are now referenced in the form. The Daily Racing Form is a newspaper that publishes the past performances of racehorses as a statistical service for bettors on horse racing in North America. The campaign is designed to increase exposure of Ontario's harness tracks. We were told that this initiative is only one element of the overall remote strategy and therefore could not be directly correlated to an increase in remote wagering.
- In 2018, Ontario Racing established a Customer Advisory/New Products, Technology & Revenue Committee, to engage with the OLG and the full industry on how new lottery and gaming concepts can work for the betterment of Ontario's entire horse racing sector. A member of the OLG is expected to participate in this Committee in 2021/22 to better integrate the OLG's plans with the Committee's objectives. This Committee's goals for next year include working with the OLG with respect to potential new products, and encouraging cross-promotion among the tracks via marketing and social media in an effort to work together to increase the customer base.

## Oversight by the Alcohol and Gaming Commission of Ontario is Reactive Rather Than Proactive

### Recommendation 4

*In order to provide comprehensive and efficient oversight of the racing industry, we recommend that Alcohol and Gaming Commission of Ontario (AGCO):*

- *conduct proactive oversight on racetracks on a regular basis;*

**Status: Little or no progress.**

### Details

We found in our 2019 audit that over the past five fiscal years, AGCO had conducted accountability reviews at only five racetracks and governance audits at only two racetracks of the 15 racetracks in Ontario. An accountability review looks at compliance with terms and conditions contained in the licence to operate a racetrack, whereas a governance audit looks at the overall effectiveness of the racetrack's governance structure and processes and controls related to revenues, expenditures, cash management and financial reporting cycles. At that time, the AGCO told us it only performed audits or investigations in response to allegations made against a racetrack.

During our follow-up, we were informed that the AGCO had not conducted any audits in the 2020/21 fiscal year due to the COVID-19 pandemic. As of August 2021, we noted that AGCO had conducted audits at three racetracks (Fort Erie, Haiwatha and Western Fair). Although the AGCO told us it uses a risk-based audit approach, eight out of 15 racetracks have not been audited by the AGCO since at least 2016. Even when using a risk-based approach, best practices would expect that each racetrack be audited on a more frequent periodic basis.

- *follow up on deficiencies noted during audits or investigations to ensure corrective action has been taken.*

**Status: Fully implemented**

## Details

We found in our 2019 audit that AGCO had followed up to confirm that corrective action had been taken to address the deficiencies noted during only one of the two governance audits conducted in the last five years.

During our follow-up, we noted that the AGCO had performed follow-up audits in 2020/21 at three racetracks. Two of the follow-ups were intended to determine whether corrective action had been taken to address deficiencies identified in audits conducted in 2017 at Ajax Downs and Hanover Raceway. The third follow-up was of a 2018 audit of Woodbine.

For one racetrack, the audit followed up on six of the seven recommendations, as one recommendation related to the reporting of interest income earned on funds provided by the government and was considered the oversight responsibility of OLG. For the items followed up by the AGCO, all deficiencies noted in 2017 were assessed as fully addressed. However, the follow-up audit made four additional recommendations for further improvements.

For another racetrack, AGCO found that 47% of deficiencies were fully addressed, 33% were either addressed with exceptions or with improvement opportunities, and 7% had not yet been addressed. An additional 13% of deficiencies were no longer applicable.

For the third racetrack, AGCO found that 87% of deficiencies were fully addressed, 7% were partially addressed and another 7% had not been addressed.

## Some Stakeholders Raised Concerns as Future Funding Decisions Shift from Province to Industry

### Recommendation 5

*To ensure all parties to the horse racing industry are fairly represented, we recommend that the Ontario Lottery and Gaming Corporation periodically review feedback from members of Ontario Racing and the industry regarding the composition of the Ontario Racing Board and nominee selection processes, to assess*

*the ongoing effectiveness of the Board and take corrective action if necessary.*

**Status: Little or no progress.**

## Details

In our 2019 audit, we reported that for the first two years of the 19-year funding agreement that began on April 1, 2019, all 15 racetracks would be funded, as determined by the OLG. After that time, the decision on how funds are to be allocated and which tracks would be funded, would transfer to Ontario Racing (a private industry association). This association is supported by Ontario Racing Management, which is a subsidiary of the Woodbine Entertainment Group (Woodbine). At the time of our audit, Woodbine, which is the largest player in the industry and holds the only wagering permit in Ontario, was generating about 90% of the industry's wagering revenues and was paying out over 70% of the purses in Ontario. Although OLG structured Ontario Racing to have representation across all levels of racetracks and all breeds of racehorses, Woodbine has two of the 11 seats on the Board, and some stakeholders we spoke with at the time were concerned that Woodbine had too much influence over key decisions made by Ontario Racing. At the time of our audit, the Ontario Racing Board had yet to make any substantive funding decisions. Therefore, it was difficult to assess the Board's effectiveness and whether all parties to the horse racing industry continued to be fairly represented.

During our follow-up, the OLG informed us that Ontario Racing had considered issuing a member's survey in the summer of 2020 to collect feedback and suggestions with respect to our audit recommendation, but the survey was not conducted due to COVID-19. According to the OLG, staff in Ontario Racing Management were unable to conduct the survey because they were focused on implementing pandemic protocols. Since surveys can be done electronically, we believe it was possible to conduct a member's survey during COVID-19. In its 2021/22 business plan, Ontario Racing stated that one of its initiatives for the year is to conduct an effectiveness

assessment and consult with the industry directly to ensure the organization is meeting the expectations of its primary stakeholders.

In addition, the OLG told us that Ontario Racing is planning an initiative to proactively assess the effectiveness of the Ontario Racing Board. We also noted that in December 2020 the OLG developed a process map of how OLG and Ontario Racing will address industry feedback. The process map indicates that formal complaints or concerns can be received by the either the OLG, Ontario Racing or Ontario Racing Management. It further indicates that the OLG will work with Ontario Racing and Ontario Racing Management to address concerns raised about the Ontario Racing Board structure and/or specific individuals on the board, and determine if changes to the Ontario Racing Board structure or individual representation is needed.

We would expect the OLG to independently review feedback from the industry and assess the effectiveness of the Ontario Racing Board to avoid any conflicts or undue influence from Ontario Racing Management and its board.

## Public Reporting by Industry

### Recommendation 6

*In order for the horse racing industry to be transparent with horse people associations and the public, we recommend that the Ontario Lottery and Gaming Corporation work with racetracks to have them publicly disclose information on racetrack operations including wagering revenue and commissions, distribution of the provincial tax reduction, purses paid by racetracks, revenue and expenses related to racing operation separate from other operations, key statistics regarding people working in the industry, and their audited financial statements.*

**Status:** In the process of being implemented by December 2022 – with respect to having racetracks publicly disclose wagering revenue, purses paid and the distribution of the provincial tax reduction by racetrack.

Will not be implemented – with respect to having racetracks publicly disclose revenue and expenses related to racing operations separate from other operations, audited financial statements, and key statistics regarding people working in the industry. The Office of the Auditor General continues to support the implementation of these recommended actions that are needed for public transparency of gaming operators in Ontario, since gambling ultimately remains a provincial responsibility.

### Details

In our 2019 audit we found that there was no public reporting of gross wagers collected and wagering commissions by racetrack, how the provincial tax reduction on wagering was shared between the various racetracks and horse people, purses paid by racetracks, revenue and expenses related to racing operations separate from other operations, and key statistics regarding people working in the industry.

In our follow-up, we found that between February and April 2021 OLG held meetings with representatives from Ontario Racing, Ontario Racing Management and the Woodbine Entertainment Group to discuss possibilities related to this recommendation and to make suggestions to increase transparency. The parties agreed that public disclosure of racing-related revenue and expenses is commercially sensitive and therefore, they were unwilling to require racetracks to publish audited financial statements or have Ontario Racing disclose on its website information about wagering commissions. Instead, the parties decided to have racetracks publish an annual corporate responsibility report. However, at the time of our follow-up, the contents of such a report were unknown because a template for the corporate responsibility report had not yet been developed.

Regarding our recommendation that the distribution of the provincial tax reduction be disclosed by racetrack, the parties felt this would be captured as part of the Horse Racing Pari-Mutuel Tax Reduction Reform initiative, which is working on developing a new Memorandum of Understanding for how the provincial tax reduction on wagering is to be managed

among industry parties. At the time of our follow-up, the timeline for this initiative was unknown.

Regarding our recommendation to report key statistics regarding people working in the industry, OLG plans to report this figure when it releases its Economic Impact Study. (The date of release is to be coordinated with the Ministry of Finance). At the time of our follow-up, the timeline for the release of the study was not known.

The amended long-term funding agreement in draft form, previously mentioned in **Recommendation 2**, includes amendments that:

- allow the public disclosure of wagering revenue by racetrack on OLG's website;
- require the public disclosure of purses paid by racetracks on Ontario Racing's website on a quarterly basis; and
- require the public disclosure of the Corporate Responsibility Report on each racetrack's website on an annual basis.

OLG expects these amendments to be in place by December 2022, pending approval by the Ministry of Finance.

### Recommendation 7

*To ensure the transparency of salaries paid in the horse racing industry, we recommend that the Ontario Lottery and Gaming Corporation continue, under the new funding agreement, to require Ontario Racing Management and the racetracks that receive government funding to publicly disclose the names and salaries of employees making over \$100,000, similar to the terms under the previous funding agreement.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation, given the industry's dependency on provincial taxpayer dollars for financial sustainability.

### Details

In our 2019 audit, we reported that, because the long-term funding agreement that came into effect in 2019 is a commercial agreement rather than a transfer payment agreement, it was not subject to the *Public Sector Salary Disclosure Act*. As a

result, racetracks were no longer required to publicly disclose the names and salaries of employees making over \$100,000. We noted that in 2018, 69 racetrack employees made over \$100,000 – most were employees of Woodbine and three made over \$350,000 each.

During our follow-up, we were informed by the OLG that it would not be implementing this recommendation. OLG told us that all parties to the long-term funding agreement (including Ontario Racing, Ontario Racing Management and the Woodbine Entertainment Group) agree there is no legislative authority that can be applied to the agreement to compel Ontario Racing to require Ontario racetracks and their private sector employees to disclose annual salaries of more than \$100,000. It further told us, the legal advice it received was that since the racetracks are not counterparties to the agreement, each racetrack employee would need to provide written consent for this to be implemented. Should one employee object, the value in publishing the rest is diminished and likely to lead to objections by multiple employees and poses potential legal risks.

### Recommendation 8

*In order to increase confidence through greater transparency, we recommend that the Ontario Lottery and Gaming Corporation require racetracks to publicly provide wagering take-out and payout information by pool.*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation to increase transparency in provincially subsidized gambling.

### Details

We found in our 2019 audit that none of Ontario's racetracks publicly report the amount collected through bets, the amount paid out to winning bettors, or the amount won per bet for each betting pool. Racetracks are only required to disclose to bettors their take-out percentage (that is, the percent of gross commissions racetracks keep for themselves from wagering).

During our follow-up, we found that OLG staff had met with a representative from the Canadian Pari-Mutuel Agency (CPMA) to discuss our recommendation, because the regulation dealing with the disclosure of wagering take-outs and payout information is currently under the jurisdiction of the CPMA. Among other things, the OLG asked the CPMA to “identify potential public reporting enhancements of pari-mutuel wagering take-out and payout information with implementation of any amendments to disclosure requirements being consistent with the federal regulations.” The OLG informed us that the CPMA is satisfied that the current provisions are fulfilling their intended objective of providing assurances that take-out rates and other pool-related information are available to the betting public, and therefore OLG will not take any further action.

However, our recommendation is intended to increase reporting beyond CPMA requirements, in order to increase transparency for an industry that is heavily supported by public funds. Without such increased reporting, Ontarians don’t know how much each racetrack in Ontario collects through bets, pays out to winning bettors or the amount won per betting pool.

## Concerns over Money Laundering in the Horse Racing Industry

### Recommendation 9

*In order to reduce the risk of money laundering at racetracks, we recommend that the Alcohol and Gaming Commission of Ontario and the Ontario Lottery and Gaming Corporation work with racetracks to:*

- *collect and monitor all suspicious transactions, including withdrawals over \$10,000 along with the necessary supporting documentation;*

**Status:** Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation, given the industry’s dependency on provincial taxpayer dollars and a need for stronger provincial oversight.

### Details

During our 2019 audit, we reported that the federal government had not placed any money-laundering reporting requirement on racetracks to help detect and prevent money laundering in the horse racing industry. Since Woodbine is the only race-track licenced to conduct pari-mutuel wagering in Ontario (that is, it collects bets for all racetracks in the province), we reviewed its money laundering controls. We noted that Woodbine’s wagering managers were required to sign-off on cheques over \$10,000 and ensure the money was generated from winning wagers. However, in our 2019 audit we noted that for cheques over \$10,000 generated through online wagers for the period January 1, 2018, to July 31, 2019, no supporting documentation of the winning bets was attached. For cheques to people who placed their bets in person, Woodbine retained supporting documentation for less than half.

During our follow-up, both the Alcohol and Gaming Commission of Ontario and the OLG told us that they would not be implementing our recommendation, because the determination of whether a particular sector should be designated as a regulated entity for the purpose of money laundering, and in turn, subject to monitoring and reporting responsibilities, is a federal responsibility. As was the case at the time of our 2019 audit, the horse racing sector is not subject to federal legislation entitled, *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. We note that this act does not provide the federal government exclusive jurisdiction over the monitoring of suspicious monetary transactions. Therefore, it does not prohibit other levels of government, for example, the province through the AGCO or OLG, from monitoring suspicious transactions at racetracks.

Nevertheless, in May 2021 the AGCO held a virtual Anti-Money Laundering Seminar, which was attended

by many racetrack executives and personnel in Ontario. Presentations were made by representatives from the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), the Canadian Pari-Mutuel Agency, the Alcohol and Gaming Corporation of Ontario (AGCO) and the Ontario Provincial Police within the AGCO, in order to build awareness and encourage an increased focus on the risk of money laundering in the horse racing industry.

- *report the information to law enforcement, where necessary.*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation, given the industry's dependency on provincial taxpayer dollars and a need for stronger provincial oversight.**

### Details

We found in our 2019 audit that during the period January 1, 2018, to July 31, 2019, Woodbine had identified only one potential money laundering transaction for \$100,000, which it reported to the subcommittee of its Board, but not to law enforcement.

During our follow-up, the ACGO and OLG informed us that they would not be implementing this recommendation. The reason provided by the AGCO, was that “the federal government maintains sole jurisdictional responsibility for establishing and maintaining the national anti-money laundering regulatory regime, which includes the jurisdiction to determine which industries will be designated and, thereby, mandated to report eligible transactions to FINTRAC and, ultimately, law enforcement.”

## Chapter 1

### Section 1.13

Ontario Lottery and Gaming Corporation

# Technology Systems (IT) and Cybersecurity at Ontario Lottery and Gaming Corporation

Follow-Up on VFM Section 3.13, *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	1				
Recommendation 2	1	1				
Recommendation 3	2	2				
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 6	2	2				
Recommendation 7	2	2				
Recommendation 8	1	1				
Recommendation 9	3	3				
Recommendation 10	2			2		
Recommendation 11	1		1			
Recommendation 12	3	1		2		
Recommendation 13	1	1				
Recommendation 14	2		1	1		
<b>Total</b>	<b>23</b>	<b>16</b>	<b>2</b>	<b>5</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>69</b>	<b>9</b>	<b>22</b>	<b>0</b>	<b>0</b>

### Overall Conclusion

The Ontario Lottery and Gaming Corporation (OLG), as of June 30, 2021, has fully implemented 69% of the actions we recommended in our *2019 Annual Report*. OLG has made progress in implementing an additional 9% of our recommendations.

OLG has fully implemented recommendations such as reviewing vendors' performance regularly by establishing appropriate performance indicators, monitoring performance in accordance with their service-level agreements and taking appropriate action when targets are not met; regularly performing penetration testing of all critical IT systems; reviewing

and where needed updating its definition and classification of personal information annually; ensuring that data is disposed of according to the requirements of the *Freedom of Information and Protection of Privacy Act*; and implementing a project management framework that tracks, monitors and reports on all IT projects on a timely basis.

Recommendations that OLG was in the process of implementing include reviewing its software source code for the iGaming and casino IT systems in accordance with industry best practices and auditing casino operators' performance of their IT responsibilities on a periodic basis to assess their compliance with contractual and regulatory requirements.

OLG has made little progress on 22% of the recommendations. These include recommendations related to cybersecurity and continuity of its operations, and to its Internal Risk and Audit Division's formal review of external audit reports of casinos, including reviewing and updating its information security standards to specify how casinos are to protect personal information—for example, with encryption of personal information; ensuring that all casinos deliver their established formal training programs for their staff to reduce the risk of successful cyberattacks; establishing a comprehensive disaster recovery plan to be approved and tested on an annual basis for its entire IT environment; and reviewing external audit reports to identify IT risks impacting OLG's business operations and confirming that corrective action has been taken. Implementing robust cybersecurity controls is more critical than ever to prevent and mitigate security threats in an efficient manner in response to increasing cyberattacks during the COVID-19 pandemic.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Ontario Lottery and Gaming Corporation (OLG) is responsible for conducting and managing the following four lines of business: province-wide

lottery games (lottery), PlayOLG.ca Internet gaming (iGaming), charitable gaming centres (cGaming), and 28 casinos operating in Ontario.

OLG develops and maintains the IT systems for its lottery games. However, IT systems for iGaming, cGaming and casinos are owned by IT vendors and used by OLG in accordance with licensing agreements. OLG oversees the operations of iGaming and cGaming and also oversees the casinos, but organizations under contract to OLG (that is, casino operators) manage the casinos' day-to-day operations.

Although OLG also administers the Ontario government's funding program for horse racing, the IT systems specifically used for the horse-racing industry are operated by private-sector operators.

OLG is regulated by the Alcohol and Gaming Commission of Ontario, which has set the minimum age for gambling at 19 and is responsible for testing the design of OLG's games for the games' integrity and ensuring that players receive a fair payout.

OLG contributed about 39% of the total \$5.9 billion in non-tax revenue generated in 2019/20 (45% of \$5.47 billion in 2018/19) by provincial government business enterprises, such as the Liquor Control Board of Ontario, Ontario Power Generation Incorporated, Hydro One Limited and the Ontario Cannabis Retail Corporation.

In the past five years, OLG paid \$728 million to 68 IT vendors (\$651 million to 68 IT vendors from 2013/14 to 2018/19) that provided critical IT services to support its business operations. Any interruption to OLG's lines of business had the potential to reduce the province's revenue and impact OLG's gaming customers' experience.

The following were some of our significant findings:

- OLG needed to strengthen its oversight of IT vendors so that they delivered services and safeguarded customer information more effectively and in accordance with the performance expectations in their contracts.
- OLG did not thoroughly review IT vendors' performance upon contract renewal to assess whether

the vendor had met OLG's performance expectations under its previous contract.

- Although OLG conducted regular vulnerability assessments, OLG had not regularly performed security tests, such as penetration testing for its lottery and iGaming lines of business, to further identify potential vulnerabilities.
- Personal information of OLG customers was encrypted to prevent external access to it; however, seven OLG employees had access to the information in an unencrypted form, which increased the risk of customers' personal information being read for inappropriate purposes. In addition, we found that two casinos did not comply with OLG information security standards and did not encrypt OLG customer data within their IT systems.
- There were opportunities to strengthen cybersecurity practices in the IT systems used in casinos, lottery and iGaming. For example, although OLG had contracted with an external IT vendor to assess the technical controls behind the random number generator for its lottery system and evaluated the software formula to confirm that the system was able to generate suitable random numbers, we noted that OLG did not review the software source code for cybersecurity weaknesses using industry best practices.
- OLG had not developed and tested a comprehensive disaster recovery strategy for its entire IT system environment. Although there were disaster recovery strategies developed and tested for IT systems for each individual line of business, we noted that OLG did not have a comprehensive strategy that incorporated all IT systems cohesively, even after it had a significant event occur that should have triggered OLG to prepare one.
- OLG had initiated major IT projects across various lines of its business. OLG had implemented 33 IT projects within budget between 2013/14 and 2018/19; however, the remaining 11 had been over budget (\$91 million sampled over a total of

\$232 million spent), with delays and cost overruns of over \$10 million.

We made 14 recommendations, consisting of 23 action items, to address our audit findings.

The Ontario Lottery and Gaming Corporation committed that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted our follow-up work between March 2021 and August 2021 for the Ontario Lottery and Gaming Corporation (OLG). We obtained written representation from OLG that effective November 22, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### OLG Not Always Thoroughly Measuring and Monitoring IT Vendor Performance, which Can Impact Customer Experience

#### Recommendation 1

*To improve oversight of the quality of the services provided by IT vendors, we recommend that Ontario Lottery and Gaming Corporation establish appropriate performance indicators and targets to be incorporated in all service-level agreements, monitor performance against the targets and, where necessary, take the necessary action to correct any concerns.*

**Status:** Fully implemented.

#### Details

In our 2019 audit, we found that OLG's oversight over its IT vendors could be improved. In order to enforce vendor accountability and ensure IT system service quality expectations are clearly understood and met, performance indicators—such as for service availability, system capacity and IT incident resolution time—should be included in vendor

contracts. We found that three of the 10 contracts for IT vendors that we reviewed did not have the necessary performance indicators within their service-level agreements. As such, OLG did not have a contractual mechanism for tracking vendor accountability in meeting service quality.

In our follow-up, we noted that in July 2020, OLG updated its current standard contract process by incorporating a new contract template (titled as “Support and Service level Agreement”) to ensure that appropriate performance indicators and expectations or achievement rates, along with monitoring interval (i.e., monthly or quarterly), are set forth for IT services procured at OLG. In addition, OLG strengthened its procurement division to have skilled resources to improve oversight for IT procurement management, including the development of requests for proposals and negotiation of requirements and expectations of proposed vendors.

### Recommendation 2

*To improve oversight of IT vendors, we recommend that Ontario Lottery and Gaming Corporation review vendors’ performance regularly in accordance with their service-level agreements and take appropriate action when targets are not met.*

**Status: Fully implemented.**

### Details

Our 2019 audit found that the vendors of three IT systems to casinos—Omnigo (facial recognition), NRT (cash handling), and Avatar (the prevention of money laundering)—were not effectively monitored by OLG in accordance with their service-level agreements. For example, according to the service-level agreements, monthly and quarterly performance meetings should be taking place between OLG managers and the IT vendors. We found that OLG had not been holding meetings with these vendors or obtaining performance reports to know whether service standards were met.

In our follow-up, we found that, in March 2020, OLG implemented an IT vendor classification framework and scorecards with performance targets to properly manage technology vendors. In addition, OLG performed a review of its third-party

management process to provide a recommendation document so that it can further improve the overall framework for the enterprise-wide vendor management process. We further reviewed the IT vendor classification framework and performance scorecards in accordance with their service-level agreements, along with the sample selection, and noted that OLG established consistent criteria to classify IT vendors and review and follow up on vendors’ performance for corrective actions. Refer to **Recommendation 3** and **Recommendation 4** for more details.

### Recommendation 3

*To enable the appropriate classification of IT vendors and enable them to be subject to the appropriate level of oversight, we recommend that Ontario Lottery and Gaming Corporation:*

- *establish consistent criteria for classifying existing and new vendors when it initiates contracts with them, using the selection factors identified by industry best practices;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that although OLG has three vendor categories (strategic, tactical or commodity) and guidelines associated with them, there was no consistent approach for determining a vendor’s classification. We noted that the classification was subjective and based on OLG IT operations’ perception of its vendors. For instance, according to the vendor categories and guidelines, every IT vendor with an annual contract value of \$1 million or more is to be classified as strategic; however, we found that 13 of the 51 vendors classified as tactical (25%) were paid over \$1 million each year in the past five years. As a result of being classified as tactical, these vendors were subject to less oversight—being reviewed quarterly instead of monthly.

In our follow-up, we found that in December 2019, OLG implemented a Technology Vendor Classification framework to properly classify and manage technology vendors as per the significance of service they

provide to OLG. Prior to implementing the Technology Vendor Classification framework, OLG analyzed and incorporated industry best practices into the framework, including the Gartner vendor segmentation model/toolkit and Institute of Internal Auditors' IPPF Guide. We also noted that the responsible vendor integration (or IT) managers conducted their assessment by category (i.e., financial risks, significance of their operations to OLG's reputation, size of their contracts and the type of services they provide to OLG operations) with associated scoring criteria to ensure a consistent review process.

- *review vendors' classifications at least annually and also when any significant changes to vendor operations occur.*

**Status: Fully implemented.**

#### Details

Our 2019 audit found that OLG did not review vendors' classifications on a regular basis to ensure that IT vendors are subject to proper oversight based on their classifications.

In our follow-up, we found that the vendor integration managers reviewed the Technology Vendor Classification framework to identify any changes required to existing technology vendors or their lines of services to ensure vendor ratings are based on the evaluation criteria. OLG completed its first annual vendor classification review in December 2020. We noted that 43 out of 163 technology vendors (26%) had their classification revised from their classification as of December 2019 based on the review performed (i.e., strategic, tactical or commodity) during the annual review in December 2020.

#### Recommendation 4

*To continually confirm the importance of IT vendors meeting their contractual performance commitments, we recommend that Ontario Lottery and Gaming Corporation track vendors' performance and collect the payments specified in the service-level agreements.*

**Status: Fully implemented.**

#### Details

Our 2019 audit found that four of the 10 IT vendors we selected to review had a clause in their service-level agreements requiring them to pay a penalty to OLG if they did not provide IT services in accordance with their service-level agreements. We noted that two out of the four vendors in our sample missed their performance targets, but OLG did not enforce the penalty payment. When OLG does not enforce this requirement, its vendors may have less incentive to reach their performance targets.

In our follow-up, we found that OLG defined and incorporated the vendors' performance metrics (KPIs) into scorecards for regular monitoring and reporting on strategic vendors' performance. OLG also updated its existing procedures to enforce service credits or penalties for vendors where penalty clauses were included in their contracts. When performance targets are not achieved against the defined Service Level Agreement (SLA) in the respective contract, the vendor is to provide service credits or penalties subject to the contract terms. In addition, OLG implemented the Technology Vendor Management (TVM) process and training program that outlined the vendor integration manager's roles and responsibilities to ensure consistent oversight over various technology vendors.

#### Recommendation 5

*To have a reliable backup for its primary Internet provider to help assure continuity of its business operations, we recommend that Ontario Lottery and Gaming Corporation analyze the costs and benefits of acquiring a secondary Internet provider.*

**Status: Fully implemented.**

#### Details

Our 2019 audit found that Rogers Communications is the sole provider of Internet network connectivity to all lottery retailers in Ontario and is OLG's primary Internet connectivity provider. In a scenario where Rogers is experiencing a province-wide outage, OLG does not have a backup Internet provider to support its day-to-day operations.

In our follow-up, we found that OLG performed an assessment to analyze the associated costs and benefits of acquiring a secondary Internet provider to improve continuity of its business operations and minimize the impact of network outages. We noted that OLG conducted a trend analysis for the last four years (2017 to 2020) relating to retailer network availability and the time to repair outages. From the OLG analysis, we noted that incidents at retail locations had been reduced to fewer than two times per retail location in 2020 and that the service-level agreement (SLA) targets for the network availability and time to repair outages at retail location were met in 2020. In addition, OLG analyzed the potential lottery revenue impacts due to outages for the same time period. In consideration of significant incremental costs for a secondary network provider, OLG concluded that the cost would exceed any potential benefits. In addition, OLG performed a benchmark study of other regional lottery corporations across Canada and learned that they did not use a secondary network provider for lottery retailers.

### Recommendation 6

*To improve oversight of IT vendors, we recommend that before extending or renewing an existing contract, Ontario Lottery and Gaming Corporation:*

- *perform thorough vendor performance assessments on its current vendors;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that OLG extended IT contracts for four out of the 10 IT vendors we reviewed, with cumulative payments ranging from \$1.5 million to \$23.2 million, without thoroughly evaluating the vendors' performance. Effective governance over IT procurement and contracts requires that the overseer assess vendor performance—using tools such as performance scorecards, service and product quality reports, issue and problem logs and risk ratings—prior to renewing key IT contracts. Such assessments provide assurance to organizations that

the vendors successfully provided goods and services in accordance with the agreements.

In our follow-up, we found that OLG improved the IT vendor contract renewal process by revising the renewal management procedures along with roles and responsibilities for key stakeholders, ensuring vendor performance assessment was conducted regularly, and offering procurement training for key stakeholders such as contract owners, vendor integration managers and procurement specialists. Refer to **Recommendation 4** for more details. In addition, OLG has implemented a new feature related to renewal management activity in the contract management IT system (ContractHub) to allow Procurement to initiate renewal activities with contract owners, including evaluating active contracts and capturing vendor performance reviews from business units.

- *improve the existing procurement process by assessing whether a new tender for service is more appropriate than extending or renewing its contracts.*

**Status:** Fully implemented.

### Details

In our follow-up, we found that OLG improved the existing procurement process so that it now requires a business case (cost and benefit analysis) for evaluating whether a new tender for service is more appropriate than extending or renewing its existing contract. We reviewed a sample of an assessment conducted for the existing software that provides a service to OLG so that it can share files securely with external parties. As per the assessment performed by the OLG IT Solution Delivery team, we found that OLG's IT was advised to explore other options based on the solution assessment as part of its cost and benefit analysis. As a result, OLG IT decided to leverage the existing system which had the file-sharing capability instead of renewing the contract.

### Recommendation 7

*To strengthen oversight of IT vendors, we recommend that Ontario Lottery and Gaming Corporation (OLG):*

- *clarify and communicate to OLG IT managers their roles and responsibilities for overseeing vendors' compliance with the contractual service commitments in their service-level agreements;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that performance meetings were not taking place as required under the contracts. The 10 managers we interviewed told us that their roles and responsibilities are not well defined and they were not clear about their job requirements in this area. Clarifying their responsibilities is needed to ensure that they hold the performance meetings (by phone or in person) as required in vendors' contracts.

In our follow-up, we found that OLG implemented a Technology Vendor Management (TVM) process and training program that outlined the vendor integration manager's roles and responsibilities and provided guidelines for consistently implementing the TVM process. The TVM process includes detailed accountabilities for vendor managers such as managing technology contract obligations/SLAs, regularly monitoring vendor relationships and performance targets, and ensuring risk management (e.g., Threat Risk Assessments) in order to effectively manage vendor performance.

- *develop guidance for OLG managers on what constitutes effective monitoring of vendor performance.*

**Status: Fully implemented.**

### Details

Our 2019 audit found that information about vendors, such as past vendor contracts, vendor activities, meeting minutes and performance reports, is not stored in the central IT repository or readily available. As a result, we found that OLG managers did not have key information on past trends and activities relating to vendor performance.

In our follow-up, we found that OLG developed and implemented vendor management related

training resources within the corporate training system and that all vendor integration managers are required to complete the training. We noted that OLG obtained an annual attestation from all 52 IT managers that they have completed the training as of June 1, 2021.

## Security over Personal Information of OLG Customers and Employees Can Be Strengthened

### Recommendation 8

*In order for Ontario Lottery and Gaming Corporation (OLG) to more effectively protect itself from the risk of cyberattacks, safeguard personal information, and have continuity of services, we recommend that OLG regularly perform penetration testing of all critical IT systems.*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that although OLG conducts regular vulnerability assessments, OLG had not regularly performed penetration testing to further identify cybersecurity vulnerabilities. Specifically, we noted that its iGaming website, PlayOLG.ca, had not been tested regularly since it was launched in January 2015. We noted that it was last tested in 2016 and 2017. In addition, OLG had not performed a penetration test of the OLG Lottery Mobile App, which was developed by an IT vendor and stores customers' personal information. A potential breach via the app increases the risk that customer data, including customers' names, addresses and telephone numbers, could be compromised.

Since our audit, we found that in June 2020, OLG established a security policy for system vulnerability penetration tests that outlines criteria, assessment scope and scheduling, technical reporting and analysis, and mitigation and re-testing in order to regularly test OLG's critical IT systems. We noted that OLG performed penetration tests of the iGaming website, PlayOLG.ca in August 2020 and in April 2021, and of

the OLG Lottery Mobile App in February 2020 and in April 2021.

### Recommendation 9

*So that personal information is safeguarded against breaches, we recommend that Ontario Lottery and Gaming Corporation:*

- *encrypt all personal information and restrict access using industry best practices;*

**Status: Fully implemented.**

### Details

Our 2019 audit found that OLG collects the personal information of customers for business purposes and regulatory compliance. The information is stored in OLG databases and is encrypted to prevent attackers from accessing it. However, we found that, at the time of our audit, OLG had seven employees who had unrestricted access to databases that hold all OLG's customers' confidential information. This is not in line with best practices for security. Best practices would require a system privilege account (such as a Firecall ID) instead of these seven individual privileged accounts. A "Firecall ID" is a method established to provide temporary and monitored access to sensitive and secured information.

In our follow-up, we found that OLG's Data Protection Policy includes that sensitive information assets, including personal information, must be safeguarded from unintentional disclosure by applying encryption techniques which will safeguard the information as it is stored, transmitted, or in use. We noted that OLG encrypted all personal information stored in the in-scope systems as recommended in our 2019 audit and implemented security controls such as the user and network access control to monitor and log privileged database administrators' access to such information.

- *review and where needed update its definition and classification of personal information annually;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we also found that OLG has an overly narrow definition of personal data, so the personal information collected at casinos that does not meet this narrow definition is not safeguarded to the same extent as the personal information that does meet the definition. For example, OLG uses IT systems at casinos to identify restricted players: the IT system captures their images in photographs and compares them to a database of restricted players. These photographs are converted to mathematical formulae that are not classified as personal information by OLG. However, the Information and Privacy Commissioner of Ontario advised us that these mathematical formulae describing a person's facial geometry should be considered personal information.

In our follow-up, we found that OLG implemented the Protection of Privacy Policy in April 2020. The policy outlines the definition and classification of personal information and reporting of privacy breaches and issues, as well as roles and responsibilities of key stakeholders at OLG. The Protection of Privacy Policy specifies that the definition of personal information is to be reviewed on an annual basis. We also noted that OLG issued a communication about the new policy to all OLG employees, focusing on employees' responsibilities to comply with the policy requirements for protecting personal information.

- *ensure that data is disposed of according to the requirements of the Freedom of Information and Protection of Privacy Act.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the personal information of OLG's customers is within the purview of the province's *Freedom of Information and Protection of Privacy Act* (Privacy Act). The Privacy Act requires that OLG must maintain a record of the types of personal data it disposes of and the date of disposal. However, we found that OLG's IT division does not maintain such a record for its disposal of the personal information of lottery players and casino customers.

In our follow-up, we found that OLG updated the archiving system so that it now keeps records of the types and dates of disposed personal data. OLG also provided training to the personnel who have the custody of personal data to educate them about their accountabilities, including the Privacy Act compliance requirements. We reviewed data deletion logs from January to February 2021 and noted that OLG had maintained records of the date, incident ID, type, who requested the deletion and reason for disposed personal data.

### Recommendation 10

*To be compliant with its own standards, we recommend that Ontario Lottery and Gaming Corporation (OLG):*

- *review and update its information security standards to specify how casinos are to protect personal information—for example, with encryption of personal information;*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that casinos are contractually required to store OLG's customer information in accordance with OLG's information security standards. However, we found that the standards state only that the casinos must protect the information, but are silent on how that needs to be accomplished. When we visited two casinos, we found that neither casino encrypts OLG customer data within its IT systems.

At the time of our follow-up, we found that OLG has not taken sufficient measures to ensure that casino operators protect personal information by applying safeguards such as encryption. We were informed by OLG that due to the COVID-19 pandemic, Ontario casinos have been closed since March 2020. As a result, casinos have limited number of staff to support their operations, resulting in delays for implementing encryption of personal data. OLG will work with each casino operator to define a roadmap, by June 30, 2022, for achieving full compliance with encryption requirements for personal information.

- *ensure that all casinos deliver their established formal training programs for their staff to reduce the risk of successful cyberattacks.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found that a data breach occurred in November 2016, when Casino A was hit with a cyberattack during which customer and casino employee data was stolen. OLG and the Office of the Information and Privacy Commissioner of Ontario indicated that the incident was due to a phishing email sent to Casino A employees resulting in the theft of approximately 14,000 records, including financial reports, customer credit inquiries, collection and debt information, and payroll and other data. Following the Casino A incident, OLG strengthened existing provisions in the agreements with its casino operators to ensure that data breaches are addressed and reported to OLG in accordance with OLG's information security practices. However, OLG has not confirmed that casinos are providing guidance to their employees, on an ongoing basis, to prevent a similar incident from occurring. We also noted that two more phishing attacks have happened since then. These two incidents were similar to the Casino A incident, where employee awareness of these suspicious emails could have prevented the incident.

At the time of our follow-up, we noted that OLG has made little or no progress in ensuring that all casino operators deliver information security awareness training to their staff on an annual basis. This has been delayed due to the closure of Ontario casinos and limited number of casino personnel to support their operations during the COVID-19 pandemic. OLG has drafted the minimum guidelines for an information security awareness program to clarify and strengthen specific requirements for the casino operators. OLG will communicate the requirements to the casino operators by October 30, 2021, and plans to implement the recommendation by June 30, 2022.

## Additional Steps Could Be Taken to Further Reduce Cybersecurity Risks for Lottery, Casino and iGaming Systems

### Recommendation 11

*To improve the security over the generation of lottery numbers and identify cybersecurity weaknesses in the iGaming and casino IT systems, we recommend that Ontario Lottery and Gaming Corporation review its software source code in accordance with industry best practices.*

**Status:** In the process of being implemented by December 2021.

### Details

In our 2019 audit, we noted that OLG's IT team does not review the software source code of the critical IT systems that are used for its lottery, iGaming and casino operations. Software source code consists of instructions written by a programmer that can be read by humans. Although the software source code from iGaming and casinos is reviewed by the vendor supporting these IT systems, OLG does not follow the industry best practice of identifying cybersecurity weaknesses by either performing an independent review of software source code or ensuring that vendors diligently perform such reviews.

In our follow-up, we found that OLG has updated the System Development Life Cycle (SDLC) process to designate source code reviews as mandatory. OLG is in the process of finalizing the software source code policy to define source code review requirements and by selecting a software tool to achieve the source code review requirements. OLG plans to finalize and implement the policy with the software analysis tool by December 31, 2021.

## Comprehensive Disaster Recovery and Testing Strategy Needed

### Recommendation 12

*To manage risks to key information technology systems at Ontario Lottery and Gaming Corporation (OLG), we recommend that OLG:*

- *establish a comprehensive disaster recovery plan to be approved and tested on an annual basis for its entire IT environment;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that OLG does not have a comprehensive disaster recovery plan that incorporates all IT systems cohesively. This became apparent when OLG experienced a major outage for almost six hours on October 29, 2018, resulting in key IT systems such as the lottery system and the gaming management system being unavailable. We found that a network switch at the Toronto data centre failed at 12:47 p.m., and services were not restored until almost six hours later, at 6:38 p.m. We noted that as of the time of our audit, OLG had yet to develop and test a comprehensive disaster recovery strategy that would allow OLG to recover operations within its set targets.

In our follow-up, we noted that OLG engaged a third-party vendor and conducted a review of strategic technology resilience to incorporate the recommendations in establishing a comprehensive disaster recovery plan. In April 2021, OLG developed the disaster recovery plan working group and plans to implement the disaster recovery plan by December 31, 2022.

- *review its information systems classification on a periodic basis for consistency across OLG and casino IT systems;*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that OLG classifies its 186 systems according to how critical they are to its business operations. The classifications determine

whether a disaster recovery test is required and, if so, how frequently tests should be done and how quickly OLG should be able to recover those systems. We noted that OLG has not reviewed the classifications for its systems to ensure the adequacy of their ability to meet their targeted recovery time is being tested.

In our follow-up, we found that OLG has made little or no progress on reviewing its information systems classification on a periodic basis for consistency across OLG and casino IT systems. OLG plans to implement this recommendation by December 31, 2021.

- *retest the disaster recovery plan for its IT systems following each failed disaster recovery test.*

**Status: Fully implemented.**

#### Details

In our follow-up, we found that OLG implemented a process to keep track of disaster recovery plan tests for its IT systems in December 2020. This process also ensures that when a disaster recovery plan test fails, for example, not meeting the target recovery time in less than four hours or within 24 hours depending on how critical those IT systems are to OLG operations, corrective actions are taken to address the reasons for failure. Upon completion of the corrective actions, OLG schedules and performs retests of the failed disaster recovery plans to make sure they achieve passing results.

## Certain IT Projects Have Experienced Delays in Implementation and About \$10 Million in Cost Overruns

### Recommendation 13

*In order to successfully implement its digital strategy and avoid the risk of delays in implementation and cost overruns, we recommend that Ontario Lottery Gaming Corporation implement a project management framework that tracks, monitors and reports on all IT projects on a timely basis.*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that OLG has implemented 44 IT projects at a cost of \$232 million across its various lines of business over the last five years, such as the introduction of the Internet gaming website PlayOLG.ca (iGaming) and the OLG Lottery Mobile App, and has upgraded key IT systems at casinos and charitable gaming sites (cGaming). OLG implemented 33 IT projects within budget. However, the remaining 11 projects, which accounted for almost half of all IT project expenses over the last five years (\$91 million sampled over a total of \$232 million spent), experienced delays and cost overruns of over \$10 million. We noted that there were multiple factors that contributed to the delays and cost overruns, such as weaker project oversight and monitoring.

In our follow-up, we found that in January 2020, OLG implemented a new project control framework to strengthen oversight that tracks, monitors and reports on IT projects on a timely basis. We reviewed the sample IT project and corresponding supports. We noted that business case, project charter, project implementation plan, project change request and weekly status reports to manage project implementation, as well as post project review, were completed in line with the new project control framework. OLG has also provided project governance training to the Project Management Office staff and key Technology and Finance stakeholders so that they understand

the new project management framework and their responsibilities.

## OLG Internal Risk and Audit Division Not Performing Independent Audits of All Casinos to Reduce IT Risk

### Recommendation 14

*To improve the effectiveness of oversight of IT operations at casinos, we recommend that Ontario Lottery and Gaming Corporation's (OLG's) Risk and Audit Division:*

- *audit casino operators' performance of their IT responsibilities on a periodic basis to assess their compliance with contractual and regulatory requirements;*

**Status:** In the process of being implemented by March 2023.

### Details

We found in our 2019 audit that OLG's Internal Risk and Audit Division had not performed the independent IT audits at all casinos as allowed under the Agreements. The Risk and Audit Division performed only 15 IT audits for the 26 casinos, and these audits had a limited scope. This does not provide sufficient assurance of casinos' compliance with their IT responsibilities under the Agreements.

At the time of our follow-up, we found that OLG developed an Internal Audit Plan to provide assurance over Casino Operators' IT controls and to ensure full coverage of all casino operators as part of a three-year cycle from April 2020 to March 2023. The audit plan also includes IT audit scope such as user access control, security vulnerability management, data protection and user information security awareness programs.

We noted OLG Risk and Audit Division performed the IT audit that covered 11 casinos (39%, out of 28 casinos) in 2021.

- *formally review external audit reports to identify IT risks impacting OLG's business operations and to confirm that corrective action has been taken.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we also found that where audits of casinos were performed by OLG's external auditors, OLG's Internal Risk and Audit Division did not review the audit reports to assess whether the audits identified system weaknesses and risks to IT operations impacting OLG. We reviewed these reports and noted that the audit reports identified weaknesses such as user access concerns and weak security controls for key systems.

Since our audit, OLG's Risk and Audit Division has made little progress in reviewing IT risks identified by casino operators' external auditors to assess the impact on OLG's operations and confirm that corrective actions have been taken. We noted that the external IT audit report performed by OLG's external auditors (KPMG) in the 2019/20 fiscal year was reviewed but the remediation plans were not completely implemented by casino operators. We also noted that OLG received six IT audit reports performed by casino operators' auditors in the 2020/21 fiscal year. Although OLG reviews and follows up the findings from the casino operators' IT audit reports, we noted that OLG did not perform a formal assessment to identify IT risks impacting OLG's business operations.

In addition, we noted that two casino operators (Hard Rock Ottawa and Caesars Entertainment) did not provide any IT audit reports in the 2020/21 fiscal year for OLG's formal review.

# Chapter 1

## Section 1.14

Ministry of the Solicitor General

# Adult Correctional Institutions

Follow-Up on VFM Volume 3,  
Chapter 1, 2019 Annual Report

### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3	1	1	1		
Recommendation 2	2		2			
Recommendation 3	1		1			
Recommendation 4	1		1			
Recommendation 5	3	1	1		1	
Recommendation 6	2	1	1			
Recommendation 7	2	2				
Recommendation 8	2	2				
Recommendation 9	4	2	2			
Recommendation 10	1		1			
Recommendation 11	3		2	1		
Recommendation 12	1			1		
Recommendation 13	3		3			
Recommendation 14	1		1			
Recommendation 15	1		1			
Recommendation 16	1			1		
Recommendation 17	2		2			
Recommendation 18	2	2				
Recommendation 19	3		2	1		
Recommendation 20	2			2		
Recommendation 21	1	1				
Recommendation 22	2		1	1		
Recommendation 23	4		2	2		
Recommendation 24	4	0.5		3.5		
Recommendation 25	1	1				
Recommendation 26	3	3				
<b>Total</b>	<b>55</b>	<b>16.5</b>	<b>24</b>	<b>13.5</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>30</b>	<b>44</b>	<b>24</b>	<b>2</b>	<b>0</b>

## Overall Conclusion

The Ministry of the Solicitor General (Ministry), as of October 29, 2021, had fully implemented 30% of the actions we recommended in our *2019 Annual Report*. The Ministry had made progress in implementing an additional 44% of the recommendations.

The Ministry has fully implemented recommendations such as implementing measures to give inmates incentive to participate in life skills programming, reviewing and updating its initial training on mental health, and developing and providing ongoing training so that front-line staff in correctional institutions are better equipped to effectively supervise inmates with mental health and addiction issues.

The Ministry is also in the process of implementing actions including developing new policies to establish guidelines and processes to help identify and assist inmates in planning for their release, and implementing measures to ease the overcrowding in correctional institutions. As well, the Ministry is working toward finalizing its plans for a treatment centre for women.

However, the Ministry has made little progress on 24% of the recommendations. For example, the Ministry collected documentation that provides information on both work refusals and grievances between the months of September 2020 and February 2021. In March 2021, the local Ministry Employee Relations Committee and Provincial Joint Occupational Health and Safety Committee met and committed to determine strategies to enhance labour relations by exploring how to reduce work refusals and grievances. The parties met again in May 2021; however, no further progress had been made at the time of our follow-up.

As well, little progress has been made on undertaking initiatives to assist remanded inmates reintegrating into the community. This is raised in our 2021 value-for-money audit on Services and Supports to Prevent and Reduce Homelessness. Last, the Ministry indicated that it will not implement our recommendation to review the living units in

all institutions and create new or repurpose existing units to hold inmates requiring specialized care. The Office continues to support the implementation of this recommendation.

The status of actions taken on each of our recommendations is described in this report.

## Background

The purpose of a correctional system is, first, to protect the public from crime, and second, to provide the necessary supports and programming to individuals who continually reoffend so that they can successfully reintegrate into the community and reduce future incarceration and cost to taxpayers.

Our 2019 audit examined whether the Ministry of the Solicitor General (Ministry) was managing the 25 adult correctional institutions to provide the supports for inmates to reintegrate into society and reduce reoffending.

On average during 2020/21, 6,407 adults 18 years and older were in custody every day in the province's adult correctional institutions (lower than the over 7,400 in 2018/19). In 2020/21, the Ministry spent \$928 million to run the institutions (\$817 million in 2018/19). In this report, we use the term "correctional institutions" to encompass jails, detention centres, correctional centres and treatment centres.

In 2020/21, 39,454 individuals (almost 51,000 in 2018/19) were admitted in two main streams:

- sentenced to serve less than two years in a provincial correctional institution; and
- accused of a crime but not yet sentenced or convicted. These individuals, who are remanded inmates, are awaiting bail or trial on charges that, if found guilty of, could result in placement in either federal or provincial custody.

On average, remanded inmates, who comprised 77% of the daily inmate population in 2020/21 (71% in 2018/19), were in custody for 67 days (43 in 2018/19), while sentenced inmates were in custody for 73 days (59 days in 2018/19). Although the number of individuals admitted into correctional

institutions has generally decreased in the last 15 years, the proportion of remanded inmates has increased. The high percentage of remanded inmates can in large part be attributed to delays in the criminal court system (discussed in our *2019 Annual Report Volume 3, Chapter 3: Criminal Court System*).

Our 2019 Adult Correctional Institutions audit also noted that a growing proportion of inmates have had possible mental health issues. Without sufficient staff training and appropriate units to place inmates in, these inmates were often sent to segregation as a result of their behaviour.

Our major observations included the following:

- In 2018/19, 33% of all inmates admitted across the province had a mental health alert on their file—indicating possible mental health concerns—compared with 7% of inmates in 1998/99. We found that most correctional institutions do not have the appropriate facilities to manage these inmates. We also found that front-line staff have not been provided with the necessary training and information about identifying triggers and techniques to de-escalate situations in order to manage these inmates effectively.
- Historically, to deal with overcrowding—largely caused by delays in the criminal court system—the Ministry had increased the capacity of 16 institutions by an average of 81% more than their original capacity when they were built. In most cases, the Ministry did so by adding beds in cells designed to have only one.
- Although it is known that contraband enters correctional institutions, the Ministry had not analyzed the results of contraband searches to understand points of entry. The Ministry estimated that the number of times weapons were found in the 10 years prior to our audit increased by 414% and the number of times drugs and alcohol were found in institutions increased by 136%. Between July 2017 and August 2019, there were 101 overdoses in the 25 correctional institutions. The lack of security screening for staff increases the risk of contraband entering the

institutions through compromised staff—those who have been persuaded or coerced by inmates to bring contraband into the institution.

- The Ministry did not analyze the root causes of violent incidents in correctional institutions to prevent future recurrence. From January 2014 to October 2018, there were about 21,000 recorded incidents across the province, including altercations between inmates and inmates threatening or directly assaulting staff.
- Most inmate information was recorded manually and retained on paper due to deficiencies in information systems. Examples of the information kept manually included healthcare notes, social workers' notes, inmate complaints and requests, search records, and observation records of inmates on suicide watch and in segregation units. The information that was logged electronically was not regularly analyzed by Ministry or institutional management staff to better understand and make informed decisions about the operations of correctional institutions.

We made 26 recommendations, consisting of 55 action items, to address our audit findings. We received commitment from the Ministry that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between May 2021 and August 2021. We obtained written representation from the Ministry of the Solicitor General that effective November 25, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Limited Supports Available to Help Remanded Inmates Reintegrate into the Community

### Recommendation 1

For remanded inmates to have more opportunities to participate in Life Skills programming, we recommend that superintendents in all institutions:

- *require programming staff to meet with inmates upon admission to inform them about appropriate programs based on available information about the inmate;*

**Status:** Little or no progress.

### Details

In our 2019 audit, we noted that the Ministry's Life Skills programming offered sessions that provided general information about topics related to factors that contribute to criminal behaviour such as anger management, substance abuse and gambling. Life Skills programs also included sessions focused on improving lifestyles such as problem solving, managing stress and changing habits. However, we found that program staff did not use available information about the inmates (for example, reasons for current and previous incarcerations and alerts on their files) to identify those who might benefit from particular sessions.

In our follow-up, we found that in January 2021, the Ministry instructed all institutions to document in a plan how they intended to deliver Life Skills sessions to remanded inmates. At the time of our follow-up, 22 of the 25 institutions had submitted action plans. The three institutions that did not submit action plans were the treatment centres that house sentenced inmates only. According to the Ministry, the public health restrictions imposed as a result of the COVID-19 pandemic—for example, limitations on inmate movement within the facility and no group gatherings—prevented institution staff from implementing the plans. The Ministry indicated it would revisit implementing the plans when pandemic-related restrictions are relaxed and

the risk of transmission is low enough to allow for group gatherings.

- *review and implement measures that will give inmates incentive to participate in programming;*

**Status:** Fully implemented.

### Details

In our 2019 audit, we noted that program staff left it up to the inmates to choose which sessions, if any, to attend. The voluntary program participation contributed to low attendance in Life Skills programs.

In our follow-up, we found that in September 2020, the Ministry completed a review of incentives that other Canadian provinces and territories have implemented to encourage inmates to participate in programming. Based on the results of the jurisdictional survey, on May 20, 2021, the Ministry began providing inmates with certificates for attending or completing each session. The certificate includes details about time spent in the program, details of the session, and whether the inmate attended or completed. All 25 institutions agreed that providing a certificate was an incentive. Enrollment was approximately 4,000 men and women in 2020 and additional courses were added due to high demand.

- *review and improve the method of delivering Life Skills programming, including identification of inmates who may benefit from particular sessions, increasing outreach efforts and offering sessions during weekends.*

**Status:** In the process of being implemented by March 2022.

### Details

In our 2019 audit, we noted that efforts to reach out to and educate inmates about available programs were limited to program staff showing up at their units and asking whether anyone wanted to attend the sessions. We also noted that sessions were delivered only during the week, when court hearings were scheduled, and therefore inmates had fewer opportunities to attend.

In our follow-up, we found that 10 of the 22 institutions (not including three treatment centres) had begun offering programming on weekends. The other 12 institutions were still considering adding evening and weekend programming. The Ministry estimates that the remaining 12 institutions will begin offering programming on evenings and weekends by March 2022. The Ministry is also in the process of determining whether conducting individual needs assessments for remanded inmates is feasible. This action was delayed due to staffing shortages during the pandemic.

### Recommendation 2

*For remanded inmates to have increased chances for a positive return to their communities, we recommend that superintendents in all institutions require discharge planning staff to:*

- *collect information about inmates' housing, transportation, employment and other needs in order to identify and actively assist inmates who need help planning for their release; and*
- *proactively initiate discharge planning for remanded inmates.*

**Status: In the process of being implemented by March 2022.**

### Details

We found in our 2019 audit that admissions staff in six of the seven institutions we visited that held remanded inmates did not collect information about inmates' housing, transportation, social assistance, employment and support systems in order to identify how much assistance they would need in order to prepare for their release. Staff collected this information only if an inmate requested their help.

In our follow-up, we found that the Ministry was developing new policies, including a Community Reintegration Plan Checklist to establish guidelines and processes to help identify and assist inmates in planning for their release. In March 2021, Ministry staff sought approval from senior management to delay the rollout of the checklist to coincide with

completing the new policies. Outstanding work includes engagements with front-line staff to identify gaps and best practices within current discharge planning processes. These engagements had been put on hold due to the COVID-19 pandemic. The Ministry expects to finalize its new discharge planning policies and checklist by March 2022.

## Correctional Institutions Face Occupancy Pressures with Overcrowding

### Recommendation 3

*For inmates to be better equipped to make a successful adjustment in the community upon their release, we recommend that the Ministry of the Solicitor General work with the Ministry of the Attorney General to implement measures to look to ease the overcrowding in correctional institutions.*

**Status: In the process of being implemented by March 2023.**

### Details

We found in our 2019 audit that, although the number of individuals admitted into correctional institutions had generally decreased in the previous 10 years, during 2018/19, 56% of the institutions across the province were still operating at over the optimal occupancy rate of 85%.

In our follow-up, we found that in December 2019, the Ministry amended Regulation 778 under the *Ministry of Correctional Services Act* to allow corrections staff to issue temporary absences beyond the current 72-hour maximum. This meant that those serving intermittent sentences who have been granted a temporary absence would not have to report to a correctional facility every weekend.

In addition, the Joint Justice Table—comprising management and staff members from the Ministry of the Solicitor General and the Ministry of the Attorney General—met four times throughout 2020 to discuss strategies to reduce overcrowding in correctional institutions. In 2020/21, the ministries of the Attorney General and the Solicitor General received

approval to begin implementing bail and remand initiatives such as:

- Expanding the “bail vettor initiative” to three new sites including Windsor, Brantford and Thunder Bay (which had demonstrated success in reducing case processing times). A bail vettor is an experienced Crown attorney who helps in bail court to reach bail decisions more quickly in appropriate cases. At the time of our follow-up, the bail vettor initiative was in place for 10 high-volume court systems in which 13 more judges were appointed to the Ontario Court of Justice, and 32 assistant Crown attorneys and 16 duty counsel were added.
- Use of Global Positioning System devices and monitoring as an additional tool for the courts to support bail releases. At the time of our follow-up, 130 accused were on GPS monitoring.
- Implementing a pre-charge consultation pilot project, which involves police consultation with the Crown prior to laying criminal charges. At the time of our follow-up, the pilot project was launched in London, Brantford, Peterborough, Kitchener, Ottawa, Brockville and Sudbury.
- Having a dedicated in-custody case management team at locations with high remand populations and longer in-custody case processing times to expedite disclosure, reduce overall case processing times in immediate high needs areas in Kenora, Thunder Bay, Sarnia, Hamilton and Sault Ste. Marie.
- Depending on the results the Ministry expects the bail vettor initiative and the pilot project on the pre-charge consultation to be fully rolled out by March 2023.

## Correctional Institutions Unsited to Manage Inmates with Mental Health and Related Issues

### Recommendation 4

*To help ensure the best possible outcomes for individuals with mental health and addiction issues who come into conflict with the law, and to help those who come into contact with them, we recommend that the Ministry of the Solicitor General establish a task force with representation from the Ministry of the Attorney General, the Ministry of Health, the Ontario Public Sector Employees Union, and other stakeholders such as non-profit organizations in the areas of mental health and addiction to review and address the impact that individuals with mental health and addiction issues have on the correctional, criminal court and health-care systems.*

**Status:** In the process of being implemented by December 2021.

### Details

We found in 2019 that over 2,600 or 35% of all inmates in custody at the time of our audit had a mental health alert on their file, which is an indicator of mental health concerns. Another 2,500 inmates had an alert on their file indicating they may require specialized supervision due to behavioural issues or violent tendencies. Despite this, there were only three treatment centres in the province that were specifically designed and operated to house inmates with a diagnosed mental illness or who require specialized care or treatment. On average, the 22 remaining institutions had 59 fewer specialized care beds than inmates with alerts.

In our follow-up, we found that the Ministry has established and is engaged in several committees and working groups that address the impact and outcomes that individuals with mental health and addiction issues have on the correctional, criminal court and health-care systems. In 2019, the Ministry developed the Mental Health and Addictions Unit, which comprises staff from the ministries of the Attorney General and the Solicitor General, unions and related professionals. The Unit is responsible for implementing the Corrections Mental Health and

Addictions Strategy, including expanding partnerships with community partners. The strategy aims to:

- improve access to care that is trauma informed, gender safe and culturally safe;
- establish mental health and addictions care pathways;
- establish mental health and addictions inter-professional teams;
- improve mental health and addictions data utilization; and
- improve communication to help provide high-quality mental health and addictions services.

In 2020/21, the Ministry implemented the following priority initiatives:

- increasing the number of dedicated acute care stabilization beds at forensic mental health hospitals (four additional beds for men at St. Joseph's Healthcare Hamilton were implemented in September 2020, and five beds for women were implemented at Ontario Shores in March 2021);
- increasing the number of specialty mental health staff within institutions (mental health nurses and addictions counsellors). As noted in the details in **Recommendation 6**, the Ministry initiated recruitment in November 2020 and expects to complete its final phase of recruitment by December 2021;
- expanding culturally safe mental health and addictions supports in Northern Ontario in partnership with the Kenora Chiefs Advisory for 13 First Nation communities; and
- establishing partnerships with local agencies and Indigenous organizations to provide peer-based mental health and addiction interventions for Community Services.

### Recommendation 5

*So that inmates with mental illness and those who require specialized care are placed in living units appropriate to their needs, we recommend that the Ministry of the Solicitor General:*

- *determine the actual proportion of inmate population in each institution who have mental illness or require specialized care;*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that inmates with mental illness and those requiring specialized care were often placed in segregation, where they were confined in their cells for 22 to 24 hours a day. For example, from April 2018 to April 2019, almost two-thirds of the 664 inmates across the province who were in segregation for over 60 days had a mental health alert on their file. These inmates were segregated for an average of 146 aggregate days during that period.

In our follow-up, we found that the Ministry had implemented an enhanced tracking of verified mental health alerts at all institutions by September 1, 2021 in accordance with a November 2018 Ministry policy. The tracking generates a report that indicates the number of inmates with mental health illness or who require specialized care in each institution at a given point in time. The Ministry has also developed the Placement of Special Management Inmates policy (refer to the second action item of **Recommendation 5** for more details).

- *review the living units in all institutions and create new or repurpose existing units to hold inmates requiring specialized care.*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.**

### Details

We found in our 2019 audit that the shortage of psychiatric beds in the community, and the potential underutilization of mental health courts to divert inmates from correctional institutions, may have

contributed to the increase in inmates with potential mental illness. Despite this, there are only three treatment centres across the province that are specifically designed and operated to house inmates with a diagnosed mental illness or who require specialized care or treatment.

In our follow-up, we found that the Ministry has implemented the Placement of Special Management Inmates policy across all 25 institutions. The policy establishes guidelines for placing special management inmates, defines segregation and defines the provision of Specialized Care Placements for inmates identified as requiring specialized care. Although many institutions have designated areas for specialized care, the Ministry indicated to us that it does not attribute an inmate's placement to a particular living unit as determining the specialized care they will receive. The Ministry indicated that specialized care needs of an individual in custody are very fluid and can change daily; designating a Specialized Care Unit with a set number of beds does not reflect the fluid and changing needs of the individual in custody. The Ministry noted that not having distinct specialized care units also prevents having to transfer an inmate from one unit to another.

The Ministry also noted that the recommendation to conduct time-specific assessments of institutional living units and determine how many of these units provide specialized care will not provide an accurate reflection of the individual specialized care needs due to the fluid nature of specialized care. The Ministry noted that the implementation of the Placement of Special Management Inmates policy has created a responsive and individual approach to inmate care.

*We also recommend that the Ministry of the Solicitor General finalize its plans for the proposed treatment centre for women.*

**Status:** In the process of being implemented by 2022.

### Details

We found in our 2019 audit that the shortage of specialized care beds is particularly significant for women. Despite the higher proportion of women with

mental health concerns, none of the three treatment centres has beds for women with mental illness. In the 15 institutions that house female inmates, nine did not have any beds intended for women requiring specialized care. In 2018/19, an average of 135 women with mental health alerts were admitted into the nine institutions. The other six institutions, to which an average of 379 women with mental health alerts were admitted in 2018/19, have a total of only 48 specialized care beds for women.

In our follow-up, we found that the Ministry has partnered with Ontario Shores Centre in December 2019 to create the province's first dedicated unit to help female inmates at Vanier Centre for Women with acute mental health needs.

The Ministry also has initiated the planning phase with Infrastructure Ontario to expand the St. Lawrence Valley Correctional Treatment Centre by 25 beds to improve mental health services for women who are incarcerated. The project was announced in August 2020. The Ministry expects to issue the request for qualifications to short-listed potential vendors in 2022 and issue the request for proposals in 2023. The estimated timelines have construction beginning in winter 2024.

### Recommendation 6

*So that inmates with mental illness and those who require specialized care are identified and receive appropriate care in a timely manner, we recommend that superintendents in all institutions:*

- *determine the mental health resources required to assess inmates' mental health status within the required time frame and provide appropriate care;*
- Status:** In the process of being implemented by December 2021.

### Details

We found in our 2019 audit that more than half of the institutions did not have access to a psychologist—a clinician who uses behavioural intervention to treat mental health disorders. All 25 institutions had at least one psychiatrist. However, we noted that all psychiatrists were contracted for a specified number

of hours per week. Their availabilities ranged from 12 hours per week to 24 hours per week.

In our follow-up, we found that the Ministry had conducted an assessment in June 2020 of the positions required in corrections; specifically, correctional officers, health-care workers and staff for programming and program support. Based on the assessment, the Ministry has determined that 75 nurse practitioners and 53 mental-health workers are required to assess inmates' mental health status and provide appropriate care. The Ministry initiated recruitment in November 2020 and expects to complete its final phase of recruitment by December 2021.

- *provide the above information to the task force established in **Recommendation 4**.*

**Status: Fully Implemented.**

### Details

The Ministry has informed the committees and working groups (noted in **Recommendation 4**) of the above information. As well, it has informed them of the Placement of Special Management Inmates policy.

### Recommendation 7

*So that front-line staff in correctional institutions are better equipped to effectively supervise inmates with mental health and addiction issues, we recommend that the Ministry of the Solicitor General:*

- *review and update its initial training on mental health; and*
- *develop ongoing mental health training, including training that could be delivered by, for example, the Centre for Addiction and Mental Health.*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that during the eight-week initial training program, new correctional officers receive only three hours of mental health training. The training covers common mental health disorders, symptoms and appropriate responses. In comparison, Correctional Services of Canada provides

14 hours of initial mental health training to new staff. We also found that of the seven institutions we visited that were not treatment centres, none provided additional ongoing mental health training to correctional officers who are primarily responsible for the day-to-day supervision of inmates. The results of our survey of the 17 institutions we did not visit were also consistent with this finding, with 12 of them reporting that they did not provide additional mental health training to front-line staff.

In our follow-up, we found that the Ministry conducted a review of existing training materials and revised the participant workbook in consultation with the Centre for Addiction and Mental Health (CAMH). The curriculum was also adjusted through facilitator and participant feedback. In March 2019, the Ministry entered into an agreement with CAMH to deliver ongoing training. Fifty-one sessions were delivered from October 26, 2020 to January 29, 2021.

### Recommendation 8

*So that front-line correctional staff have the necessary training and information to effectively supervise inmates with mental illness and those who require specialized care, we recommend that superintendents in all institutions:*

- *deliver ongoing mental health training for all staff who interact with inmates on a daily basis;*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that the need for additional ongoing training was highlighted in a survey by the Centre for Addiction and Mental Health. The survey found about 60% of the correctional officers who were assigned to the mental health unit in Toronto South Detention Centre indicated that they had not received adequate mental health and addictions training. Respondents stated they wanted to learn more about schizophrenia, personality disorders, mood disorders, substance abuse, violence risk, suicide and interventions.

As noted in **Recommendation 7**, new mental health training for correctional officers was created

and designed with significant input from CAMH. As of March 2021, approximately 1,400 correctional officers had completed a full-day course in mental health training. This training will be ongoing.

- *provide correctional officers access to Inmate Care Plans.*

**Status: Fully implemented.**

### Details

In our 2019 audit we found inconsistencies in who had access to the Inmate Care Plans. In Central East Correctional Centre, Thunder Bay Jail and Vanier Centre for Women, correctional officers—who supervise inmates on a daily basis—had access to the Care Plans. In contrast, correctional officers in the other four institutions we visited either did not have access to the Care Plans (South West and Toronto South detention centres) or could only access them through their sergeants (Brockville Jail and Thunder Bay Correctional Centre). This is inconsistent with the intended purpose of the Care Plans, which, according to Ministry policies, is to “guide a consistent approach for inter-professional team members on how to support inmates’ needs.”

In our follow-up, we found that the Ministry has developed the Placement of Special Management Inmates policy, which outlines placing and managing inmates based on their personalized needs such as mental health illnesses. The policy identifies that interprofessional members, such as caregivers, psychologists, medical doctors and correctional officers, have access to Care Plans. The policy has been approved and was released September 1, 2021 in a memo to all institutions.

## Ministry Does Not Analyze Root Cause of Violent Incidents, Which Could Help in Preventing Future Incidents

### Recommendation 9

*To better address the risks and root causes of violence in correctional institutions, we recommend that superintendents in all institutions:*

- *regularly analyze root causes of violent incidents reported by institutional staff;*

**Status: In the process of being implemented by March 2022.**

### Details

We found in our 2019 audit that every staff member who is involved in or witnesses an incident must prepare a report describing it. Information in those reports provides insight into what type of violence it was and the extent of violence in each of the institutions. However, none of the staff at the institutions, regional offices or the Ministry’s corporate office analyze reported incidents to determine their root cause, which could provide insight into preventing future incidents.

In our follow-up, we found that in June 2020 institutions were introduced to the Ministry’s Workplace Violence Assessment Strategy. The strategy requires all institutions to complete their workplace violence risk assessments in March every year. These assess the risk of workplace violence that may arise from the nature of workplaces and types or conditions of work to determine the need to implement or enhance reasonable control measures to protect workers from workplace violence. All 25 institutions completed the 2020 assessments on March 31, 2021 and submitted them to the Executive Director’s Office, Institutional Services and Human Resources, where they were analyzed for provincial trends and ways for local improvement in April 2021. The 2021 assessments are due March 31, 2022.

- *reassess the risk of workplace violence, as required by the Occupational Health and Safety Act and the Ontario Public Service Workplace Prevention Program;*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that management staff at six of the eight institutions we visited did not reassess the risk of workplace violence as required by the Occupational Health and Safety Act (Act). The Act requires employers to assess the risk of workplace

violence that may arise from the nature of the workplace or the type of work, and then to reassess as often as necessary.

In our follow-up, we found that in June 2020 the Ministry established the Workplace Violence Assessment Strategy, as discussed in **Recommendation 9, Action 1**, in which the Executive Director's Office, Institutional Services and Human Resources reviews and analyzes workplace violence risk assessments. The Executive Director's Office reviewed the 2020 assessments in April 2021 and is scheduled to continue reviewing the assessments annually.

- *ensure that the assessment includes all areas of the institutions;*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that the workplace violence risk assessments looked at the risk of violence in administration areas, but not in inmate living units, which pose the greatest threat of violence; and two assessments involved staff in different areas of the institution.

Our follow-up found that the oversight system established by the Executive Director's Office (see **Recommendation 9, Action 1**) for reviewing and analyzing the risk of workplace violence will include all areas of the institutions, including inmate living areas.

- *take action to minimize risks for both correctional staff and inmates.*

**Status: In the process of being implemented by March 31, 2024.**

The Ministry told us it will analyze approaches to violent incidents and share that analysis with local and provincial joint occupational health and safety committees. The Ministry indicated that the workplace violence risk assessments do evaluate inmates' security risks; however, they do not assess inmate risks to staff. The assessments from March 31, 2021, will be used by the Ministry to understand the scope of what actions are required. As well, the Ministry

is developing a technology tool known as Security Assessment for Evaluating Risk (SAFER). SAFER is an automated, predictive tool for evaluating an inmate's security risk that will help staff be better prepared to anticipate and mitigate misconducts and violence. Implementation of SAFER commenced in 2021 and according to the Ministry will be available in all institutions by March 31, 2024.

## Management and Staff Have Strained Relationship

### Recommendation 10

*So that correctional staff are better equipped to perform their responsibilities, we recommend that the Ministry of the Solicitor General update the initial and ongoing training to include, for example, training on the use of force and instruments of restraint, managing violent offenders using preventive and defusing techniques, as well as early detection of mental health issues as recommended in the Standard Minimum Rules for the Treatment of Prisoners.*

**Status: In the process of being implemented by December 2021.**

### Details

We found in our 2019 audit, that although ongoing training in defensive tactics deals with inmate restraint and conflict de-escalation, the findings from the incident investigations indicate the need to assess the effectiveness of this training. Also, ongoing training for skills such as report writing and dealing with inmates with mental illness was not offered. According to the *Standard Minimum Rules for the Treatment of Prisoners* (Rules), at minimum, staff should receive training on relevant policies, their rights and duties in exercising their functions, first aid, the use of force and instruments of restraint, managing violent offenders using preventive and defusing techniques, as well as early detection of mental health issues. In addition, the Rules also state the staff who work with certain categories of inmates should receive corresponding training.

In our follow-up, we found that in September 2019 the Ministry reviewed both its mandatory ongoing training and its optional professional development modules for correctional officers. The Ministry also monitored the delivery of training related to report writing and defensive tactics for correctional officers. This resulted in the redesign of Defensive Tactics training, which includes the Crisis Resolution Model that increases focus on de-escalation, communication, self-awareness and bias awareness.

The new model was presented to Operational Support Division Assistant Deputy Ministers in February 2021 and Institutional Services divisions Directors in March 2021. The redesign introduces newly created de-escalation, situational and self-awareness, and health and wellness training. Plans for this rollout are under consideration and awaiting executive approval. The full redesigned training is expected to be offered beginning in December 2021, including the redesigned model with re-certifications currently scheduled on a two-year rotation.

### Recommendation 11

*To help improve working conditions for correctional staff, we recommend that superintendents in all institutions:*

- *ensure that correctional staff receive the initial and ongoing training as required;*

**Status:** In the process of being implemented by December 2021.

### Details

We found in our 2019 audit that, from 2014 to 2018, turnover rates for correctional officers in the eight institutions we visited ranged from 0% (St. Lawrence Valley) to 7% (Thunder Bay Jail and Toronto South Detention Centre). We found the following factors that have likely contributed to the turnover rates: ineffective job shadowing and mentoring process for new staff, and inadequate amenities for staff.

In our follow-up, we found that a recommendation report on onboarding was released in December 2020 that included six recommendations. The recommendations included developing a standardized

onboarding and peer mentorship model that will include training modules for institutional training managers and instructors. Also, an assessment tool will be developed to evaluate the training delivery and program effectiveness. The proposed model was presented and approved by senior management in February 2021. The outstanding work includes preparing training packages, an assessment tool for new hires, developing an onboarding schedule, piloting the program and setting a quality improvement process to identify best practices and performance metrics. The Ministry noted that the Phase 1 rollout to pilot institutions has been delayed to December 2021 due to the impact of the COVID-19 pandemic.

- *improve the job shadowing and mentorship programs so that new staff receive the necessary supports;*

**Status:** In the process of being implemented by spring 2022.

In our 2019 audit, we found that one-quarter of correctional officers across the province have less than two years of experience. About half of sergeants, who supervise correctional officers, have been in their current role for less than two years. Despite this, the job shadowing and mentorship process varied widely and was ineffective.

In our follow-up, we found that a recommendations report was completed in September 2021 and made 10 recommendations to improve the mentorship program. The peer mentorship model was presented and approved in February 2021 by senior management. The work outstanding includes developing an assessment tool for mentors, a working group to guide the design process and an oversight committee to ensure a strong performance model is in place. Work is in progress with implementation scheduled for spring 2022.

- *work with local union representatives to take measures to provide proper amenities for staff in all institutions.*

**Status:** Little or no progress.

In our 2019 audit, we found through our interviews with staff and our own observations during our fieldwork that amenities for staff were insufficient. None of the institutions we visited had on-site cafeterias for staff. In addition, correctional officers at Toronto South often had to leave their lunch bags on tables because there were not enough refrigerators. There were also not enough locker rooms for staff to secure their personal belongings.

In our follow-up, we found that, in November 2019, the Ministry proposed obligations and benefits of the wellness program if supported by an Employee Wellness Unit. An Employee Wellness Unit was established on September 30, 2020. In February 2021, it was announced that the Unit will oversee and support the wellness program and wellness committees, which will work to provide amenities such as wellness rooms, monthly visits from a massage therapist, walking clubs, lunch rooms and lockers for staff at all institutions. All institutions have been given the task by the Employee Wellness Unit of looking at ways to maximize adequate space for both lunch rooms and lockers for staff use. However, the Ministry indicated that considering the stringent requirements around safe distancing during the COVID-19 pandemic and increased virtual courts, these initiatives will be delayed until post pandemic.

### Recommendation 12

*So that management and staff have an improved relationship, we recommend that the Ministry of the Solicitor General work with the local and province-wide union representatives to address the root cause of the grievances and work refusals.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that about 80% of the almost 4,200 grievances filed by staff in the previous five years in the eight institutions we visited related to disciplinary actions, work arrangement policies, scheduling of work/overtime, and human rights issues such as harassment and discrimination. However, we noted bigger concerns in the

length of time it took for management and staff to resolve the grievances. Specifically, between 42% and 69% of grievances were still open at the time of our audit, most of which had progressed to the start of the formal grievance process because management and staff could not resolve the matter internally.

In our follow-up, we found that the Ministry collected documentation that provides information on both work refusals and grievances between the months of September 2020 and February 2021. In March 2021, the local Ministry Employee Relations Committee and Provincial Joint Occupational Health and Safety Committee met and committed to determine strategies to enhance labour relations by exploring how to reduce work refusals and grievances. The parties met again in May 2021; however, no further progress had been made at the time of our follow-up.

## Growing Contraband Problem Not Fully Understood or Mitigated

### Recommendation 13

*To better understand the sources and extent, and reduce the presence, of contraband in correctional institutions, we recommend that superintendents in all institutions:*

- *electronically track and analyze the results of their searches;*

**Status:** In the process of being implemented by March 2022.

### Details

We found in our 2019 audit that staff in the eight institutions we visited do not analyze how much contraband was found during the searches, the type of contraband found and where it was found. We therefore could not determine the extent of contraband present in the institutions. In our survey of the 17 institutions we did not visit, two-thirds reported that staff do not track the results of searches.

In our follow-up, we found that the Ministry conducted a review in July 2019 of the options for

addressing contraband at Ontario's institutions. The Ministry is in the process of developing a new centralized, digital reporting system to track inmate and offender incidents occurring in institutions and expects to finalize the necessary approvals by March 2022.

- *revise their search procedures so that searches are targeted toward higher-risk areas of the institution; and*
- *improve security protocols to mitigate the risk of contraband based on the analysis of the search results.*

**Status: In the process of being implemented by March 2023.**

### Details

We found in our 2019 audit that security staff in seven of the eight institutions we visited did not have a strategy to target searches toward higher-risk areas of the institution. In addition, our survey of the 17 institutions we did not visit found that the two top sources of contraband were newly admitted inmates and remanded inmates returning from their court appearances.

In our follow-up, we noted that the Ministry developed the Contraband Strategy and Action Plan, which will implement a centralized strategic plan and oversight model to establish standard processes, equipment and resources to mitigate the risk of each contraband entry pathway. The Contraband Strategy is expected to develop accountability and oversight structures for senior management that would improve contraband mitigation strategies, resources and initiatives. To accomplish this, an Incident Report Management System is expected to be launched by February 2022.

The Ministry has also proposed changes under the *Ministry of Correctional Services Act* to enhance screening and searches of everyone entering secure areas of institutions. The regulatory posting went up on September 20, 2021 and closed on November 4, 2021. If the changes to the Act are approved, the Ministry

expects to fully implement this recommendation by March 2023.

### Recommendation 14

*In order to protect correctional staff from being coerced by inmates into bringing contraband into correctional institutions, we recommend that, similar to the practice at federal institutions, the Ministry of the Solicitor General work with the Ontario Public Sector Employees Union to implement measures to screen staff when entering the institution.*

**Status: In the process of being implemented by March 2023.**

### Details

We found in our 2019 audit that none of the 25 institutions across Ontario inspect or screen staff for contraband when entering the secure part of the institutions. We were told that staff have already undergone security clearance and participated in security orientation so they do not have to undergo additional security screening. In 2018, six staff in Toronto South Detention Centre went on leave, resigned or were terminated after it was found that they were having inappropriate relationships with inmates and were bringing contraband, such as drugs and cell phones.

In our follow-up, we noted that the existing regulation under the *Ministry of Correctional Services Act* does not give the Ministry authority to search staff unless they are suspected of bringing contraband into the institution. As noted above, the Ministry is exploring regulatory changes related to the screening and/or searching of anyone entering secure areas of institutions, including staff. If the regulatory changes are approved, the Ministry expects to fully implement this recommendation by March 2023.

## Inmate Misconducts Not Dealt with Consistently

### Recommendation 15

*So that sanctions imposed for inmate misconducts are fair, consistent and appropriate for the misconduct committed, we recommend that the Ministry of the Solicitor General develop, and communicate to staff in all institutions, clear policies for dealing with inmate misconducts, which include progressive sanctions when inmates continuously misbehave.*

**Status:** In the process of being implemented by April 2022.

### Details

In our 2019 audit, we found that in half of the files we reviewed at three institutions, the nature of the misconducts increased in severity. For example, one inmate's misconduct progressed from smoking cigarettes, to threatening to kill staff, to throwing feces out of his hatch, to finally assaulting another inmate unprovoked.

In our follow-up, we noted that the Ministry established a working group on discipline and misconducts in March 2021 that began working toward a revised inmate discipline and misconduct strategy. The strategy provides direction for adjudicating a range of inmate misconducts including a range of progressive sanctions. Pending regulatory changes are required before developing policies and implementing the strategy by April 2022.

### Recommendation 16

*So that sanctions imposed for inmate misconducts are fair, consistent and appropriate for the misconduct committed, we recommend that superintendents in all institutions regularly review misconduct adjudications to ensure they are consistent with the above policy requirements.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that inmate misconducts were often not addressed consistently across institutions. According to inmate misconduct data

in the Ministry information system, 29% of inmates in custody in three of the eight institutions we visited had at least one (and up to 76) misconducts during their time in custody. In 89% of the misconducts that were adjudicated, the inmate was found guilty. However, we noted that the sanctions were not consistent across institutions. For example, the use of segregation as a sanction for inmates found guilty of threatening to assault or assaulting another inmate ranged from 7% at Central East Correctional Centre to 94% at South West Detention Centre.

In our follow-up, we noted the Ministry established a working group in February 2020 to modernize the discipline and misconduct model. The Discipline and Misconduct Modernization project was presented to senior management in April 2020. This framework is designed to establish an effective, consistent and accountable discipline and misconduct process that improves working conditions for front-line staff, ensures procedural fairness for inmates, and preserves the safety and security of the institution. The Ministry is continuing to assess the framework and explore the enabling regulatory framework required to support implementing it.

## Rise in Sick Days Has Led to Lockdowns and Increase in Overtime Costs

### Recommendation 17

*To manage and mitigate the impacts of absenteeism, we recommend that:*

- *superintendents in all institutions regularly review absenteeism and overtime payments at their respective institutions and take action to reduce the occurrence of lockdowns and the need for overtime payments;*

**Status:** In the process of being implemented by February 2023.

### Details

We found in our 2019 audit that the average number of sick days taken by permanent correctional staff in 2018 was 31 days, 27% higher than in 2014. The

average number of sick days taken varied significantly by institution, ranging from 9.1 days to 40.6 days. We noticed a correlation between the sick days taken and the lockdowns that occur at institutions as staffing shortages had a direct impact on the security of the institution. In the previous five years, 56% of the 1,828 instances of institutional lockdowns in Central East, and 71% of the 880 lockdowns in Toronto South were due to staffing shortages

In our follow-up, we noted that on April 1, 2020 the Ministry established a Corrections Attendance Support and Management Office (CASMO). CASMO is expected to provide dedicated attendance management support to managers in correctional workplaces with a focus on reducing absenteeism. All positions for CASMO were filled by April 2021. An IT application has been developed and was implemented at sites in March 2021. This will allow CASMO to regularly review absenteeism and overtime payments. CASMO has also developed key performance indicators to track, monitor and determine the progress of attendance management supports. The Ministry fully expects to implement this recommendation by February 2023.

- *the Ministry of the Solicitor General consider redirecting savings realized from reductions in overtime payments to increased training for correctional staff.*

**Status:** In the process of being implemented by March 2023.

### Details

We found in our 2019 audit that, in 2018/19, over three-quarters of correctional staff received overtime payments totalling \$60 million. Overtime costs were paid when employees called in sick and their shifts had to be filled. On average, the overtime payments amounted to 16% of their regular salaries. About \$42 million (or 70%) of this amount was paid to correctional officers. This is a 280% increase in the overtime payments since our last audit in 2008 (of \$11 million), despite the number of correctional officers increasing by only 30% from 3,400 to 4,400.

In our follow-up, we noted the Ministry has completed an analysis of cost savings and opportunities

for potential reallocation of funds to support other ministry and institution service priorities. This includes implementing a time and attendance system across all institutions that it projects will generate annual savings of \$9 million across all institutions by March 2023. Treasury Board/Management Board of Cabinet approved this strategy through a 2019/20 planning process.

## Recruitment Files Do Not Always Support Promotions

### Recommendation 18

*So that the recruitment and promotion process for management staff is fair and transparent and the best-qualified individuals are hired or promoted, we recommend that the Ministry of the Solicitor General work with the Talent Acquisition Branch within the Ministry of Government and Consumer Services to:*

- *review and revise the recruitment process for management staff to include clear and appropriate requirements for qualifications and minimum scores to be selected for interview;*

**Status:** Fully implemented.

### Details

We found in our 2019 audit that the job selection process was not fair and lacked basic criteria that would support promotions. For example, senior positions like sergeants did not require prior experience as a correctional officer, and more senior positions like a deputy superintendent did not require prior experience as a sergeant. In one particular competition that we reviewed, we noticed that one applicant was selected for an interview for a deputy superintendent position over nine other applicants who scored two to 20 points higher in the screening stage.

In our follow-up, we noted that in an effort to address concerns regarding transparency, fairness and inclusion in relation to staffing decisions across the Ontario Public Sector (OPS), the Ministry of Government and Consumer Services completed a review regarding fair hiring practices, including at

the Ministry of the Solicitor General in June 2020. In addition, we also noted that the Ministry has put in place a number of practices to conduct barrier-free recruitment including the following:

- the Ministry's Leadership Talent Office (LTO) holds detailed discussions with clients prior to interviews on various topics including diversity, inclusion, bias-free/barrier-free hiring practices and interview scoring;
  - the LTO recommends barrier-free leadership/competency-focused assessment methods, aligned to the qualifications and key requirements for the position; and
  - all job requirements and qualifications for management positions are outlined in the job ad and form the basis for screening and assessing candidates.
- *ensure that hiring panels document decisions made and the rationale for such decisions during the recruitment process.*  
**Status: Fully implemented.**

### Details

We found in our 2019 audit that in some competition files, there was no evidence that the selection panel considered or requested past performance reviews of applicants in the selection process. In one-fifth of the recruitment files we reviewed in Central East, Toronto South and Thunder Bay Correctional, there was incomplete or no documentation of the initial screening to select applicants for interviews.

In our follow-up, we found that in February 2021 a Deputy Regional Director (DRD) Oversight Model was implemented as a strategy to support the goal of enhanced fairness, transparency and recruitment. Hiring managers remain ultimately accountable for recruitment, but the Ministry indicated that this additional level of oversight acts as a tool for managers to verify that they have applied the appropriate lens to decisions. In this model, a DRD will review both competitive and non-competitive hiring decisions via a Hiring Review Form, which was also introduced in February 2021.

## Evaluation of Staff Performance Not Consistently Done

### Recommendation 19

*So that all employees' job performances are regularly evaluated, we recommend that the Ministry of the Solicitor General:*

- *require performance assessments of all staff to be completed at least annually;*

**Status: In the process of being implemented by April 2023.**

### Details

We found in our 2019 audit that performance evaluations were not consistently done in the eight institutions we visited. In four institutions, evaluations were only conducted for managers such as sergeants, staff sergeants and deputy superintendents, but not for correctional officers, who comprise the majority of the staff. In the other four institutions, evaluations were conducted for correctional officers.

In our follow-up, we noted that in October 2019, the Ministry initiated a project that required Performance Development and Learning Plans to be developed for all fixed-term correctional officers across the province for the 2020/21 fiscal year. A pilot project across all institutions in Ontario was launched in 2019 to ensure all fixed-term correctional officers received performance evaluations by March 31, 2020. Due to COVID-19, the Ministry provided an extension to June 30, 2020. It also provided an extension from March 31, 2021 to June 30, 2021. We found that compliance increased from 72% in 2020 to 84% in 2021. The Ministry expects to be close to being fully compliant by April 2023.

- *improve its performance evaluation framework to include measurable employee goals.*

**Status: Little or no progress.**

### Details

We found in our 2019 audit that staff performance policies did not contain mandatory performance

measurements nor did they have goals to provide incentive for good performance. We were told by the Ministry that there was no expectation for all correctional officers to participate in a performance review process.

In our follow-up, we noted that a working group had been established to address this recommendation, including alignment with the Treasury Board Secretariat that is expanding its talent management tool. This is expected to begin to be rolled out to all corrections employees late in 2021; however, because this is impacting more than 5,000 employees, the Ministry indicated it will not be completed until 2023.

*We recommend that superintendents in all institutions ensure that performance assessments are completed for all staff at least annually.*

**Status: In the process of being implemented by April 2022.**

### Details

We found in our 2019 audit that performance evaluations were not consistently done in the eight institutions we visited. In four institutions, evaluations were only conducted for managers such as sergeants, staff sergeants and deputy superintendents, but not for correctional officers, who comprise the majority of the staff. In the other four institutions, evaluations were conducted for correctional officers.

In our follow-up, we noted that performance assessments are scheduled to be fully rolled out to all institutions by April 2022. The assessment program contains mandatory annual review requirements where every employee must develop an annual performance plan in consultation with their manager. These performance plans are to be developed at the beginning of the probationary period, the annual performance cycle and for each new assignment.

## Staffing Levels at Institutions Not Always Proportionate to Workload

### Recommendation 20

*To better allocate staffing resources based on the needs of each correctional institution, we recommend that the Ministry of the Solicitor General:*

- *improve its staff allocation process to consider factors that impact workload; and*
- *adjust the staffing levels in each institution to reflect the revised allocation.*

**Status: Little or no progress.**

### Details

We found in our 2019 audit that the number of correctional officers was not always proportionate to the number of inmates in custody. For example, Central East and Central North correctional centres, both of which use the indirect supervision model, held an average of 898 and 697 inmates per day in 2018/19. Central North's daily inmate population was 22% smaller than Central East's, but it employed 112 more correctional officers than Central East during the day. According to the Ministry, the disproportionate staffing levels were due to differences in the physical layout, types of inmates held and the supervision model used in institutions. However, it could not provide us with any analysis to support its explanation for the difference. In our follow-up, we noted that the Ministry conducted research in July 2018 but was unable to develop a tool for all correctional institutions to assess staffing levels. The Ministry indicated to us that it plans to review staffing resources but did not provide a timeline.

## Variations in Daily Cost per Inmate Not Analyzed, Potential Savings Unknown

### Recommendation 21

*To effectively manage operating costs, we recommend that the Ministry of the Solicitor General regularly analyze the reasons for the variations in daily cost per inmate and take the necessary corrective action where cost inefficiencies are identified.*

**Status:** Fully implemented.

### Details

We found in our 2019 audit that the daily operating cost per inmate was 57% higher, accounting for inflation, than our last audit of adult institutional services in 2008. We also noted that the daily cost per inmate varied across the province from a high of \$589 at Fort Frances Jail to a low of \$186 at Kenora Jail.

In our follow-up, we found that in September 2020 the Ministry started including analysis of the various components of the daily inmate costs as part of the monthly financial reporting to senior management. The cost analysis is part of a monthly presentation on financial forecasting and risks and the Ministry committed to take necessary corrective action if inefficiencies are found.

## Management Lacks Information to Evaluate Effectiveness of Institutional Programs and Services

### Recommendation 22

*So that relevant information is collected and recorded electronically, we recommend that the Ministry of the Solicitor General:*

- *assess whether its existing information technology systems meet the operational needs of correctional institutions;*

**Status:** In the process of being implemented by March 2023.

### Details

We found in our 2019 audit that most of the inmate information was recorded manually at the institutions and retained on paper due to deficiencies in the existing information system in place at the institutions. The Offender Tracking Information System did not have the functionality to maintain key information such as health-care notes, social workers' notes, inmate complaints and requests, search records, and observation records of inmates on suicide watch and in segregation units.

In our follow-up, we noted that the Ministry's initiatives include data collection analytics and management reform that will combine information in three key areas: segregation, capacity utilization, and human rights accommodation. The technology systems supporting these initiatives include:

- Mobile Inmate Tracking and Incident Report Management, which uses ankle bracelets to digitally track and record movements in the community of low-risk offenders on bail. The Ministry implemented it in February 2021; and
  - a single centralized electronic medical record system that will digitalize the current paper-based medical system by March 2023.
- *analyze the costs and benefits of various options, and seek the necessary approvals, to address gaps identified in the above assessment.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that, in over one-third of the medical files we reviewed, there were gaps in health-care documentation such as medical notes or diagnosis from consultations with external clinicians. The gaps in documentation ranged from three months to multiple years. This resulted in neither us nor staff being able to confirm whether inmates received the necessary health care during those periods.

In our follow-up, we noted that in February 2021, the Ministry received the necessary approvals for Mobile Inmate Tracking and Incident Report

Management. However, the Ministry has yet to address the gaps.

### Recommendation 23

*So that superintendents in all institutions and the Ministry of the Solicitor General (Ministry) have the necessary information to evaluate the effectiveness of institutional programs and services, we recommend that the Ministry:*

- *establish goals for its operation of correctional institutions;*

**Status:** Little or no progress.

#### Details

We found in our 2019 audit that management staff in the institutions and the Ministry do not analyze information about institutional programs and services to identify systemic issues and areas where improvements are needed. For example, security staff in two of the institutions we visited recorded instances when any part of the institution was locked down and made a brief notation of the reason. However, there was no information about the duration of the lockdowns or the programs and services that were affected by such lockdowns.

In our follow-up, we noted that in March 2021 the Ministry established institutional goals in the following priority areas: health, safety and security, placement options, staffing, budgeting and finance and programming and discharge. However, we noted that many of the goals established were in fact only priorities as they did not have specific targets for the Ministry to meet. For example, in the area of health, the Ministry's priority was to enhance treatment for inmates who are at risk of suicide and/or substance use, decreasing the number of deaths from overdoses and suicide attempts in institutions. However, the Ministry did not have a specific target related to the reduction in the number of deaths. In another example, in the area of safety and security, the Ministry's priority was to reduce incidents of violence in institutions. However, it did not establish a target for the reduction of the incidents of violence.

- *develop measurable indicators both at the institutional and provincial levels, against which it can assess performance against such goals;*
- *regularly measure and publicly report on its performance against the indicators, targets and goals;*

**Status:** In the process of being implemented by March 2022.

#### Details

In our follow-up, we noted that through the 2020/21 multi-year planning process, the Ministry established targets, goals, and indicators at the institutional and provincial level to track performance of the operation of correctional institutions and publicly report on that progress. The goals and indicators were completed by March 2021. The targets for these goals and publicly reporting on performance were committed to be implemented by March 2022.

- *take action to improve performance when targets are not met.*

**Status:** Little or no progress.

#### Details

This third action item is dependent on the implementation of the second action item as discussed above.

## Ministry Plans to Use Direct Supervision Model in New Institutions without Evaluating if Model Is Effective in Controlling Inmate Behaviour

### Recommendation 24

*So that the current and future implementations of the direct supervision model achieve the intended benefits of the model, we recommend that the Ministry of the Solicitor General:*

- *review the implementation of the direct supervision model in Toronto South Detention Centre and South West Detention Centre to identify areas*

where improvements are needed to align with the principles of the model;

**Status:** Fully implemented for South West Detention Centre.

Little or no progress for Toronto South Detention Centre.

### Details

We found in our 2019 audit that the Ministry had not evaluated the direct supervision model it plans to implement in its two new institutions, planned to be completed in 2023, to determine whether it is achieving benefits such as less violence, and to identify areas where improvements are needed. We also noted that the direct supervision model was implemented differently at Toronto South and South West detention centres. In our review of security footage, we found inconsistencies in whether unit rules were being enforced. For example, at Toronto South we observed seven rules being broken, including multiple inmates entering a cell not belonging to them. We also found that contrary to one of the primary principles of direct supervision, officers did not move around the living unit to interact with the inmates in two-thirds of the sample of footage we reviewed in both institutions.

In our follow-up, we found that in October 2019, the Ministry completed an implementation audit of the direct supervision model at the South West Detention Centre. It was determined that six of the eight direct supervision principles (75%) were considered met.

However, the Ministry considered a direct supervision implementation audit at the Toronto South Detention Centre to be premature. Senior administration identified ongoing issues—such as practices that limit the ability to deter inmate misconduct, no meaningful consequences for inmates, limited alternative housing options, and a lack of support from management at Toronto South—to be, at least in part, the reasons why effective direct supervision operations have not been established at the institution. Instead, the Ministry developed the Tiered DS Model Proposal, which adheres closely to direct supervision principles.

Implementation of the Tiered DS Model at Toronto South began in 2020.

- *incorporate lessons learned from this review in future implementations;*

**Status:** Little or no progress.

As a result of the review of the implementation of direct supervision models at Toronto South and South West detention centres, the Ministry is establishing a working group to periodically assess direct supervision implementation and identify areas where improvements are needed to align with the principles of the model. An approach is being developed to optimize the model at current and future sites by utilizing the Ministry Employee Relations Committee DS Subcommittee in order to review the analysis and determine strategies that can be considered for current facilities and future site implementations.

- *develop measurable indicators (for example, decrease in violent incidents) and targets against which it can assess the effectiveness of the direct supervision model;*

**Status:** Little or no progress.

### Details

As noted in **Recommendation 23**, in March 2021 the Ministry established priorities for the effective operation of institutions, but these priorities did not contain measurable indicators and targets to enable the assessment of whether the priorities are met.

- *regularly assess its performance against the above targets, and take action to improve performance when targets are not met.*

**Status:** Little or no progress.

### Details

The Ministry noted that outstanding work includes incorporating lessons learned and the schedule for regularly assessing its performance against targets and act to improve performance when targets are not met. The Ministry has yet to determine when it will track progress against indicators.

## Design and Maintenance of Institutions under Alternative Financing Procurement Arrangements Not Sufficiently Monitored

### Recommendation 25

*To avoid additional costs from design changes to correctional institutions constructed using the Alternative Financing Procurement method, we recommend that the Ministry of the Solicitor General work with Infrastructure Ontario to ensure that relevant staff from all aspects of the correctional institution's operations and their local union representatives be consulted during the design and construction phase to identify and correct design flaws earlier in the process.*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that the Ministry had paid a total of \$25 million for over 200 projects outside the scope of the Alternative Financing Procurement design/ build contract at Toronto South Detention Centre since the design was finalized in February 2011. We identified a number of these projects, costing approximately \$11 million (or 44% of the total payments), which could reasonably be attributed to design flaws.

In our follow-up, we found that in January 2021 the Infrastructure Ontario Major Capital Projects Unit established Institutional Services Engagement Teams at every local project location. The teams act as a conduit to share information with all institutional staff on a greater detailed basis. They include bargaining unit members and the institution's superintendent and local union president.

### Recommendation 26

*To ensure that correctional institutions constructed using the Alternative Financing Procurement method are maintained, where applicable, in accordance with the maintenance agreement, we recommend that the Ministry of the Solicitor General work with Infrastructure Ontario to:*

- *include clear and measurable performance indicators in the maintenance agreement;*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that oversight by Ministry and Toronto South staff of the maintenance activities at the detention centre had been inadequate to ensure that routine maintenance work was carried out and that the private contractor responded to service requests in a timely manner. The Ministry pays the private contractor on average \$31.7 million in annual service payments to cover costs related to the principal repayment, interest, capital rehabilitation, facility maintenance and management fees to Infrastructure Ontario. The Ontario Internal Audit division noted in its 2019 review of Toronto South maintenance that the indicators in the contract with the contractor were generalized requirements, not performance measures.

In our follow-up, we found that in November 2019 a management tool was drafted collaboratively by Infrastructure Ontario and the Ministry to track performance measures and indicators in maintenance agreements. Examples of performance measures tracked include:

A minimum of 85% of scheduled maintenance is completed within the planned month and any deferred scheduled maintenance is completed within the following month and associated records are provided to the Ministry.

No later than three months prior to substantial completion, the project company and the Ministry shall develop, maintain and implement a system for recording and acting on customer feedback and satisfaction with respect to the environmental and sustainability services in response to the customer satisfaction survey.

The project company will have contingency failure plans in response to any and all utility and equipment failures.

- *regularly monitor the private contractor's performance against such indicators;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we asked Infrastructure Ontario staff whether the private contractor was meeting a sample of the 78 measurable performance indicators in its maintenance agreement. The staff could not provide us with the information, so it was unclear to us whether Infrastructure Ontario or Ministry staff were monitoring the private contractor's performance against these indicators.

In our follow-up, we found that in November 2019 the Ministry started monitoring the private contractor's performance indicators on a monthly basis. This includes source data such as work orders, repair logs, variations and help desk calls. These documents summarize all the monthly maintenance that was required, and the rate of completion.

- *include clear and progressive penalties and deductions if the private contractor partner continually fails to meet service requirements.*

**Status: Fully implemented.**

### Details

We found in our 2019 audit that there was little incentive for the onsite maintenance provider to adhere to the service requirements in the AFP contract. In 2018, monthly reports submitted by the private contractor stated that there was a total of 57 service failures (that is, the time it took the private contractor to respond to and rectify service requests exceeded the required time frame) throughout the year. These service failures resulted in deductions of only \$16,500, or less than 1% of the \$24 million annual service fees.

In our follow-up, we found that Infrastructure Ontario created a progressive penalty system that uses failure points that accumulate over monthly payment periods resulting in monthly deductions. If failure points accumulate over three months, the project company receives a warning notice and may subsequently move to sustained monitoring.

Also, if Infrastructure Ontario does not approve the performance monitoring report due to a disagreement on deductions, Infrastructure Ontario works

with the project company to come to an agreement on the deductions and will submit a revised performance monitoring report. Should they not reach an agreement, the matter goes to dispute resolution process.

In April 2020, Infrastructure Ontario also created a payment integrity and performance reporting system with Ernst & Young that tracks all the deductions and performance indicators in a format that will help correctly identify any breaches of the contract. This system tracks the monthly performance reports issued by the private contractor, which are reviewed and approved by Infrastructure Ontario and the Ministry of the Solicitor General. The Ministry indicated that Infrastructure Ontario is now tracking monthly payments, deductions and performance indicators in a format that is easily accessible and trackable.

## Chapter 1

### Section 1.15

Ministry of the Attorney General

# Court Operations

Follow-Up on VFM Volume 3 Chapter 2,  
*2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3		3			
Recommendation 2	2				2	
Recommendation 3	1			1		
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 6	1		1			
Recommendation 7	1		1			
Recommendation 8	2	2				
Recommendation 9	2	1	1			
Recommendation 10	3	1	1	1		
Recommendation 11	1	1				
Recommendation 12	1			1		
Recommendation 13	3		3			
Recommendation 14	2		2			
Recommendation 15	3			1	2	
<b>Total</b>	<b>27</b>	<b>7</b>	<b>12</b>	<b>4</b>	<b>4</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>26</b>	<b>44</b>	<b>15</b>	<b>15</b>	<b>0</b>

### Overall Conclusion

The Ministry of the Attorney General (Ministry), as of August 31, 2021, has fully implemented 26% of the actions we recommended in our *2019 Annual Report*. The Ministry has made progress in implementing an additional 44% of the recommendations.

Fully implemented recommendations included that the Ministry has worked with the Ministry of the Solicitor General to meet the targeted 90% utilization of videoconferencing technology for criminal court matters. We noted that the use of videoconferencing in all in-custody court appearances had increased significantly from 52% in 2018/19 to 88% in 2020/21 and 97% as of early May 2021, mainly due to the

rapid uptake of remote appearances since the COVID-19 pandemic. At the time of our follow-up, the Ministry of the Solicitor General was installing the videoconferencing technology in an additional 20 courtrooms and nine correctional institutions. The Ministry of the Solicitor General expects that all of the planned installations will be completed by September 2022, which will help it to maintain the 90% utilization rate until at least 2022/23 as part of the Criminal Justice Sector Video Strategy.

Progress had been made in implementing recommendations such as the Office of the Chief Justices of the Ontario Court and the Superior Court plan to conduct their own reviews of court scheduling. At the time of our follow-up, we noted that case backlogs have continued to grow, from 10% increase in family and civil cases to as high as 43% increase in criminal cases between March 2019 and March 2021. Both Courts expressed the view that the pandemic has placed very significant pressures on the Courts due to the restricted number of proceedings that were able to be scheduled and conducted. They indicated that while court scheduling is under the authority of the judiciary, as a practical day-to-day exercise, scheduling is also a matter of regular dialogue between the Courts and the Ministry. Both the Courts and the Ministry are considering the future state of court case management, including modernizing case or trial scheduling. Because the Courts were dealing with a significant number of growing backlogs, they expect their own reviews of court scheduling would not be completed until June 2023.

The Ministry had made little or no progress on 15% of the recommendations, including providing training to its court staff to enable them to follow the Ministry's time-reporting policy consistently across the province. At the time of the follow-up, the Ministry indicated that discussions will need to take place with respect to the standardization of the reporting requirements for the tracking of courtroom operating hours before any training can be provided to court staff across the province. The standardization of the reporting requirements has yet to be established.

Further, the Ministry indicated it will not implement 15% of the recommendations, such as work with the judiciary to regularly review courtroom use and determine the reasons behind courtrooms being left unused; and create a plan to address the specific reasons why some courthouses appear not to be optimizing the use of their courtrooms. During our follow-up, the Ministry indicated that it will not implement this recommendation, other than providing appropriate technology, staffing and technology supports for the judiciary. The Ministry further stated that court scheduling, which in turn drives courtroom utilization, is under the exclusive purview of the independent judiciary. Thus, the Ministry took the position that they could not unilaterally review courtroom use and determine the reasons for any apparent unused courtrooms, or develop a plan to address the reasons even though taxpayers' dollars pay for courtroom capital and operating costs.

The status of actions taken on each of our recommendations is described in this report.

## Background

Ontario's court system has two trial courts—the Ontario Court of Justice (Ontario Court) and the Ontario Superior Court of Justice (Superior Court)—as well as a Court of Appeal. Both the Ontario Court and the Superior Court deal with criminal law and family law cases. But the Superior Court deals with fewer (usually the most serious) criminal offences, as well as civil cases, including small claims. The Ontario government appoints and compensates Ontario Court judges, while the federal government appoints and compensates Superior Court judges. Under the *Courts of Justice Act*, the regional senior judges and their delegates, under the direction and supervision of the Chief Justices, are responsible for preparing trial lists, assigning cases and other judicial duties to individual judges, determining workloads for judges and sitting schedules and locations, and assigning courtrooms.

The Court Services Division (Division) of the Ministry of the Attorney General (Ministry) is responsible for all matters relating to the administration of the courts, such as providing facilities, court staff, information technology and other services such as court reporting. For 2020/21, the Division's expenditures were about \$256 million (\$258 million in 2018/19). In addition, the Ontario government paid about \$146 million (\$145 million in 2018/19) in judicial salaries and benefits to the Ontario Court in the same fiscal year.

As of March 2021, there were 74 base courthouses in Ontario, with a total of 673 courtrooms, as well as 54 satellite and 29 fly-in courts (unchanged from March 2019), where the judiciary hear cases.

During our 2019 audit, we experienced several significant scope limitations with respect to access to information such as court scheduling, and delays in receiving other key information, including staffing statistics. The courts are public assets, supported and financed by the people of Ontario, and the administration of justice is an important public good. Therefore, while we respect the independence of the judiciary and the confidentiality due to participants in legal matters, we nevertheless believe that it is within our mandate to review information that would be needed to assess the cost-effectiveness of court operations and the efficient use of resources, given that taxpayers' monies support court operations.

Some of our significant findings were as follows:

- Ontario courtrooms were in operation only 2.8 hours on an average business day, well below the Ministry's optimal average of 4.5 hours. We found that the 55 courthouses, out of a total 74, that reported above-average delays in resolving cases also operated fewer hours than the Ministry's optimal average. Without full access to scheduling information, we were unable to examine and substantiate the efficiency and effectiveness of court scheduling and to confirm reasons for the underutilization of courtrooms.
- In 2018/19, almost 2.5 million documents—over 96% of them paper documents—were filed in Ontario's court system, ranging from cases' initiating documents to evidence and court orders made by a judge. Little progress had been made in replacing the Integrated Court Offences Network (ICON). ICON tracks criminal cases handled by the Ontario Court, which accounted for more than 98% of all criminal cases in the province. Our audits in 2003 and 2008 identified the need for the court system to modernize and become more efficient. The Ministry had made limited progress in this area since our audit in 2008. In January 2019, the Ministry submitted a project plan to the Treasury Board for replacing the system, as part of an overall Criminal Justice Digital Design initiative, estimated to cost \$56.1 million between 2019/20 and 2023/24. The plan was pending approval as of August 2019.
- The implementation of Criminal E-Intake had time delays and cost overruns despite a reduced project scope. Criminal E-Intake is an online system that allows police to electronically submit to the Criminal Court criminal Information packages containing documents such as the offence(s) that the accused person is charged with, copies of police officers' notes and witness statements. The Ministry approved the business case for this system in July 2016, at an estimated cost of \$1.7 million, and expected to complete the project by November 2017. However, at the time of our audit the Ministry's completion date was November 2019, and the estimated cost had increased to \$1.9 million for a reduced scope, covering only one of the two police record management systems.
- In 2018, the Division's employee survey reported that 60% of employees were dissatisfied with their Ministry. The number of sick days taken by staff working in the Ministry Court Services Division rose by 19%, from 27,610 days in 2014 to 32,896 days in 2018, even though the number of regular full-time staff who were eligible to take sick days declined by 10% over the same period. The Ministry reported that the total cost of lost time due to absenteeism was \$7 million in 2017 and \$8.6 million in 2018.

We made 15 recommendations, consisting of 27 action items, to address our audit findings.

We received commitment from the Ministry of the Attorney General that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of the Attorney General that effective November 15, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Existing Courtrooms Have the Capacity to Hear and Dispose More Cases

#### Recommendation 1

*To help maximize the efficient and effective usage of available courtrooms and improve the overall court system paid for by taxpayers, we recommend that the Office of the Chief Justice of the Ontario Court of Justice and the Office of the Chief Justice of the Superior Court of Justice:*

- *conduct their own reviews of court scheduling;*  
**Status: In the process of being implemented by June 2023.**

#### Details

Our 2019 audit noted that the Ministry expected a typical courtroom to be used optimally to hear cases an average of 4.5 hours each business day. Our audit found that, in Ontario, the actual use of courtrooms by individual courthouses averaged only 2.8 hours per business day in 2018/19. Of the 74 courthouses, 68 (or 92%) reported less than the expected 4.5 hours use per day. We compared these 68 courthouses' caseload statistics and trends for all practice

areas, including criminal, family, civil and small claim cases.

We found that 55 of them had experienced delays above the provincial average.

At the time of our 2019 audit, representatives from the Offices of the Chief Justices of the Ontario Court and the Ontario Superior Court indicated that judicial administration of the courts is constitutionally and legislatively independent of the government. In order to maximize courtroom utilization, trial co-ordinators who work under the direction of the judiciary often overbook cases in their court schedules. However, due to the significant scope limitation we experienced during our 2019 audit, without being given full access to the scheduling of cases and courtrooms, we were unable to verify the extent of overbooking and the extent to which each possible reason contributed to the lower-than-optimal utilization of courtrooms.

The Offices of the Chief Justices of both courts reiterated that courtroom utilization data does not reflect daily judicial working hours, nor actual demand for a courtroom. A very significant amount of judicial work is done outside courtroom operating hours.

During our follow-up, we noted that case backlogs have continued to grow in all practice areas, based on the statistics reported by the Ministry in relation to both Courts:

- The number of criminal cases pending disposition increased by 43% from 117,518 in March 2019 to 168,225 in March 2021.
- The number of family cases pending disposition increased by 10% from 186,201 in March 2019 to 204,650 in March 2021.
- The number of civil cases pending disposition increased by 10% from 752,918 in March 2019 to 828,569 in March 2021.
- The number of small claim cases pending disposition increased by 12% from 364,601 in March 2019 to 408,716 in March 2021.

The increase was mainly due to court operations that were extremely curtailed since the COVID-19 pandemic started in early 2020. Both Courts advised that the pandemic has placed very significant

pressures on the Courts due to the restricted numbers of proceedings that were able to be scheduled and conducted. Significant interruption of court operations during the pandemic include, for example:

- No in-person matters were held from March 17, 2020 to July 6, 2020 in both Courts.
- Some in-person matters were recommenced on July 6, 2020 in a limited number of courtrooms in certain courthouses with physical distancing protocols that necessarily limited to a great extent the type and number of proceedings that could be held.
- The onset of the second and third waves of the pandemic necessitated the introduction of additional restrictions on proceedings in the fall, winter and spring of 2020/21. During the third wave in spring 2021, both courts restricted in-person proceedings to matters that necessitated in-person appearances.
- In the Ontario Superior Court, due to constitutional and statutory time limits for hearing criminal and family matters (especially child protection cases), civil cases are generally the lower in priority for resuming in-person trials. Other steps in civil cases are proceeding virtually, wherever possible.

Both Courts further stated that public health guidelines urging people to stay at home and avoid travel or social contact, insufficient court staffing and support for virtual hearings, as well as inadequate access to video technology in the correctional institutions have presented significant challenges, that have persisted well into 2021. The Courts indicated that they will be reviewing their practices and considering how to make the most effective use of judicial, courtroom resources and technology to support virtual hearings, where appropriate, during 2021 and 2022 as increased numbers of matters are scheduled into the post-pandemic era. In doing so, the courts have been and will continue to work closely with the Ministry and other stakeholders. As well, the Courts anticipated that virtual hearings will continue after the pandemic for some procedural steps in cases and

hybrid hearings (i.e., part in-person and part virtual) will continue to take place.

The Chief Justices of the Ontario Court and Ontario Superior Court indicated that while court scheduling is under the authority of the judiciary, as a practical day-to-day exercise, scheduling is also a matter of regular dialogue between the Ministry and the Courts. The Ministry and the Courts are considering the future state of court case management, including modernizing case or trial scheduling.

Other work done by the Courts and the Ministry since our 2019 audit are, for example:

- Both Courts continue to meet regularly with the Ministry and other justice stakeholders to discuss options to maximize courtroom use in a way that provides timely access to justice while respecting each Court's judicial independence.
- Their discussions have been focusing on the number of courtrooms that have in-court technology available to be used for a mixed list of in-person and hybrid hearings, as well as technology suites where court staff can perform their functions in virtual hearings.
- A change request was implemented in FRANK in November 2020 to capture remote hearing details so that the Courts can better track the method used to conduct hearings. The FRANK system tracks family cases heard in both the Ontario Court and the Ontario Superior Court, as well as criminal, civil and small claims cases received by the Superior Court.
- In the Ontario Court, the Electronic Scheduling Program (ESP) was completed and implemented across the province in February 2021. ESP is an online application that provides trial co-ordinators with a province-wide scheduling tool to manage the criminal cases received by the Ontario Court. It allows, for example, electronic scheduling of judges, court appearances and courtrooms, monitoring of pending cases, and determining resources (such as security and technology) needed for court hearings. The Ontario Superior Court did not have a robust electronic scheduling tool at the time of our follow-up.

At the time of our follow-up, the Courts were dealing with a significant number of growing backlogs. The Ontario Court indicated that it had taken additional measures to ensure the parties were better prepared and more ready before trials. The Ontario Court acknowledged that aggressive case management and trial scheduling are important to manage the backlogs developed as a result of the pandemic. The Chief Justice of the Ontario Court announced full scheduling would resume in early October 2021.

Both Courts expect to complete their own reviews of court scheduling by June 2023, after the operations of courts are more stabilized.

- *share the results with the Ministry of the Attorney General (Ministry), which has responsibility for the operating and capital expenditure of the court system; and*
- *report the results to the public and the Ministry.*

**Status: In the process of being implemented by December 2023.**

As referenced in the first action under **Recommendation 1**, both Courts have regular and on-going dialogue with the Ministry about scheduling, and are considering the future state of court case management, including modernizing case or trial scheduling. Both Courts indicated that while court scheduling is under the purview of the Chief Justices, the Courts will engage with the Ministry in discussions and modernization of Court scheduling. The Courts expect that once their reviews of court scheduling are completed in June 2023, they plan to share the results with the Ministry, and provide information about their review to the public in appropriate forums such as the Opening of Courts and/or their annual reports by December 2023.

### Recommendation 2

*To help maximize the efficient usage of available courtrooms, we recommend that the Ministry of the Attorney General work with the judiciary to:*

- *regularly review courtroom use, by courthouse, across the province and determine the reasons behind courtrooms being left unused; and*

- *create a plan to address the specific reasons why some courthouses appear not to be optimizing the use of their courtrooms.*

**Status: Will not be implemented. The Office of the Auditor General continues to believe that the Ministry should work with the judiciary to regularly review courtroom use, determine the reasons behind courtrooms being left unused and create a plan to optimize the use of courtrooms given that the Ministry provides taxpayers' dollars to cover the operating and capital costs of courtrooms.**

### Details

In our 2019 audit, we had observed that some courtrooms were not being used at any point during the day during our visits in April and May to courthouses located in all seven regions of the province. To further determine the extent to which such courtrooms were not in use, we examined the Ministry's ISCUS (ICON Scheduling Courtroom Utilization Screen) time reports for the whole province (over 670 courtrooms in 74 courthouses) for one week in April. We found that out of the 3,820 weekdays reviewed, there were about 1,100 days when a courtroom was left empty for the entire day (or 29% of the time). We could not determine whether any of these courtrooms had been scheduled for hearings, because the Offices of the Chief Justices limited our access to the scheduling information kept by trial co-ordinators.

During our follow-up, the Ministry indicated that it will not implement this recommendation, other than providing appropriate technology, staffing and technology supports for the judiciary. The Ministry further stated that court scheduling, which in turn drives courtroom utilization, is under the exclusive purview of the independent judiciary. Thus, the Ministry took the position that they could not unilaterally review courtroom use and determine the reasons for any apparent unused courtrooms, or to develop a plan to address the reasons.

### Recommendation 3

*To enhance the quality of data available on courtroom operating hours in order to help inform decision-making in areas such as resource allocation, we recommend that the Ministry of the Attorney General provide training*

to its court staff to enable them to follow the Ministry's time-reporting policy consistently across the province.

**Status:** Little or no progress.

### Details

During our 2019 audit, we noted that according to Ministry policy, Ministry court staff are required to record the start and end time of a court session when the presiding official enters and leaves the courtroom. Typically, the morning session begins when the presiding official enters the courtroom and ends at the start of lunch break, and the afternoon session begins at the end of lunch break and ends when the presiding official leaves the courtroom. However, from our sample review, court staff had entered the time into the Ministry's time report (ISCUS) inconsistently, resulting in misstatements of the times reported.

Our sample review of ISCUS time reports at the time of 2019 audit found that in 68 of the 74 courthouses, Ministry court staff also rounded off the start and end times, often to the nearest quarter. We found that in only six courthouses staff adhered to Ministry policy and entered the start and end times as indicated in the audio recording of the presiding officials' arrival and departure. Further, as part of our review of the 125 full notes of digital audio recordings, we also found that 58 (or 46%) of them incorrectly reported their start and end time in ISCUS, with differences ranging from 15 minutes to as long as 1.5 hours per court day.

Our follow-up found that the Ministry has made little or no progress to provide training to court staff to enable them to follow the Ministry's time-reporting policy consistently across the province. At the time of the follow-up, the Ministry indicated that discussions will need to take place with respect to the standardization of the reporting requirements for the tracking of courtroom operating hours before any training can be provided to court staff across the province.

The Ministry is planning to continue discussions and establish a working group to identify the standardization of the reporting requirements for the tracking of courtroom hours. Once the standards

are established, the Ministry will revise existing mandatory employee training materials to ensure a consistent approach to court time reporting by August 2022. However, the Ministry indicated that this timeline is also dependent on when the COVID-19 pandemic will end.

## Overall Pace of Court System Modernization Remains Slow

### Recommendation 4

*To support the court system with more robust case file-tracking systems, we recommend that the Ministry of the Attorney General closely monitor the Criminal Justice Digital Design initiative, if it is approved, to ensure that it meets agreed-upon timelines, comes in within budgeted costs, and that any issues regarding implementation are addressed on a timely basis.*

**Status:** Fully implemented.

### Details

Our past audits of the court system have repeatedly identified the need for greater modernization to improve system efficiencies. In 2019, our audit reported that the Ministry, while taking cautious and incremental steps toward modernization, had made limited progress in its efforts to introduce and use more and more effective technologies in the court system since our previous audit in 2008. We found that, for example, in November 2009, Treasury Board approved almost \$10 million in funding for the Court Information Management System (CIMS) project scheduled for completion in March 2012. CIMS was proposed as a single case management system to integrate both ICON and FRANK. Subsequently, our 2016 audit report on Information and Information Technology General Controls reported that CIMS had not proceeded as planned, resulting in a net loss to the Ministry of about \$4.5 million. The Province's Internal Audit Division and a third-party consultant conducted separate reviews of the project. They attributed the failure to

lack of proper governance and oversight, project management and reporting processes.

In January 2019, the Ministry submitted another project plan to the Treasury Board for replacing ICON, which was pending approval as of August 2019.

After our audit, in fall 2019, the Ministry received approval from the Treasury Board to implement the Criminal Justice Digital Design initiative at a total estimated cost of \$85.5 million over five years, from 2019/20 to 2023/24. The initiative contains four main components:

- **Criminal E-Intake**—an online application that allows police to send and receive documents and data (for example, charge and warrant packages) for consideration by a justice of the peace. It then automatically creates or updates a criminal case file.
- **Digital Evidence Management System**—an online application for use by police and other justice sector partners and stakeholders to manage, store and share digital investigative or evidentiary files.
- **Digital Disclosure and Hearing Hub**—this online application is a “one-stop-shop” for crowns, defence, court staff, and judges to be able to access all materials related to scheduled court events and allows disclosure to be shared across sector partners.
- **Courts Criminal Case Management Solution**—a modern case management system to replace the existing system (Integrated Court Offences Network, ICON) that will enable court staff and other partners to better manage the flow of information through Ontario’s criminal courts.

In December 2020, the Ministry, together with the Ministry of the Solicitor General and Ontario Court of Justice, formed a governance structure to oversee the planning, monitoring and implementation of the Criminal Justice Digital Design initiative. The governance structure includes multiple committees, working groups, advisory groups and subject matter experts that meet regularly to discuss status updates, such as the progress made, actual spent versus approved budget, outstanding work and other issues. The executive steering committee is responsible for making

major decisions on a regular basis to address project risks and issues that arise from time to time.

The executive steering committee of the Criminal Justice Digital Design initiative reported that, as of April 2021, of the \$85.5 million budget, about 15% was spent, and that the overall schedule was generally on track except for certain areas where issues related to scope, timing and costs of the projects were identified. The executive steering committee had approved key actions to address the issues accordingly.

### Recommendation 5

*To help increase the utilization of videoconferencing technology for criminal court matters, we recommend that the Ministry of the Attorney General (Ministry) work with the Ministry of the Solicitor General to establish interim targets and monitor progression toward the 90% utilization rate the Ministry has targeted to achieve by 2020/21.*

**Status: Fully implemented.**

### Details

Our 2019 audit reported that, over the last 10 years, the Ministry had formalized a strategy for expanding the use of videoconferencing technology in the criminal justice sector. This strategy includes:

- adopting a “video first” approach so that the court system prioritizes videoconferencing as the first option for most in-custody court appearances and targets a 90% utilization rate in routine court appearances, such as bail hearings and first appearance hearings, by 2020/21; and
- installing more videoconferencing units in court locations and correctional institutions across the province to support increased video use.

In 2018/19, videoconferencing was used in 52% of all in-custody court appearances.

Following the audit, the Criminal Justice Sector Video Strategy received approval from Treasury Board with the targeted timeline revised from 2020/21 to 2022/23. The Ministry of the Solicitor General reported that the use of videoconferencing in all in-custody court appearances had slightly reduced to 48% in 2019/20 but increased significantly to 88%

in 2020/21 and 97% as of early May 2021, mainly due to the adoption of remote appearances since the pandemic. Given the rapid uptake of the use of video technology during COVID-19, the Ministry of the Solicitor General indicated that interim targets were no longer necessary.

In addition, since our 2019 audit, the Ministry of the Solicitor General has installed videoconferencing technology in seven courthouses and one correctional institution. At the time of our follow-up, the Ministry of the Solicitor General was installing the technology in an additional 20 courtrooms and nine correctional institutions. The Ministry of the Solicitor General expects that all of the planned installations will be completed by September 2022, which will help it to maintain the 90% utilization rate until at least 2022/23.

### Recommendation 6

*To improve access to the courts for justice system participants in a cost-effective manner by making video appearances in court more readily available, we recommend that the Ministry of the Attorney General establish a plan and timeline to re-evaluate the use of its videoconferencing service and then, if it confirms the service as cost-effective, further expand the use of the service, given its proven and confirmed success.*

**Status: In the process of being implemented by September 2022.**

### Details

In 2016, the Superior Court and the Court of Appeal approached the Ministry to locate a third-party service provider to supply moderated video appearance technology for designated matters in their courts. The judiciary recognized the convenience for lawyers and cost savings for clients that could result from letting lawyers videoconference from their own offices. The Ministry entered into an agreement with the service provider in February 2017. A pilot began at the Superior Court Toronto location (civil cases only) and the Court of Appeal in March and May 2017, respectively.

However, our 2019 audit found that despite the positive results of the pilot and the minimal cost to the Ministry, the Ministry postponed further expansion of the service because it has not given this pilot the same level of priority as other projects, such as videoconferencing for criminal matters and online filing for civil and family courts. At the time of our audit, the Ministry has also not set a plan or timeline to expand the service further despite knowing that it will bring additional benefits to justice system participants.

Since our 2019 audit, the Ministries of the Attorney General and Solicitor General have prepared a draft Performance Measurement Framework (Framework) for the use of videoconferencing for in-custody criminal matters. In late 2020, the Ministry of the Solicitor General submitted a funding request to Treasury Board to seek approval for retaining unspent funds from 2020/21 to future years. However, the funding approval was still pending as of June 2021.

In early 2021, the two Ministries revised the Framework in response to feedback from senior leaders in both Ministries as well as to ongoing and post-pandemic changes in both the courts and corrections operating models. The Framework was then further revised in May 2021, with a focus on determining what metrics are or can be collected, data quality and reporting frequency. The Framework is still under development and review, and has not yet been approved by both Ministries at the time of our follow-up.

In March 2021, the Ministry of the Attorney General announced its multi-year plan to speed up access to the justice system. It developed the Justice Accelerated strategy which includes a plan, among other things, to expand the use of remote hearing technology. In particular, the Ministry launched the Virtual and Hybrid Hearing initiative in April 2021 with an aim to expand and improve courtrooms' capabilities for holding remote hearings across the province.

Additionally, the Ministry procured CaseLines, a document sharing platform, on an emergency basis to facilitate the expanded use of virtual hearings.

Since the beginning of the COVID-19 pandemic, a significant number of hearings have taken place in both the Ontario Court and the Superior Court. The Ministry plans to fully implement this recommendation by rolling out the technology across the province to incrementally increase capacity and access by September 2022.

### Recommendation 7

*To improve the reliability and usability of the FRANK system to better support the efficiency of the court system, we recommend that the Ministry of the Attorney General address its shortcomings identified in areas such as case tracking, data entry and system navigation.*

**Status:** In the process of being implemented by 2026.

#### Details

The FRANK system tracks family law cases heard in both the Ontario Court and the Superior Court, as well as criminal, civil and small claims cases received by the Superior Court. For cases other than criminal law, it tracks information such as the names of litigants, type of case, date and location. FRANK is a more recent system than ICON, but our 2019 audit found that it had weaknesses that impede the courts' ability to operate efficiently. We reported that, overall, FRANK was not a robust information system capable of promoting accurate entry of data and generating user-friendly reports. Courthouse staff and judges could not rely on FRANK alone to ascertain the specifics of a case. As a result, they must continue to heavily rely on the physical case files. Some of the key weaknesses we noted were as follows:

- Case tracking—the system does not capture essential information to track the progress of cases.
- Data entry—selections and validations require updates to ensure accuracy of data.
- System navigation—the interface layout is not user-friendly and efficient.

After our 2019 audit, in June 2020, the Ministry and the Superior Court engaged a consulting firm to conduct a technology and operational review of all existing case tracking systems including FRANK for the Superior Court. The consultant completed the

review in January 2021 and recommended a digital transformation of the Superior Court to implement modern technologies to improve in-person and virtual court operations. The review identified 10 key initiatives that could be executed through three phases over the next five years. In the spring of 2021, the Ministry engaged a consulting firm to complete an operational and technology review of the Ontario Court. The findings were similar to those found in the review of the Superior Court.

In June 2021, Treasury Board approved the Courts Digital Transformation Project for procurement of a new digital justice platform. In September 2021, the Treasury Board also approved a single digital justice solution that could be used by both courts. The single digital justice solution is going to replace the existing FRANK and ICON systems. Because the Ministry is exploring the case tracking, data entry and system navigation functionalities in the Courts Digital Transformation project, it expects the new single digital justice solution should address the shortcomings of FRANK (which will be replaced) when the project is completed by 2026.

## Ontario Court System Remains Heavily Paper-Based

### Recommendation 8

*To minimize the risk of delays and cost overruns in completing its modernization initiatives for criminal courts, we recommend that the Ministry of the Attorney General:*

- *consult with key stakeholders on business requirements, risks, timelines and costs in preparing its information technology business cases; and*
- *require information technology vendors to deliver projects within agreed-upon timelines and key requirements.*

**Status:** Fully implemented.

## Details

With respect to criminal courts, our 2019 audit reviewed three major technology-based initiatives—Criminal E-Intake, Electronic Scheduling Program and Criminal Electronic Order Production—that were in place or in the process of being implemented to address the legacy paper-based processes. However, we found that the Ministry was not properly planning and overseeing the implementation of these initiatives, resulting in significant delays and cost overruns. As a result, the full benefits of these initiatives were not yet realized at the time of our audit.

As mentioned in **Recommendation 4**, the Ministry, together with the Ministry of the Solicitor General and Ontario Court of Justice, formed a governance structure to oversee the planning, monitoring and implementation of the Criminal Justice Digital Design initiative. In addition to the core committees established, several advisory groups involve participants from areas such as the legal sector, judiciary, police services, court services, crown attorneys, corrections and Indigenous justice groups. Since the beginning of 2021, the Criminal Justice Digital Design’s core committees have regularly consulted and engaged with the advisory groups and incorporated their business requirements and other feedback into the initiative’s implementation plan.

As part of the Criminal Justice Digital Design initiative, the Ministry of the Solicitor General has also partnered with two vendors in delivering two projects. These are the supply and delivery of integration of eJust Case Management System application with Criminal e-intake solution, effective June 2020, and the Digital Evidence Management System Cloud-based solution, effective September 2020. The contracts signed between the Ministry of the Solicitor General and the vendors stipulate that the vendors will not be paid unless deliverables are made on time. As of June 2021, both vendors were so far able to satisfy the agreed-upon timelines and key requirements.

## Recommendation 9

*To enhance the effectiveness and efficiency of court processes by reducing the extensive use of paper in criminal courts, we recommend that the Ministry of the Attorney General:*

- *work with the judiciary to explore options such as adding an electronic signature functionality to judicial e-orders;*

**Status: Fully implemented.**

## Details

Criminal Electronic Order Production is an initiative supporting the electronic in-court production of the most common criminal court orders such as judicial interim release orders, also called “bail papers.” According to the Ministry’s business case submitted to the Treasury Board prior to 2012, this initiative is expected to save a million sheets of paper a year. However, our 2019 audit found that the amount of paper saved was uncertain because, in part, the system was not designed to allow for an electronic sign-off. As a result, although court staff can create orders on a computer using an electronic form, they still have to print the forms for judges to sign.

Subsequent to our audit, and in responding to the COVID-19 pandemic, the Ministry has worked with the judiciary to introduce a number of new processes, including the ability of the judiciary to sign orders electronically and court staff being able to email signed orders to relevant justice partners. For example, in April 2020, the Ministry provided a document to instruct the judiciary signing court documents digitally using PDF through Public Key Infrastructure (PKI). (PKI is used to protect sensitive data such as by providing unique digital identifiers for users to help secure end-to-end communications between parties.) In May 2020, the Ontario Court of Justice issued “COVID-19: Ontario Court of Justice Protocol RE Bail Hearings” to clarify in what circumstances certain court hearings, court materials and court orders should be done electronically, where feasible, or as directed by a judicial official.

- require court locations to make the best use of the e-orders, for example, by sending e-orders to other justice partners electronically, rather than using hard copies, and monitor use of the e-orders.

**Status:** In the process of being implemented by 2026.

### Details

Our 2019 audit also found that the Ministry did not require court locations to make the best use of the e-orders by sending them to other justice partners (such as police, probation and victim services) electronically, rather than using hard copies, and does not monitor use of the e-orders.

During our follow-up, we found that although new processes were in place that allow the judiciary to digitally sign and send orders to other justice partners electronically, the new electronic processes (digital sign and send orders) have not been made mandatory, wherever possible, at all court locations. The Ministry explained that the use of e-orders depends on whether matters are proceeded in person, remotely, or both. Other factors that could affect the use of e-orders are local judicial direction, access to technology by the accused or surety, or requests from other judicial partners.

We also noted that the Ministry does not keep track of relevant statistics or monitor use of the e-orders to determine their uptake, or identify locations to expand their use wherever opportunities arise. The Ministry indicated that it is currently exploring the e-orders functionality as part of the Courts Digital Transformation project mentioned in **Recommendation 7**. The Ministry plans to complete the Courts Digital Transformation project by 2026.

In addition, the Criminal Justice Digital Initiative (mentioned in **Recommendation 4**), in partnership with the Ontario Court, is developing a digital court log and digital filing cabinet specifically for the New Toronto Courthouse with an aim to reduce the need for paper documents currently hand-delivered between courtrooms.

### Recommendation 10

*To improve the effectiveness of the electronic divorce filing system and reduce the use of paper files, we recommend that the Ministry of the Attorney General:*

- track and analyze challenges experienced by its court staff when processing applications submitted through the system;

**Status:** Little or no progress.

### Details

Our 2019 audit reported that while the implementation of the electronic divorce filing system is a step in the right direction for improving access to justice for parties involved in family court, we noted the following:

- The Ministry had not assessed the error rate of the electronically filed divorce applications so as to make system improvements.
- About 30% of the electronically filed divorce applications contained errors that could have been prevented or more easily resolved with further enhancements to the existing system.
- The electronic filing system has not reduced the need for paper files as Ministry court staff still print out the applications for the judges to review.

In our 2019 audit, we identified that about 30% of the applications we sampled contained errors that took court staff on average about 50 days to correct. Staff from two court locations could not process over 50% of the electronically filed divorce applications as filed. The majority of errors we found were incomplete or insufficient documentation such as missing marriage certificate, forms not signed, draft divorce order not properly prepared, Affidavit for Divorce not commissioned and name(s) on the application not matching name(s) on the marriage certificate (e.g., missing middle name).

Our follow-up found that, except for the two enhancements made since our 2019 audit (further discussed in the second action under **Recommendation 10**), the Ministry has made little or no progress to track and analyze challenges experienced by its court staff when processing applications submitted through the system. It could not provide us with data

or other information as to where it tracks or analyzes common errors so that system effectiveness and efficiency can be continuously monitored and improved.

The Ministry indicated that it will review whether the Courts Digital Transformation project (as mentioned in **Recommendation 7**) could address the issues we identified in the 2019 audit.

- *improve the system to minimize errors and promote ease of correction of errors;*

**Status: In the process of being implemented by September 2026.**

### Details

After our 2019 audit, the Ministry made two system enhancements to the existing simple and joint divorce filing process in November 2020. A court finder function was added to assist the online filers to select which court location to file their divorce application in based on the party's residence. The second enhancement was a back-end case look-up function intended to prevent users from filing duplicate actions within the same court location. When a user inputs the names of the parties involved in an action, this function will perform a name search at that specific court location and reject any duplication from being filed at that specific court location. However, we noted that it is not a province-wide search, meaning that a user can still file the same application in another court location.

These enhancements are aimed to reduce the number of rejections due to filing at the wrong court location, as well as to reduce the number of duplicate applications. However, these enhancements were not designed to reduce the number of errors occurring during the electronic divorce filing process as we identified in our 2019 audit (as discussed in the first action under **Recommendation 10**). The Ministry indicated that, as part of the Courts Digital Transformation Project, it will review any system enhancements needed to minimize errors and promote ease of correction of errors by September 2026.

- *work with the judiciary to modernize the internal court processes to enable judges to view*

*electronically filed divorce applications, where appropriate, in electronic format.*

**Status: Fully implemented.**

Our follow-up found the Ministry implemented shared computer drive processes so that judges can now access and view documents filed electronically during a hearing. These new processes were implemented, as a result of the pandemic, to support virtual courts and to reduce the need for people to attend a courthouse in person. In May and June 2020, the Ministry established directives requiring family court management teams at Ontario Court and Superior Court locations to create local shared drive folders to save requests and documents received by emails. The Ministry also provided resources to support this new process. Each court location began to save documents and requests for hearings, which are received by email, in an electronic shared drive which is accessible by the judiciary.

The Ministry is also considering its longer-term options to modernize internal court process, including the consultant's recommendations mentioned in **Recommendation 7**.

## Key Justice Partners Faulted the Ministry's Consultation Process in Planning New Courthouses

### Recommendation 11

*To receive all possible useful feedback and advice from its key justice system partners on infrastructure decisions, we recommend that the Ministry of the Attorney General proactively engage justice system partners such as the judiciary and police services, as appropriate, prior to making and recommending major infrastructure decisions to the government, and communicate the final decisions to the justice system partners on a more timely basis.*

**Status: Fully implemented.**

## Details

At the time of our 2019 audit, the Ministry was building a new courthouse for Toronto to consolidate criminal matters from six existing Ontario Court criminal courthouses located throughout the city (1911 Eglinton, Old City Hall, College Park, 1000 Finch, 2201 Finch and part of 311 Jarvis). The project's contract value was \$956 million and it was estimated to be completed by 2022. Although representatives from the Office of the Chief Justice of the Ontario Court stated that the consultation process was "transparent, collaborative, and responsive," we found that the Office of the Chief Justice of the Superior Court and the Toronto Police Service both reported their disappointment with the Ministry's level of consultation and communication on such a major infrastructure decision.

Subsequent to our 2019 audit, the Ministry continues to lead the Judicial Facilities Working Group which was established in late 2018. The group comprises representatives from the Ministry and all three courts. They meet regularly to discuss both short- and long-term court facility and capital issues. There is now an annual intake process that has been used between the three courts and the Ministry's Facility Management Branch and the Court Services Division. The Ministry's Facility Management Branch communicates with each court to confirm which priorities will proceed for the year once the internal vetting and scoring processes are completed.

Our follow-up noted that the Ministry has proactively engaged justice system partners regarding major facility issues. Representatives from the Office of the Chief Justice of the Superior Court expressed that, for example:

- The Ministry consulted them appropriately regarding COVID-19 retrofits to existing courthouses, Wi-Fi upgrades needed to support virtual hearings, and locating off-site jury assembly facilities.
- The Thunder Bay Courthouse fire remediation work was done with appropriate consultation with the judiciary.
- The Ministry collaborated with the judiciary when creating a plan for improving the existing

Milton Courthouse. On June 11, 2020, a proposal to retrofit the Milton Courthouse was presented to the Judicial Facilities Working Group in light of the cancellation of the Halton Region Consolidated Courthouse project. At the meeting and later by letter, the judiciary raised concerns about the absence of plans to build additional regular courtrooms, jury courtrooms, and jury deliberation rooms, as well as provide a solution for secure judicial circulation routes. The Attorney General issued a letter, dated August 13, 2020, which confirmed that the Ministry's report back to Treasury Board would include Stage 1 planning approval for a possible expansion or addition to the Milton courthouse, in addition to refurbishment projects such as security upgrades, a new front entrance, and video technology upgrades in courtrooms.

We also noted that the Ministry consulted with the Halton Region Police Service when it was re-designing the Milton and Burlington courthouses in 2020.

Our follow-up also found that although progress has been made since our last audit in 2019, there were a few areas where, in the view of the Office of the Superior Court, the Ministry consultation could be improved, for example:

- Although the Superior Court agreed that a study of the condition of the Newmarket Courthouse modular addition is beneficial, the judiciary was not advised about this study until it was already approved by the Ministry and a request for proposal (RFP) was underway. The Regional Senior Justice was advised about the RFP at a meeting on November 10, 2020. Part of the presentation included photos that had been taken during a visual inspection of the modular addition in August 2020, of which the judiciary was unaware.
- In Kingston, there was an absence of meaningful consultation about securing the vacant registry office to provide much needed space for a jury assembly room and a small court room or conference room.
- The Toronto Superior Court of Justice's Amalgamation Project Team met regularly with the judiciary and were generally responsive to

concerns raised. However, Infrastructure Ontario learned early in the project that the landlord of a downtown courthouse refused to provide a dedicated secure judicial elevator and the judiciary were not notified about this issue until the project was near completion, leaving little opportunity to negotiate with the landlord. Also, multiple issues concerning security in the Family Court were not disclosed until the eve of opening and it is not clear that they have been fully resolved. The Ministry indicated that its Facilities Management Branch will continue to work with Infrastructure Ontario to identify alternative options to address the issues raised by the Superior Court.

Representatives from the Superior Court also indicated that while they appreciate the Judicial Facilities Working Group is meeting on a regular basis, the Ministry staff also needs to provide regular facility updates to applicable regional senior judges and local administrative judges in addition to informing representatives from the Office of the Chief Justice of the Superior Court. Further, the Superior Court reiterated that consistent and proactive consultation with the judiciary is required to fulfil the 2008 memorandum of understanding signed between the Attorney General and the Chief Justice of the Superior Court. The memorandum stipulates that the “Attorney General and the Chief Justice [of the Superior Court of Justice] agree to develop a consultation process for identifying, prioritizing and implementing facilities initiatives that reflects a collaborative process between the Attorney General and Chief Justice.”

## Court Services Regular Staff Absenteeism Increased by 19% between 2014 and 2018, while Number of Staff Declined by 10%

### Recommendation 12

*To minimize lost time and costs due to staff absenteeism, we recommend that the Ministry of the Attorney General provide more training and support to courthouse managers in proactively working with employees who experience higher-than-average absenteeism from work.*

**Status:** Little or no progress.

### Details

Our 2019 audit reported that the number of sick days taken by regular full-time staff working in the Ministry Court Services Division (Division) rose by 19% from 27,610 in 2014 to 32,896 in 2018, even though the number of regular full-time staff who were eligible to take sick days declined by 10% over the same period. The average number of sick days per employee in this Division rose from 10 in 2014 to 14.5 in 2018; this compares to the Ministry average of 9.5 days in 2014 and 11.35 days in 2018, and the Ontario Public Service average of 11 days in 2018.

At the time of our 2019 audit, the Division did not maintain a central system to monitor staff with high absenteeism rates, instead leaving this responsibility to the local courthouse manager. The courthouse managers we visited indicated they have implemented their own local systems to monitor staff absenteeism. Absenteeism can have a significant impact on the courts’ ability to provide justice without undue delays or administrative errors, and can signal employee commitment problems.

Our follow-up found the Ministry has made little progress on our recommendation to provide more training and support to courthouse managers in proactively working with employees who experience higher-than-average absenteeism from work. The monitoring and management of staff absenteeism largely remained the same as we found in our 2019 audit as the Division still did not maintain a central

system to monitor staff with high absenteeism rates, and continues to leave this responsibility to the local courthouse manager.

In March 2021, the Division worked with the Ministry's Human Resources Strategic Business Unit and advised court managers and the Division's staff that the Centre for Employee Health, Safety and Wellness has resources available to assist them, if needed, through the Employee Attendance Support Program.

Staff from the Division indicated that it will continue to explore options with the Ministry's Human Resources Strategic Business Unit to provide attendance management tools and additional training for local court managers to address staff attendance issues. However, at the time of our follow-up, this plan has been put on hold due to the Ministry's focus on COVID recovery operations.

## Ministry Oversight of Court Interpreters Needs Improvement

### Recommendation 13

*To help ensure the use of Ministry-accredited court interpreters performing proper interpretation for people who need the services in court, we recommend that the Ministry of the Attorney General (Ministry):*

- *require courthouse staff to use Ministry-accredited interpreters and properly document each time the services of an interpreter are booked outside of the Ministry central registry (including specifying who on the registry was contacted and the reasons why they were not available);*

**Status: In the process of being implemented by December 2021.**

### Details

During our 2019 audit, we found that although there were 676 accredited interpreters on the Ministry's registry, the Ministry paid about 140 unaccredited interpreters and 37 third-party agencies (the number of interpreters supplied by these agencies was not readily available) a total of approximately \$898,290 in 2018/19 to provide courtroom

interpretation services even though they were not on the Ministry's registry.

The Ministry's policy allows courthouse staff to book the services of interpreters outside of the central registry only in situations of extreme urgency. Before booking an off-registry interpreter, Ministry policy requires that courthouse staff document all efforts taken to reach a Ministry-accredited interpreter, and to note the reasons why each Ministry-accredited interpreter who was contacted was not booked. However, the Ministry did not have a process in place to collect and review this information because it is kept locally at each courthouse. Therefore, the Ministry could not identify languages and court regions in need of additional Ministry-accredited interpreters.

During our follow-up, we found the Ministry had revised the Court Interpreter Coordinator's Manual on scheduling policies for interpreters in December 2020. Where an accredited interpreter cannot be booked or where services are booked outside of the registry, court staff must document in the existing SharePoint Interpreter Scheduling Tool who on the registry was contacted and the reasons why they were unavailable. This information will form part of the court files.

The Court Interpreter Coordinator's Manual also requires the local courthouse staff to document, using the Interpreter Assignment Form, their efforts in scheduling an accredited interpreter. The Manual states that the Interpreter Assignment Forms must always be printed out when using conditionally accredited, unaccredited and agency interpreters for trials to show the attempts made to schedule an accredited interpreter.

To educate the local courthouse staff on these policies and procedures and provide a forum for staff who are responsible to schedule interpreters to discuss their concerns on hiring accredited interpreters, the Ministry organized a virtual townhall session in December 2020. The next townhall session is planned for fall 2021.

Starting in March 2021, the Ministry began using the SharePoint Interpreter Scheduling Tool to track whether the local courthouse staff are consistently

using accredited interpreters, monitor whether non-accredited interpreters are being hired from external sources, such as another government agency, and whether staff are documenting the reasons why an interpreter is booked outside of the Ministry's central registry. In August 2021, the Ministry once again issued a memo to court staff reminding them of the importance of documenting all attempts to secure an interpreter and/or when an interpreter is booked outside of the Ministry's registry. The Ministry plans to monitor and confirm whether the Manual is being followed, and whether this Tool is being used as required, by December 2021.

- *establish a centralized process to collect information from the courthouses and identify the languages and regions that need additional accredited interpreters;*

**Status: In the process of being implemented by December 2021.**

Since our 2019 audit, the Ministry created a Court Interpretation Working Group with regional representatives from various courthouses across the province. The working group began to meet in November 2020 to discuss the challenges and solutions in scheduling accredited interpreters, including how to locate and book accredited interpreters for specific languages where there was a chronic shortage.

In February 2021, the working group identified specific languages (e.g., Tigrinya, Tagalog, Amharic, Punjabi, French and Ojibway dialects) for various court regions (e.g., Central West, East and Northeast) where additional accredited interpreters are needed. The Ministry's Court Interpretation Unit (Unit) also asked local courthouse staff to keep it apprised of the courthouse's interpreter needs so that the Unit can address specific courthouses' language requirements.

As mentioned in the first action under **Recommendation 13**, the Ministry began using the SharePoint Interpreter Scheduling Tool (Tool) for court locations across the province to schedule court

interpreters. The Tool was first implemented in 2014. The Ministry indicated that it will use the data and information collected from the Tool and identify the languages and regions that need additional accredited interpreters. The Ministry expects to identify specific languages and regions that need additional accredited interpreters by December 2021.

- *accredit additional interpreters where more are needed.*

**Status: In the process of being implemented by December 2021.**

After our 2019 audit, the Ministry has made some progress to hire interpreters who can speak languages, such as Amharic, Romanian, Swahili and Ukrainian, that had been identified anecdotally as being in high demand by local courthouses across the province. Since then, the Ministry conducted two rounds of the interpreter accreditation process.

- The first round was conducted between December 2020 and February 2021, and only one of the four candidates was successful and added to the Ministry's central registry of accredited interpreters.
- The second round was commenced in April 2021 when the Ministry invited 57 interpreter applicants to attend a test preparation session. Twenty-eight of the 57 applicants completed the interpreting test preparation session and are being scheduled by the Ministry to undertake the interpretation accreditation testing commencing in June 2021.

The Ministry indicated that, as the pandemic restrictions are lifted, the Ministry is planning to complete additional testing on more potential interpreters where more are needed. The recruitment decision will be based on the more systemic, provincial data collected from the SharePoint Interpreter Scheduling Tool as mentioned in the first and second actions under **Recommendation 13**. The Ministry plans to fully implement this recommendation by December 2021.

### Recommendation 14

To save costs on travel expenses paid to court interpreters, we recommend that the Ministry of the Attorney General (Ministry) require:

- Ministry court staff to book the services of interpreters who reside in or near the region where they are needed and document the justification for any exceptions to this requirement; and
- court interpreters to follow the government-wide employee travel policy that stipulates that the most economical means of travel be used.

**Status:** In the process of being implemented by December 2021.

### Details

In 2019, our review of a sample of 60 invoices claimed by court interpreters on the Ministry's central registry between March 2018 and February 2019 found that over one-third of the travel claims were uneconomical, and in some instances, a large portion of the expenses could have been avoided had interpreters been booked locally. Also, the justification for these travel claims was not always documented.

Our 2019 audit also reported that in contrast to the government-wide travel policy for government employees, the Ministry's travel policy for court interpreters does not require interpreters to use the most economical means of travel. Therefore, the designated court staff signed and approved the invoices without assessing whether or not they were economically justifiable.

Since our 2019 audit, the Ministry, in conjunction with the Managers of Business Support, developed targeted advertising tactics to provide additional support to regions in the provision of interpreters for high-demand languages. As mentioned in **Recommendation 13**, the Ministry had revised the Court Interpreter Coordinator's Manual (Manual) on scheduling policies for interpreters in December 2020. Specifically, the Ministry requires court staff to book the services of interpreters who reside in or near the region where they are needed and document the justification for any exceptions to this requirement. The

Ministry had communicated this policy in the revised Manual and during the winter townhall session held in December 2020 to staff responsible for interpreters across all courthouses. As well, in July 2021, the Ministry developed a targeted recruitment plan that focuses on interpreter needs by region.

With respect to the travel policy for interpreters, the Ministry, in August 2021, issued a memo to all accredited court interpreters to remind them of the Ontario Public Service (OPS) Travel Directive and the Ministry's fee schedule for court interpreters.

As stated in **Recommendation 13**, at the time of our follow-up, we found that the Ministry was in the process of recruiting additional interpreters for high-demand languages based on a targeted recruitment plan that focuses on interpreter needs by region to mitigate travel costs. By hiring more interpreters, the Ministry should be able to reduce the frequency of having to book the services of interpreters who do not reside near the courthouse, thereby reducing travel costs. The Ministry indicated it is also exploring the use of remote interpretation to reduce the need for travel and better use interpreter resources across the province.

The Ministry plans to monitor and confirm that the revised scheduling policy and the OPS Travel policy for interpreters are being followed by court staff by December 2021 and on an ongoing basis.

## Performance Targets Not Set to Aim for Timely Disposition of Cases

### Recommendation 15

To help measure the efficiency and effectiveness of court operations in contributing to a timely, fair and accessible justice system, we recommend that the Ministry of the Attorney General work with the judiciary to:

- review best practices from other jurisdictions and establish targets for key performance indicators such as timeliness in disposition of cases;

**Status:** Little or no progress.

## Details

Because responsibility for the courts is shared between the Court Services Division and the judiciary of both Courts, it is up to both parties to participate in establishing effective performance reporting. Our 2019 audit found that the Ontario Court and Superior Court published some case statistics and relevant court information; however, targets were lacking to measure against actual performance. Thus, Ontario was not as well placed as some other jurisdictions, such as British Columbia and Alberta, to assess the efficiency and effectiveness of its court operations, especially those related to the timely disposition of cases.

During our follow-up, we found that little or no progress was made to review best practices from other jurisdictions and establish targets for key performance indicators such as timeline in disposition of cases. The Ministry stated that it has raised the recommendation with the Offices of the Chief Justices of both Ontario Court and Superior Court to the extent possible while continuing to respect the independence of the judiciary. Review of best practices and targets for key performance indicators will need to be developed with the Courts after the end of the pandemic.

- *monitor and measure actual performance against targets; and*
- *report publicly on the results periodically.*

**Status: Will not be implemented.** The Office of the Auditor General continues to believe that the Ministry should work with the judiciary to monitor and measure actual performance against targets and report publicly on the results periodically.

At the time of our follow-up, the Ministry indicated that court activity reports and data constitute court information, and the Ministry's Court Services Division collects and maintains this information at the direction of the independent judiciary. This data can only be shared with the approval of both the Ontario

Court and the Superior Court. As a result, the Ministry cannot set key performance indicators targets or determine what to report publicly without judicial consent. Therefore, the Ministry will be not implementing these two recommended actions.

## Chapter 1

### Section 1.16

Ministry of Attorney General

# Criminal Court System

Follow-Up on VFM Volume 3 Chapter 3,  
*2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	4		1		3	
Recommendation 2	3			3		
Recommendation 3	1				1	
Recommendation 4	3			3		
Recommendation 5	2	1		1		
Recommendation 6	3		2	1		
Recommendation 7	1		1			
Recommendation 8	2		1		1	
Recommendation 9	3			3		
Recommendation 10	1			1		
<b>Total</b>	<b>23</b>	<b>1</b>	<b>5</b>	<b>12</b>	<b>5</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>4</b>	<b>22</b>	<b>52</b>	<b>22</b>	<b>0</b>

### Overall Conclusion

The Ministry of the Attorney General's (Ministry) Criminal Law Division (Division), as of August 31, 2021, had fully implemented only 4% of the actions we recommended in our *2019 Annual Report*. A further 22% of the actions were in the process of implementation, and little or no progress has been made on another 52% of actions. The Division determined that it will not implement the remaining 22%, or five, of our recommended actions.

Since our 2019 audit, the Division had fully implemented our recommendation to complete the evaluation of the Embedded Crown initiative that aims to reduce the proportion of cases starting in bail court. However, despite the results of the initiative having shown some positive outcomes, the Division has made little to no progress on creating an execution plan to expedite its implementation across the province. The Division indicated that it will revisit the analysis of the Embedded Crown initiative once the backlog of court cases created by the COVID-19 pandemic has been addressed.

The Division was in the process of implementing our recommendation to allocate resources as needed and work with the judiciary to improve the court scheduling process. In December 2020, the Division received approval from the Ministry for 31 temporary full-time-equivalent staff. Since then, the Division has added 20 summer and articling students and 34 additional temporary legal and business professional positions. All these temporary positions have been approved until at least March 31, 2022, to assist with addressing the backlog of cases created during the pandemic. The Division plans to complete its work on resource allocation as well as prioritizing case scheduling with the judiciary, who are responsible for court scheduling, to improve the court scheduling process by September 30, 2022.

The Division informed us that due to the COVID-19 pandemic, it was focused on backlog recovery and had implemented a number of initiatives with the judiciary to maintain access to justice during the pandemic. These initiatives included implementing remote technologies to allow for a virtual space to operate courts in a safe and accessible fashion, and creating an internal use-only document, called the COVID-19 Recovery Dashboard. The dashboard contains information about upcoming trials and preliminary inquiries scheduled in the Ontario Court of Justice and provides an overview of case trends prior to and during COVID-19.

However, the Division has determined that it will not implement recommendations such as to analyze the reasons for delays in cases pending disposition and capture the reasons for cases being stayed by judges, including distinguishing the reasons under the control of the Division and the courts from those caused by the defence, on an aggregate basis for each court location, by region and province. It has also determined that it will not capture the breakdown of reasons for cases being withdrawn before trial, on an aggregate basis for each court location, by region and province. The Division currently captures this data on a case-by-case basis and believes that capturing this data on an aggregate level will not provide additional

practical and relevant information to support operational decisions that it does not already have.

The position of the Office of the Auditor General is that the Division should monitor criminal cases that have been pending for more than eight months by court location and region for senior management to highlight areas of concern that have a systemic impact on the criminal court system. Such higher-level analysis can help to distinguish the reasons for the delays so that the Division can proactively manage the progress of criminal cases that are within its control and resolve criminal cases in a more timely manner.

## Subsequent Event

In October 2021, the Ministry announced new measures to address court backlogs, including the criminal case backlog reduction strategy and an updated COVID-19 Recovery Directive for prosecutors. These new measures may have some impact on some topics covered in this follow-up report. These changes and their impacts are not reflected in this follow-up report because the announcement was released subsequent to our field work, which was substantially completed on August 31, 2021.

## Background

The Criminal Code of Canada is the federal legislation that sets out criminal law and procedure in Canada, supplemented by other federal and provincial statutes. Crown attorneys prosecute accused persons under these laws on behalf of the Criminal Law Division (Division) of the Ontario Ministry of the Attorney General (Ministry).

The Ontario Court of Justice (Ontario Court) and the Superior Court of Justice (Superior Court) received approximately 205,000 criminal cases in 2020/21, a decrease of 9% since 2016/17 (approximately 240,000 cases in 2018/19).

The Division operates from its head office in Toronto, six regional offices, four divisional

prosecution and support offices and 54 Crown attorney offices across the province. Between 2016/17 and 2020/21, the Division's operating expenses have increased by 11%, from \$263 million to \$293 million, mainly because the number of Crown attorneys has increased by 7% (from 977 Crown attorneys in 2016/17 to 1,045 in 2020/21).

In July 2016, a ruling by the Supreme Court of Canada in *R. v. Jordan* required that if a case is not disposed within specific timelines (18 months in the Ontario Court or 30 months in the Superior Court), it is presumed that the delay is unreasonable and Crown attorneys have to prove otherwise or the presiding judge may decide that the charges will be stayed.

Our 2019 audit found that the backlog of criminal cases we noted in our audits of Court Services in 2003 and 2008 continued to grow. Between 2014/15 and 2018/19, the number of criminal cases waiting to be disposed by the Ontario Court increased by 27% to about 114,000 cases.

During our 2019 audit, we experienced significant scope limitations in our access to key information related to court scheduling. As a result, we were unable to assess whether public resources, such as courtrooms, are scheduled and used optimally to help reduce delays in resolving criminal cases. We were refused full access to 175 sampled case files maintained by Crown attorneys. The Division cited various privileges such as litigation privilege (referring to files containing information regarding prosecution strategy and publication bans, for example), and confidential informer privilege (referring to files containing names of confidential informants, whose identity prosecutors have a legal duty to protect by ensuring no disclosure occurs that might tend to reveal the identity of an informer or their status as an informer). Instead, the Ministry's Criminal Law Division staff summarized some of the details of these case files, including reasons for delays, for our review.

Our significant audit findings included:

- Criminal cases awaiting disposition were taking longer to resolve. The Ontario Court of Justice received about 237,000 cases in 2018/19, a 10% increase over 2014/15. The 8% increase in

full-time-equivalent Crown attorneys resulted in only a 2% increase in total cases disposed, resulting in a 27% increase in cases waiting to be disposed—about 114,000 as of March 2019 compared to about 90,000 in March 2015.

Between 2014/15 and 2018/19, the average number of days needed to dispose a criminal case increased by 9% (from 133 to 145 days), while the average appearances in court before disposition increased by 17% (from 6.5 to 7.6 appearances).

- Reasons for aging cases require formal and regular analysis to be done centrally. The Division had not done formal and regular analysis of aging cases at an aggregate level (the level of court location, region or the province). This includes, for example, categorizing the reasons why cases are pending disposition or are stayed, and distinguishing whether delays were caused by the defence or by the prosecution or were “institutional”—related to court scheduling, for example.
- The Criminal Law Division and police services lacked formally agreed-upon roles and responsibilities for the timely disclosure of evidence. In 1999, the Criminal Justice Review Committee recommended a directive to be developed that comprehensively sets out the disclosure responsibilities of the police and prosecutors. In November 2016, the Division began to engage police services to sign a framework memorandum of understanding (MOU) for the disclosure of evidence. The Division revised the MOU in June 2019. However, at the time of our audit, not all police services had signed the MOU.
- About 85% of bed days were used by inmates who were in remand for more than one month, and some for over a year. Two factors contribute to the size of the remand population: the number of accused entering remand custody and the length of time inmates spend in remand custody. We found the main reasons were that the inmates were dealing with other charges; they remained by their own choice; they were having ongoing plea discussions with the prosecution; or they

could not produce a surety (guarantor) to supervise them while out on bail.

- Twenty-nine of Ontario's specialized courts heard cases for accused persons with mental health conditions. Mental health courts have been in operation since 1997 with the aim of dealing with issues of fitness to stand trial and, wherever possible, limiting repeated returns to court by these accused, through diversion programs and other appropriate types of treatment. Our audit found that the benefits of Ontario's mental health courts were unknown. Procedures were not clearly outlined, proper data was lacking on their operations, and definitions of these courts' objectives and intended outcomes were imprecise.

We made 10 recommendations, consisting of 23 action items, to address our findings. At the completion of our audit, we had received commitment from the Ministry of the Attorney General that it would take action to address all of our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of the Attorney General that effective November 15, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Number of Criminal Cases Awaiting Disposition Continues to Increase

### Recommendation 1

*To proactively manage the progress of criminal cases through the court system and resolve them in a timely manner, we recommend that the Ministry of the Attorney General (Criminal Law Division):*

- *monitor all criminal cases that have been pending disposition for more than eight months by court*

*location and region and analyze the reasons for the delays;*

- *capture all reasons for cases being stayed by judges;*
- *distinguish the reasons under the control of the Division (such as availability of Crown attorneys and disclosure of evidence) and the courts (such as scheduling of courtrooms and judges) from those caused by the defence; and*

**Status:** Will not be implemented. The position of the Office of the Auditor General is that the Division should monitor criminal cases that have been pending for more than eight months by court location and region for senior management to highlight areas of concern that have a systemic impact on the criminal court system. Such higher-level analysis can help to distinguish the reasons for the delays so that the Division can proactively manage the progress of criminal cases that are within its control and resolve criminal cases in a more timely manner.

### Details

Our 2019 audit found that the backlog of criminal cases we noted in our previous audits of court services continued to grow. This backlog and systemic delay in resolving criminal cases negatively impacts the Charter right of accused persons to be tried within a reasonable time.

The Ontario Court received 236,883 cases in 2018/19, a 10% increase over 2014/15. Yet the number of cases disposed increased by only 2% over the same period. The result was a 27% increase in criminal cases waiting to be disposed —about 114,000 cases as of March 2019 compared to about 90,000 in March 2015.

Our 2019 audit also found that the number of cases pending disposition up to eight months increased by more than 30%, from 59,000 as of March 2015 to 77,000 as of March 2019. Further, since the July 2016 Jordan decision, according to information provided by the Division at the time of our 2019 audit, 191 provincially prosecuted cases had been stayed at the request of the defence by judges who ruled that the prosecution, police and/or court

system had been responsible for unreasonable delay. In these cases, justice was denied for the victims.

However, we found that the Division had not done formal and regular analysis of aging cases at an aggregate level, that is, at the level of court location, region or province, such as the following:

- categorizing the reasons why cases were pending disposition;
- categorizing the reasons why cases were stayed; or
- distinguishing whether delays were caused by the defence or by the prosecution or were “institutional,” for example, related to court scheduling.

These higher-level analyses can be used to generate regular reports for senior management to highlight areas of concern that have a systemic impact on the criminal court system. As well, such analysis can help to inform the Division so that Crown resources can potentially be allocated and reallocated proactively.

During our follow-up, we noted that the Ontario Court received 203,104 cases in 2020/21, an 8% decrease over 2016/17. Yet the number of cases disposed decreased by 28% over the same period. The result is a 71% increase in criminal cases waiting to be disposed—about 165,000 cases as of March 2021 compared to about 97,000 in March 2017. In addition, we noted that the number of cases pending over 18 months has increased by 109% from 6,196 as of March 2017 to 12,972 as of March 2021. The Division’s staff indicated that this increase in criminal cases waiting to be disposed was largely attributable to the effect that pandemic-related court scheduling had on the administration of justice. Court scheduling during the pandemic reduced court capacity and limited the types of criminal matters that could be heard in court. The Division’s staff further stated that these scheduling practices are outside the scope of their Division and that court scheduling is the exclusive domains of the Ontario Court and Superior Court.

We noted (in our follow-up as well as in the 2019 audit) that the Division distributes a list of cases pending each month to all Crown managers. This list provides a break down in time categories, for

example, 0–8 months, 8–12 months, 12–15 months, 15–18 months and +18 months.

Our follow-up also noted that the Division categorizes the number of cases stayed due to the Jordan decision, cases stayed due to other reasons and, a new category was added since our last audit that categorizes the number of cases stayed due to COVID-19 challenges. However, similar to what we found in our 2019 audit, any further analysis of reasons why the cases were delayed or what caused a stay are done by local managers and Crown attorneys on a case-by-case basis.

The Division informed us that it will not implement our recommended actions. It indicated and believed that there is no further need to act on our recommendation because all the necessary information is available to assess the reasons for delay through a combination of tools at a divisional, regional and local level. The Division said these tools include “judicial decisions, detailed Crown notes, 11b reports, SCOPE, and a Heads-Up Display case analysis tool.” The Division determined that the actions it took on this recommendation are sufficient to understand and assess operational pressures on the time leading up to trial.

However, the Division was unable to provide us with information on reasons for pending cases more than eight months and the stayed cases, or to distinguish the reasons (for delay) that are under the control of the Division (such as availability of Crown attorneys and disclosure of evidence) and the courts (such as scheduling of courtrooms and judges) from those caused by the defence at an aggregate level, that is, at the level of court location, region and province.

- *take timely action, including allocating resources as needed and working with the judiciary to improve the court scheduling process.*

**Status:** In the process of being implemented by September 30, 2022.

After our 2019 audit, since July 2020, the Division has been focusing on efforts to bring

about a phased recovery of courts due to the COVID-19 pandemic. Other efforts have focused on:

- retrofitting each court location across the province with enhanced safety precautions to allow for a safe return of in-person matters where required;
- allowing for a virtual space to operate courts in a safe and accessible fashion through remote technologies;
- commencing Virtual Case Management (Remand) Courts across the province in a staged process; and
- a new process for scheduling out of custody trials.

The Attorney General released a COVID-19 Recovery Directive that instructed prosecutors to review all existing and incoming cases to take into account the impact of lengthy delays caused by COVID-19 in determining whether there is a reasonable prospect of conviction.

On March 28, 2020, the Division's Assistant Deputy Attorney General issued a memo to all Crown Offices advising local Crowns to work on prioritizing case scheduling with the judiciary, who are responsible for court scheduling.

In addition, in December 2020, the Division added 31 temporary full-time-equivalent staff. Since then, the Division has added 20 summer and articling students and 34 additional temporary legal and business professional positions. All these temporary positions have been approved until at least March 31, 2022, to assist with addressing the backlog of cases created during the pandemic. The Division plans to complete its work on resource allocation, as well as prioritizing case scheduling with the judiciary to improve the court scheduling process, by September 30, 2022.

## Criminal Law Division Efforts Have Had Little Effect on Delays in Disposing Criminal Cases

### Recommendation 2

*To allocate, assign and reassign Crown attorneys efficiently and appropriately based on case complexity and the need to achieve a reasonable balance in their workloads across the province, we recommend*

*that the Ministry of the Attorney General (Criminal Law Division):*

- *set a targeted timeline to complete the implementation of the Crown Information Management System;*
- *allocate Crown resources to cases as needed by criteria including age, complexity and type of case; and*
- *continuously reassess case status to be able to reallocate cases where needed.*

**Status: Little or no progress.**

### Details

In our 2019 audit, we found while the number of full-time-equivalent Crown attorneys increased by 8% from 951 in 2014/15 to 1,023 in 2018/19, total cases disposed in both the Ontario Court and Superior Court increased by only 2%. The addition of new Crown attorneys did not result in a proportional increase in the total number of cases disposed.

Our 2019 audit noted that, overall, the average number of criminal cases disposed per Crown attorney increased by 2.5% over the five-year period ending March 31, 2019; but also found significant variations in the number of cases disposed (using a five-year average) per Crown attorney across the province, from a low of 160 cases in Toronto region to a high of 354 cases in the West region, compared to a provincial average of 274 cases.

At the time of our 2019 audit, the Division identified the additional need for a system to define the complexity of different criminal cases and assign caseloads to its prosecutors accordingly. However, after seven years since the previous audit in 2012, as of August 2019, the development of this Crown Information Management System was in data analysis stage, with an expected completion date by the end of June 2020.

During our follow-up, we noted that the Division has made little or no progress in implementing this recommendation. As a result, the Division still does not have a data-driven and systematic approach to

assigning Crown attorney resources consistently across the province that could help decision-makers reduce the backlog of cases.

The Division informed us that the COVID-19 backlog recovery will take precedence over a proposed framework, using the Crown Information Management System, for resource allocation. Therefore, the Division plans to establish a timeline for implementation for this recommendation after the COVID-19 backlog is addressed.

### Recommendation 3

*To help reduce the costs that result from delaying the withdrawal of charges when there is no reasonable prospect of conviction, and to promote timely disposition of criminal cases, we recommend that the Ministry of the Attorney General (Criminal Law Division) collect complete data that includes the breakdown of all reasons for withdrawal before trial, the average number of days from charge to withdrawal for each reason, and the average number of appearances required by the accused in court for each reason, covering all court locations.*

**Status:** Will not be implemented. The position of the Office of the Auditor General is that the Division should collect complete data that includes the major reasons for withdrawn charges. This data will help the Division to promote timely disposition of criminal cases as well as to help reduce the costs that result from delaying the withdrawal of charges when there is no reasonable prospect of conviction.

### Details

Our 2019 audit noted that a Crown attorney may withdraw the charges against an accused person before trial (1) when it becomes clear that there is no reasonable prospect of conviction; (2) as part of the resolution, such as plea bargaining; (3) when it is not in the public interest to prosecute; or (4) for other reasons not categorized by the Division.

Our audit found that the Court Services Division's Integrated Court Offences Network (ICON) system does not capture the withdrawn charges by the four major reasons mentioned above.

Although the Crown attorney's case management system (SCOPE) has the capability to capture

these reasons, the system had not yet been able to fully cover all locations because, as of August 2019, SCOPE was rolled out across approximately 90% of the province. (SCOPE is a scheduling, case management, file management and disclosure tracking tool that can help with case management by, for example, categorizing active cases by age.) As a result, at the time of our 2019 audit, the Division was unable to fully analyze the growing trend we saw in the number of cases where charges were withdrawn by Crown attorney before trial, the number of days it took to withdraw and the number of appearances an accused had to make in court before charges were withdrawn, at an aggregate level by court location, region or province. This information can be used to assist the Division to distinguish which areas were within or outside of the control of Crown attorneys, and to help them make timely decisions to withdraw charges when there appears to be no reasonable prospect of convicting the accused, or if it is not in the public interest to prosecute or for other uncategorized reasons.

During our follow-up, the Division determined that it will not implement this recommendation citing that: "Tracking timelines and categories to these types of events does not benefit the administration of justice. They risk impacting the judgement of prosecutors, which is meant to be free from partisan considerations, and encroaching on their obligation to assess cases in an unbiased manner at all stages of the prosecution."

The Division further stated that individual prosecutors at each court location are instructed to review all existing and incoming cases to determine if a case is viable for prosecution and if an appropriate sanction could be offered. As mentioned in **Recommendation 1**, the COVID-19 Recovery Directive advises prosecutors to take into account the impact of lengthy delays caused by COVID-19 in determining whether there is a reasonable prospect of conviction.

### Recommendation 4

*To improve the timeliness and sufficiency of disclosure of evidence to assist Crown attorneys in making their*

assessment whether to proceed with the prosecution of their cases, we recommend that the Ministry of the Attorney General (Criminal Law Division):

- work with the Ministry of the Solicitor General to clearly define the respective roles and responsibilities of police services and Crown attorneys with regard to disclosure of evidence;
- revise the memorandum of understanding (MOU) between the Ministry of the Attorney General and police services to incorporate their agreed-upon roles and responsibilities and address any concerns that are preventing the remaining police services from signing the MOU; and
- put in place an effective process to regularly monitor and determine if the agreed-upon disclosure timelines have been met by both parties.

**Status:** Little or no progress.

### Details

During the 2019 audit, during our review of notes summarized by Crown attorneys on the case files we selected, we noted problems in obtaining timely and sufficient disclosure of evidence from police. We noted that disclosure of evidence was the main factor in delaying 39% of the 56 cases that we reviewed that were stayed under the Jordan decision.

At the time of our audit, the Division had long been aware of the difficulties in obtaining timely and sufficient evidence for disclosure purposes; however, the delays in delivering timely disclosure were continuing to contribute significantly to case backlogs. Our 2019 audit reported the following:

- In November 2016, the Division began to engage in a framework memorandum of understanding (MOU) with the Ontario Association of Chiefs of Police to standardize the disclosure process. However, we found that not all of the police services signed the MOU with the Division.
- The MOU specifies various timelines to be met in the police delivery of disclosure to the Crown attorney. However, the Division does not have a process, including regular reporting, in place to

measure if the police services that have signed the MOU are meeting these agreed-upon timelines.

- In June 2019, the Division revised the MOU and signed it with the Ontario Association of Chiefs of Police. As of August 2019, only three municipal police services had signed the revised MOU. All other 59 police services had yet to sign.
- Three of the police services that we contacted agreed that a clear statement of their own and Crown attorneys' roles and responsibilities is essential for both parties to better allocate their limited resources and provide timely disclosure of evidence.

Our follow-up found that the Division has made little or no progress in implementing this recommendation. The Division indicated that COVID-19 related priorities impacted its progress on this recommendation. On February 25, 2021, the Division's Assistant Deputy Attorney General sent a letter to the Ministry of the Solicitor General's Assistant Deputy Minister of the Public Safety Division about the status of the Framework Memorandum of Understanding and relevant regulation discussions about disclosure of evidence. The Division further indicated that it has recommenced the discussions with the Ministry of the Solicitor General and the Ontario Association of Chiefs of Police, and that it will continue in an effort to determine a plan forward.

## Approximately 70% of Inmates in Detention Are in Remand and Have Not Yet Been Convicted on Their Current Charges

### Recommendation 5

*To help reduce the number of accused persons in detention waiting for their cases to be disposed, and shorten the time inmates on remand must spend in detention, we recommend that the Ministry of the Attorney General (Criminal Law Division):*

- complete the evaluation of its Embedded Crown initiative, specifically its potential for reducing the

*number of accused being remanded in custody;  
and*

**Status:** Fully implemented.

### Details

An accused in remand (pretrial detention) has not been convicted on their current charges and under section 11(d) of the Charter is presumed innocent until proven guilty. If an accused person is denied (or does not seek) bail, they will remain in detention. Our 2019 audit on Adult Correctional Institutions found that the remand population in adult correctional institutions in Ontario amounted to 71% of all inmates in 2018/19 (based on average daily count), up from 60% in 2004/05. Ontario's remand population first overtook its sentenced population as the majority of inmates in its correctional institutions on an average day in 2000/01. As of 2018/19, the average daily count of remand inmates in provincial adult correctional institutions exceeded 5,000; this has decreased slightly to 4,918 in 2020/21. However, in 2020/21, the remand population comprised 76.8% of the total inmate population, up from 71% in 2018/19.

At the time of our 2019 audit, the Criminal Law Division had implemented an Embedded Crown initiative that gives Crown attorneys the opportunity to advise the police on bail-related matters, such as whether to release accused persons who promise to appear in court instead of detaining them for a bail hearing. The Crown attorneys work full-time ("embedded") inside the police station. This initiative aims to reduce the proportion of cases starting in bail court. In November 2018, the Division conducted a preliminary assessment of the pilot which found a 2%–10% drop in the percentage of cases where the accused was detained by the police and sent for a bail hearing. The Division planned to decide on the next steps for this pilot once it completed its final evaluation by the end of 2019.

In our follow up, we found that the Division completed the evaluation of the Embedded Crown initiative. The initiative was measured based on one key performance indicator: the percentage of cases

that started the court process in bail court, with the target being a decrease from the baseline (i.e., the period prior to the introduction of the Embedded Crown).

This initiative involved the introduction of Embedded Crowns at two police stations in Ontario (Toronto 51 Division and Ottawa) in early 2017 with the objective of providing police with real-time advice and support on detention and release decisions. The results of the performance measurement found that:

- The initiative was successful in Ottawa where it was estimated that the number of cases starting in bail would have been approximately 16% higher had this initiative not been introduced.
- In Toronto 51 division, it was estimated that the number of cases starting in bail would have been 5% higher had this initiative not been introduced.
- The role of the Embedded Crown expanded beyond bail and detention issues. In particular, the Embedded Crown has frequently been assisting with charging decisions and investigative advice.
- Police feedback suggests that the initiative has been well received in both Toronto 51 Division and Ottawa police services.
- *if the initiative is found to be successful, create an execution plan to expedite its implementation across the province.*

**Status:** Little or no progress.

### Details

In terms of creating an execution plan to implement this Embedded Crown initiative across the province, our follow-up found that the Division has made little or no progress on this recommendation. The Division informed us that as a result of COVID-19 much progress has been made on the reduction of the number of accused persons in detention waiting for their cases to be disposed or on remand.

Upon review of the results of the initiative, and in light of the COVID-19 pandemic, the Division has determined that resources must be dedicated to priority areas of the prosecution service. The Division indicated to us that it will revisit the analysis of the

Embedded Crown initiative once the backlog of cases created by the COVID-19 pandemic has been addressed.

## Time Needed for Bail Decision Has Increased over the Past Five Years

### Recommendation 6

*To help reduce the average number of days needed in arriving at a bail outcome, we recommend that the Ministry of the Attorney General (Court Services Division and Criminal Law Division) work with the judiciary to:*

- *discuss the possibility of expanding court operating hours for bail hearings;*
- *expand the use of teleconferencing and videoconferencing for bail hearings with extended hours seven days a week from morning to late evening, similar to the best practices in place in British Columbia and Alberta; and*

**Status:** In the process of being implemented by September 30, 2022.

### Details

Our 2019 audit found that cases where people charged with crimes went through bail courts in Ontario increased by 4% between 2014/15 and 2018/19, from 91,691 to 95,574. We also noted that the average number of days needed to reach a bail resolution increased for two types of inmates from 2014/15 to 2018/19, as follows:

- Where the accused persons were released after a bail hearing, the decision took on average 3.5 days in 2018/19 before the release order was made, compared to 3.1 days in 2014/15. We estimated that this increase is equivalent to more than 9,400 bed days per year.
- Where the accused persons were ordered to be detained after a bail hearing, the decision took on average 14.1 days in 2018/19 before the detention order was made, compared to 11 days in 2014/15—an increase equivalent to nearly 4,000 bed days per year, based on our estimate.

In Ontario, bail hearings are scheduled from 9:00 a.m. to 5:00 p.m., Monday to Friday, with limited use of teleconferences and videoconferences. Although there are ten weekend and statutory holiday (WASH) courts available for bail hearings in the province, records kept by Crown attorneys in one region showed that the WASH court is often closed by noon.

Our 2019 audit also found that in contrast, British Columbia and Alberta have set up a centralized location where a justice of the peace is available for bail hearings by teleconference and videoconference, with extended hours seven days a week from 8:00 a.m. to 11:00 p.m. or midnight. The extended hours allow accused who were arrested later in the day to still receive a bail hearing and possibly be released the same day.

Our audit further found that the Ministry had implemented a number of initiatives to reduce bail court delays. However, these were limited to certain locations, and despite their success they were unable to reverse the province-wide increase in the number of days needed to reach a bail disposition.

During our follow-up, we found that the Division has taken the following actions to help reduce the average number of days needed in arriving at a bail outcome. For example, we noted that:

- As a result of COVID-19, the Ministry, along with the judiciary, have implemented many new processes and virtual court processes. In several jurisdictions, such as Toronto, York and Peel, presiding judicial officials have, as a matter of routine, decided to keep bail court open later than usual in order to properly address all the scheduled matters on the daily dockets.
- The Division has implemented many strategies such as soft copy consent orders for release, special bail hearing courts that cannot be accommodated in regularly scheduled bail courts, special bail protocols to be considered during the pandemic and hybrid courts (some parties in the courtroom and others are virtual), as well as expanding the use of teleconferencing and videoconferencing for bail hearings.

The Division plans to have further discussions with the Judiciary and Court Services Division, within the Ministry, regarding the continued use of teleconferencing and videoconferencing for bail hearings. In addition, discussions will be held regarding the feasibility of expanding court operating hours by September 30, 2022.

- *complete the evaluation of initiatives aiming to increase speed and certainty in the bail process, such as the Ontario Court of Justice bail pilot project, bail vettors and the Bail Verification and Supervision Program, and expand them if they are shown to have positive outcomes.*

**Status:** Little or no progress.

### Details

Our follow-up found that the little progress has been made to complete the evaluation of the Ontario Court of Justice bail pilot project. The Division indicated that it will not perform a full evaluation of the bail vettors initiative due to resource limitation, and that the Ministry decided to stop implementing the Bail Verification and Supervision Program in 2021/22. The status update of the three initiatives are described below:

- For the Ontario Court of Justice bail pilot project, the Chief Justices of the Ontario and Superior Court of Justice informed us that the bail project evaluation was interrupted by the pandemic and has not been completed yet. At the same time, the pandemic has resulted in further challenges and significant changes to how bail is conducted, including a whole-scale shift to remote proceedings. In some locations, it has also resulted in an increased reliance (on a more regular basis) on judges to assist, especially in “special bails,” although their ability to do so is sometimes hampered by a lack of video capacity to bring accused persons before the court. In addition, the Ontario Court of Justice developed and implemented a bail protocol to streamline proceedings (effective May 11, 2020; revised April 22, 2021) to ensure

that bail proceedings are dealt with justly and efficiently.

- For the bail vettors initiative, the performance monitoring for the initiative was completed in March 2021. The bail vettor initiative intends to contribute to the goal of reducing the remand population in Ontario by decreasing case volume and time in remand by staffing locations with a bail vettor to provide timely and well-informed bail decisions. In 2017, 10 dedicated bail vettors were implemented at courts across the province as a part of the bail vettor initiative. In addition, an 11th dedicated bail vettor was introduced in Thunder Bay in July 2020.

The performance monitoring report noted that at the initial bail vettor locations (such as Old City Hall, College Park and Barrie), the majority of the key performance indicators (KPIs) did not achieve the desired results. However, these trends were often also seen at comparison sites (the sites without a bail vettor), indicating that there are likely other factors contributing to these trends. Results at new bail vettor sites (such as Brantford and Windsor) were mixed. For some KPIs, the trends showed that the desired results were being achieved, while for other KPIs, the desired results were not achieved. Due to the timing of implementation and the start of COVID, the effects of the bail vettor and the effects of COVID cannot be distinguished in this analysis. The report concluded that to fully understand the effectiveness of the dedicated bail vettors separate from other factors, a full evaluation would be required.

As of August 2021, staff from the Division informed us that they have no intention of requesting a full evaluation of the Bail Vettor initiative from the Ministry’s Analytics Branch for a number of reasons. Any analysis of the impact this initiative is having will be impacted by the pandemic and may have skewed results. In addition, a more fulsome evaluation will require resources from both within the Division and from the Ministry’s Analytics Branch. Given the enormous backlog caused by the pandemic, all limited resources

are being dedicated to addressing the backlog as quickly as possible.

- For the Bail Verification and Supervision Program, there is a transfer payment program administered by the Policy Division within the Ministry. The Ministry is currently focused on supporting existing transfer payment recipients in delivering the program during the COVID-19 pandemic. Treasury Board Secretariat's Ontario Internal Audit Division plans to conduct a review of the program in 2021/22. This review will help inform the Policy Division whether the program could benefit from synergies with other programs related to releasing low-risked accused or convicted persons into the community, and therefore achieve better outcomes for the client, as well as reduce the remand population. Therefore, the Ministry decided to stop implementing this program in 2021/22.

## Administration of Justice Cases Increasingly Consume Criminal Justice System Resources

### Recommendation 7

*To help make better use of Crown attorney resources to prosecute more serious criminal cases, we recommend that the Ministry of the Attorney General (Criminal Law Division) set a targeted timeline to expand the Administration of Justice initiative across the province, if this initiative is shown to be successful after evaluation.*

**Status:** In the process of being implemented by March 31, 2022.

### Details

Administration of justice offences include Criminal Code violations such as failure to comply with bail conditions, failure to appear in court and breach of probation. In our 2019 audit, we found that administration of justice offences were sometimes seen as the “revolving door” of the justice system, as most were committed when a person disobeys a pretrial condition or order imposed by a judge relating to a previous offence.

Our 2019 audit found that 31% of the criminal caseload in Ontario consists of administration of justice offences, which had increased by 25% (57,834 versus 72,176) from 2014/15 to 2018/19. Of those, cases pending disposition had increased by 52% (15,772 versus 23,953), as the number of these cases disposed had not kept up with the increase in cases received.

Also, our audit found that it took an average of 90 days for the Crown attorney to withdraw one of these cases, with the accused appearing in court an average of 6.1 times.

At the time of our 2019 audit, the Division had explored ways to limit the number of these charges that are laid. They implemented pilots in seven court locations—London, Brantford, Peterborough, Kitchener, Ottawa, Brockville and Sudbury. The objective of these pilots was that both the police and the prosecution agree to make efforts to limit the conditions of release imposed at bail hearings; and the police agree to use greater discretion when laying two specific administration of justice charges (called section 145 charges).

In our follow-up, we found that the Division evaluated the pilot's success in five of the seven locations mentioned above. The evaluation noted that there were declining trends in the administration of justice cases received, and that the trends have continued in London, and to a certain extent in the Brockville location. The evaluation shows mixed results in Brantford and Peterborough locations and fairly stable results in Ottawa location.

The Division indicated that it had not analyzed the results for the two remaining locations in Kitchener and Sudbury because more time is needed to conduct meaningful analysis. The Division further stated that it will continue to analyze the results of the initiative in Kitchener and Sudbury by March 31, 2022, and consider the final analysis in future decision-making.

## Lack of Specific Mandate, Standard Procedures and Goals Limit Potential Benefits of Mental Health Courts

### Recommendation 8

To assess whether the mandates and objectives of mental health courts are being met, we recommend that the Ministry of the Attorney General (Criminal Law Division) work with the Ontario Court of Justice to:

- establish specific and measurable goals and outcomes for mental health courts; and

**Status:** In the process of being implemented by September 30, 2022.

### Details

In our 2019 audit of Adult Correctional Institutions, we noted that, in 2018/19, 33% of about 51,000 inmates admitted to provincial adult correctional institutions had a mental health alert on their file indicating possible mental health concerns, compared to 7% of inmates admitted in 1998/99.

Our 2019 audit on the Criminal Court System found that the mandate and objectives set for mental health courts are broad and general. Without specific measurable outcomes set, neither the Ministry nor the Ontario Court is able to measure the courts' success in achieving the mandate and objectives.

In our follow-up, we noted that, since our 2019 audit, the Division engaged with key stakeholders in Therapeutic Courts (including Drug Treatment and Mental Health Courts) across Canada, in early 2021, to inform the development of a report to be presented to the Justice Efficiency Subcommittee on Therapeutic Courts for consideration. The members of the sub-committee included representatives from the Division, the judiciary and the police services.

In May 2021, this report was presented to the sub-committee. At the time of the audit, August 9, 2021, the approval from the subcommittee was pending. However, the Division informed us that the report recommended concrete and specific ways to evaluate mental health courts as well as outlined goals

for these courts, but without specifying methods to achieve them. We were also informed that the working group that developed the report gathered all the available evaluations of mental health and drug treatment courts from across Canada, including best practices of these courts across Canada. As this was a national jurisdictional scan, the report did not make recommendations specific to Ontario. The report is intended to be a resource for any jurisdiction, with specific best-practice recommendations to be determined by each jurisdiction, that will take into account that jurisdiction's own unique needs and available resources.

- collect relevant data on the courts' success in achieving these goals and outcomes, (for example the number of people who have gone through the mental health court process, the number of these cases disposed and pending, time taken to resolve cases, and details of case disposition and relevant outcomes).

**Status:** Will not be implemented. The position of the Office of the Auditor General is that the Ministry should work with the Ontario Court of Justice to collect relevant data; for example, the number of people who have gone through the mental health court process, the number of these cases disposed and pending, time taken to resolve cases, and details of case disposition and relevant outcomes. This data will enable the Ministry and the courts to evaluate the success of mental health courts in achieving their specific goals and outcomes.

Our 2019 audit found that the Ministry's ICON and SCOPE systems do not distinguish between accused persons who go through a mental health court and those who go through a regular court. As a result, neither the Ministry nor the Ontario Court is able to identify and quantify the number of individuals and cases received in mental health courts and their case dispositions, including the number of cases pending disposition, time taken to resolve cases and details of case disposition. This key data is critical to help measure the effectiveness of mental health courts in achieving their intended objectives.

During our follow-up, the Division informed us that this recommendation requires a change to the ICON system which will take time, financial resources and consultation with the Court Services Division and Information Technology group within the Ministry, as well as the judiciary. Changes to ICON will also need to consider the impacts on the Criminal Justice Digital Design initiative, highlighted in our 2019 audit on Court Operations. The Division further noted that it is not the business owner of the ICON system, and therefore, these changes must be requested by the judiciary. However, given the other priorities within the Ministry, the Criminal Law Division will not initiate the changes to ICON, and therefore, will not implement this recommendation.

### Recommendation 9

*To help guide the operations of the province's mental health courts, we recommend that the Ministry of the Attorney General (Criminal Law Division) work with the Ontario Court of Justice to:*

- review best practices from other jurisdictions (such as Nova Scotia);
- assess their applicability to Ontario; and
- put in place best-practice guidance for Ontario.

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that while the Division's Crown Prosecution Manual contains three separate directives about cases involving mentally ill accused, there are no specific and consistent policies and procedures regarding the operations of mental health courts, such as clarifying who should be accepted into a mental health court and in what circumstances; in what circumstance a psychiatric assessment is required; or when a formal community-based program or other plan is needed.

Our 2019 review of the sample summarized notes of 26 case files we selected highlighted inconsistencies in the treatment of accused persons who had gone through a mental health court. In these cases,

we found inconsistencies in the operation of the mental health courts and lack of uniform access to the services they provide. With no standard for a formal diagnosis of the accused person's mental health by a qualified professional, a miscarriage of justice may result. Lack of formal treatment plans may mean that accused persons' mental health issues are not addressed, potentially leading to repeated contact with the criminal justice system.

During our follow-up, we found that the Division has made little or no progress on implementing this recommendation. As mentioned in **Recommendation 8**, the Division presented a report to the Justice Efficiency Subcommittee on Therapeutic Courts for consideration.

The Division indicated that any other changes to be implemented to mental health courts, including overarching best practices, would require direction and leadership from the Ontario Court of Justice and participation from the Ministry's divisions, the defence bar and service providers. The Division provided a target date of September 30, 2022 for further assessment of the report and subsequent discussions with other stakeholders.

### Recommendation 10

*To help increase public awareness and provide better information about the operations and purpose of mental health courts, we recommend that the Ministry of the Attorney General work with the Ontario Court of Justice to make relevant information, such as the number of mental health courts, their locations and available sitting time, and detailed description of the courts and their procedures, widely available to Ontarians.*

**Status:** Little or no progress.

### Details

Our 2019 audit noted that the Ministry's and Ontario Court's public websites provide general information on specialized criminal courts, but some basic information specific to mental health courts was difficult to locate. Information on these courts could increase public awareness and understanding of these courts, their uses and their procedures.

In our follow-up, we found that the Division has made little or no progress on implementing this recommendation. The Division informed us that it has plans to engage with Court Services Division and the Ontario Court of Justice to have the appropriate information posted in the appropriate places for the public. As mentioned in **Recommendation 9**, the Division indicated that any changes to be implemented to mental health courts would require direction and leadership from the Ontario Court of Justice and participation from the Ministry's divisions, the defence bar and service providers. The Division provided a target date of March 31, 2022 to move forward with this recommendation.

## Chapter 1

### Section 1.17

Ministry of the Attorney General

# Family Court Services

Follow-Up on VFM Volume 3 Chapter 2,  
*2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1			1		
Recommendation 2	1		1			
Recommendation 3	1		1			
Recommendation 4	1			1		
Recommendation 5	2			2		
Recommendation 6	2			2		
Recommendation 7	1			1		
Recommendation 8	3			3		
Recommendation 9	1		1			
Recommendation 10	3		2	1		
Recommendation 11	1			1		
Recommendation 12	1		1			
Recommendation 13	1			1		
Recommendation 14	2	1	1			
Recommendation 15	1	1				
Recommendation 16	2			2		
Recommendation 17	2		1		1	
<b>Total</b>	<b>26</b>	<b>2</b>	<b>8</b>	<b>15</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>8</b>	<b>31</b>	<b>57</b>	<b>4</b>	<b>0</b>

### Overall Conclusion

The Ministry of the Attorney General (Ministry), as of August 31, 2021, has fully implemented only 8% of the actions we recommended in our

*2019 Annual Report*. For 57% of our recommendations, it has made little or no progress. The Ministry has made some progress in implementing a further 31% of the recommendations and will not implement the remaining 4% of the recommendations.

Fully implemented recommendations include that the Ministry now collaborates with the Ministry of Finance to track and analyze reasons for unsuccessful applications from parents and caregivers who wanted to set up and update child support arrangements using the Child Support Service online tool. After our 2019 audit, the Ministry of Finance developed 26 reason codes to provide a breakdown on why the applications were not processed. Starting in January 2020, the Ministry of Finance has shared its summary reports that track the reasons for unsuccessful applications with the Ministry of the Attorney General on a monthly basis.

Progress had been made in implementing recommendations regarding the Ministry performing periodic reviews to verify mediation services billed by service providers. After our 2019 audit, the Ministry now requires service providers to submit supporting documents such as logs with dates worked, hours worked by their employees and, in some cases, notation of the duties that were performed by the service provider staff. However, due to the restrictions placed during the COVID-19 pandemic, the Ministry has been unable to conduct in-person visits at courthouses where the service providers are located to verify their billings to the source documents such as timesheets and mediation files. The Ministry indicated that once the COVID-related restrictions are lifted, it is planning to conduct the planned in-person audit processes at the service provider locations by September 2022.

The Ministry has made little or no progress on our recommendations that cover working with the judiciary to complete a review of child protection cases, and identifying areas where improved court systems and processes would result in earlier resolution of cases. At the time of our follow-up, we noted that the number of child protection cases that were unresolved has increased by 4% from 5,249 as of July 31, 2019, to 5,499 as of March 31, 2021. Of the 5,499 child protection cases, 1,070 had exceeded 30 months. Since our 2019 audit, the Ministry has engaged the Ontario Court and Superior Court to explore how to minimize the number of disruptions and potential unnecessary delays that may be caused when a judge

presiding in a child protection trial is transferred to another court before a trial is concluded or a final order is made. The Ministry indicated that any further work to identify additional areas for improvement or change of processes that would result in earlier resolution of child protection cases has been put on hold due to the competing priorities resulting from the COVID-19 pandemic. The Ministry plans to resume this work in September 2022 when the court operations and services are expected to have fully resumed after the pandemic.

Further, the Ministry indicated that it will not implement our recommendation to require staff at all court locations to perform data entry reviews regularly and consistently. The Ministry mentioned that it has already provided four existing FRANK data entry audit checklists for court management to use and expects court management to use the checklists and perform data quality reviews regularly (FRANK is an information system to manage family law case files). The Ministry has not maintained and does not plan to maintain a central repository to track, monitor and verify whether court locations are actually performing data entry reviews regularly and consistently, and that corrections are made as a result of their reviews.

The status of actions taken on each of our recommendations is described in this report.

## Background

Ontario's family courts—in both the Ontario Court of Justice (Ontario Court) and Superior Court of Justice (Superior Court)—deal most often with issues like divorce, including support, as well as child custody and access. They also hear child protection cases. In 2020/21, there were about 43,640 new family law cases filed in court (62,970 in 2018/19)—4,670, or 11% of these (7,410, or 12% in 2018/19) were child protection cases.

The *Child, Youth and Family Services Act, 2017* (Act) outlines statutory timelines courts must adhere to in certain steps in a case, and timelines relating

to the time a child is in the care and custody of a Children's Aid Society (society).

The Court Services Division (Division), under the Ministry of the Attorney General (Ministry), is responsible for the administration of courts in Ontario, including managing court staff and supporting facilities and information technology needs. The Division also oversees family mediation and information services.

Significant findings included the following:

- As of July 2019, there were 5,249 child protection cases pending disposition. Of these, 1,189 (or 23%) were unresolved for more than 18 months. In our original audit, we identified significant delays in some cases, but because we were refused access to complete information, we could not substantiate and confirm the reasons for the delays, or why timelines were exceeded.
- The Ontario Court published its *Guiding Principles and Best Practices for Family Court* to help judges to manage child protection cases. However, as we were not provided with access to key documents on court scheduling, we were unable to determine whether the Ontario Court is following its own guiding principles and best practices.
- The Superior Court had also established Best Practices for Child Protection Cases for scheduling, assignment and conduct of each step in a child protection case. This guide was not made publicly available and the Office of the Chief Justice of the Superior Court refused to provide our Office with a copy.
- Domestic family law cases, other than child protection cases, represented 89% or 38,976 of new family law cases received in 2020/21 (88%, or 55,560 in 2018/19). There were no legislated timelines for domestic family law cases except for first access and custody hearings, but we were provided with best practice guidelines. However, we were unable to verify any data about next available court hearing dates as we were not provided with access to court scheduling information.
- The number of family law cases captured in the FRANK system as pending disposition was found

to be inaccurate. Because of the inaccuracies identified, we could not rely on FRANK to perform accurate trend analyses of the time taken to dispose of cases and the aging of cases pending disposition.

- The Ministry paid for on-site mediators' availability at courthouses and not necessarily for mediation work performed. Between 2014/15 and 2018/19, only 20% of the time billed involved actual mediation or mediation-related work.

We made 17 recommendations, consisting of 26 action items, to address our audit findings.

We received commitment from the Ministry of the Attorney General that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of the Attorney General that effective November 15, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### With Only Limited Access, We Managed to Confirm That There Are Delays in Resolving Child Protection Cases beyond Statutory Timelines

#### Recommendation 1

*To support the protection of children in care and consistent compliance with statutory timelines required under the Child, Youth and Family Services Act, 2017, we recommend that the Ministry of the Attorney General work with the judiciary to complete a review of child protection cases, and identify areas where improved court systems and processes would result in earlier resolution of cases.*

**Status: Little or no progress.**

## Details

Our 2019 audit found that 23%, or 1,189, of the 5,249 child protection cases that were unresolved as of July 31, 2019, had exceeded 18 months. Of the 1,189 child protection cases, 762 had exceeded 30 months. Under the *Child, Youth and Family Services Act, 2017*, the court can make an order for interim society care for up to 18 months for children under six years old, and up to 30 months for children between ages six and 17. However, of the 1,189 pending child protection cases, the Ministry did not track and was unable to identify how many children were in the interim care of the society and in a temporary arrangement such as foster care. In fact, some cases were still unresolved after more than three years.

At the time of our follow-up, we noted that the number of child protection cases that were unresolved has increased by 4% from 5,249 as of July 31, 2019, to 5,449 as of March 31, 2021. Of the 5,449 child protection cases, 1,070 had exceeded 30 months.

Since our 2019 audit, the Ministry had engaged the Ontario Court and Superior Court to explore how to minimize the number of disruptions and potential unnecessary delays that may be caused when a judge presiding in a child protection trial is transferred to another court before a trial is concluded or a final order is made. However, as scheduling of judges is the sole responsibility of the two courts, the Ministry asserted that it is not involved in how judges are assigned and scheduled to hear child protection cases.

In addition, starting in February 2020, the Ministry developed a new function in FRANK that now automatically populates court endorsements used in child protection proceedings at the Ontario Court and Superior Court. In FRANK, the names and dates of birth for all subject children along with the length of the proceeding are listed, measured in the number of days, for all child protection cases. These changes enhance the ways that the presiding judge may consider how the legislative timelines for child protection cases apply to the age of the children and the length of the cases.

The Ministry indicated that any further work to identify additional areas for improvement or change

of processes that would result in earlier resolution of child protection cases has been put on hold due to the competing priorities resulting from the COVID-19 pandemic. The Ministry plans to resume this work in September 2022 when the court operations and services are expected to have fully resumed after the pandemic.

## Recommendation 2

*To support the protection of children in care, and to assist the courts in managing child protection cases subject to statutory timelines required under the Child, Youth and Family Services Act, 2017, we recommend that the Ministry of the Attorney General upgrade the FRANK system to monitor and track critical information, including whether a child is in temporary or interim society care such as foster care, and if so, how long the child had been in temporary or interim society care, and the age of the child involved.*

**Status: In the process of being implemented by 2026.**

## Details

Our 2019 audit noted that in order to monitor and identify child protection cases that are close to exceeding the statutory timelines, the courts need the following critical information: 1) whether a child is in temporary or interim society care, including foster care, and, if so 2) how long the child had been in temporary or interim society care, and 3) the age of the child involved. However, we found that the FRANK system does not have the capability to provide this critical information to the court to assist in monitoring for these cases proactively. Without this needed capability in FRANK, the only way for the court to monitor for these attributes would be to retrieve each physical case file and review court events, such as orders issued, and manually calculate the number of days in care.

During our follow-up, the Ministry confirmed that due to the limitation of the FRANK system, further improvements could not be made to track the amount of time that a child spends in the care of a child protection agency that would meet the specific and

complex rules prescribed under the *Child, Youth and Family Services Act, 2017*.

In June 2020, the Ministry and the Superior Court engaged a consulting firm to conduct a technology and operational review of all existing case tracking systems including FRANK for the Superior Court. The consultant completed the review in January 2021 and recommended a digital transformation of the Superior Court to implement modern technologies to improve in-person and virtual court operations. The review identified 10 key initiatives that could be executed through three phases over the next five years. In the Spring of 2021, the Ministry engaged a consulting firm to complete an operational and technology review of the Ontario Court. The findings were similar to those found in the review of the Superior Court.

In June 2021, Treasury Board approved the Courts Digital Transformation Project for procurement of a new digital justice platform. In September 2021, the Treasury Board also approved a single digital justice solution that could be used by both courts. The single digital justice solution is going to replace the existing FRANK and ICON systems. Because the Ministry is exploring the case tracking and monitoring functionalities in the Courts Digital Transformation project, it expects the new single digital justice solution should address the shortcomings of FRANK (which will be replaced) when the project is completed by 2026.

### Recommendation 3

*To assist judges of the Ontario Court of Justice and the Superior Court of Justice manage and resolve child protection cases in a timely manner, we recommend that the Ministry of the Attorney General upgrade the FRANK system to provide useful information about court adjournments, such as the total number of adjournments granted per case and the time between adjournments.*

**Status:** In the process of being implemented by 2026.

#### Details

Our 2019 audit noted that while the FRANK system tracks individual dates of adjournments when granted by the courts, it does not have the capability

to calculate the total number of adjournments granted per case, or the time between the adjournments. This information would be useful for judges to assess the progression of child protection cases without manually counting the number of adjournments from case history reports.

During our follow-up, we noted that FRANK could generate a court case event list which shows the age of the child protection proceeding in “number of days.” A separate “Adjournment History” report could also be generated from FRANK that lists the court event dates, type of case, the date a case was adjourned and the reasons for the adjournments. However, these reports still do not provide the judiciary with “at a glance” information on the total number of adjournments granted per case, or the time between the adjournments that would be useful in managing the progress of child protection cases.

The Ministry is in the process of exploring report functionality on court adjournments as part of the Courts Digital Transformation project (mentioned in **Recommendation 2**) which is expected to be completed by 2026.

### Recommendation 4

*To support the well-being and best interests of the child and to help guide the timely disposition of child protection cases, we recommend that the Ministry of the Attorney General work with the judiciary to revisit the applicability of the 120-day statutory timelines and reinforce the circumstances in which this timeline should be followed and enforced.*

**Status:** Little or no progress.

#### Details

Our 2019 audit reported that the *Family Law Rules*, a regulation under the *Courts of Justice Act*, establishes five statutory timelines to help ensure child protection cases progress in a timely manner by reducing unjustified or unnecessary adjournments. One of these timelines states that a “hearing” must be held within 120 days from the date the application is filed with the court. In most circumstances, it is in the

child's best interest for the case to be resolved within 120 days, unless the courts determine otherwise.

Our 2019 audit found that of the 7,199 child protection cases that were disposed as of March 31, 2019, 4,103 (or 57%) exceeded the 120-day statutory timeline. However, information maintained in FRANK did not provide sufficient, detailed reasons why these cases were extended, considering the best interests of the children.

At the time of our follow-up, we noted the following trend:

- In 2019/20, of the 6,738 child protection cases disposed, 3,993 (or 59%) exceeded the 120-day statutory timeline; and
- In 2020/21, of the 4,358 child protection cases disposed, 3,118 (or 72%) exceeded the 120-day statutory timeline.

The Ministry indicated that its discussion with the courts and the Family Rules Committee to implement this recommendation has been put on hold due to the competing priority to restore court operations from the COVID-19 pandemic. The Ministry plans to resume the discussion next year, in September 2022, when court operations and services are expected to be restored after the pandemic.

### Recommendation 5

*So that the Ontario Court of Justice and the Superior Court of Justice can monitor the current status of child protection cases, we recommend that the Ministry of the Attorney General:*

- *review all child protection cases captured in FRANK as “pending” to confirm their status and make the necessary corrections; and*
- *conduct a regular review of cases pending disposition for over 18 months to confirm the accuracy of the information and make the necessary corrections.*

**Status:** Little or no progress.

### Details

Our 2019 audit found that the number of child protection cases pending disposition captured in the FRANK

system was not accurate. According to the FRANK system, there were a total of 6,417 child protection cases pending disposition as of March 31, 2019, and 2,844 (or 44%) of these cases were older than 18 months. A review led by the Office of the Chief Justice of the Superior Court with assistance from the Ministry found that cases were not updated or were incorrectly recorded by the Ministry's court staff in FRANK as “pending,” or still active, when they should have been closed. Therefore, the courthouse staff need to review all child protection cases captured in FRANK as pending to confirm their status and make any necessary corrections such as deleting the “closed” cases from the pending list. Our own review of the information captured in the FRANK system also revealed another 138 cases were mistakenly recorded as “pending disposition” that should have been recorded as “disposed.”

At the time of our follow-up, the Ministry's FRANK system reported that there were 5,449 child protection cases pending disposition as of March 31, 2021, and 1,919 (or 35%) of these were older than 18 months.

Since our last audit, the Ministry had provided one-on-one training to staff and managers at six selected court locations where a relatively high number of pending child protection cases were reported and the Ministry suspected that staff at these courthouses might not be updating their pending cases properly. The Ministry's training was to instruct staff on how to improve the accuracy of pending case information recorded in FRANK. However, the Ministry could not provide supporting information about the number of pending cases being corrected and therefore removed from the pending list, and cited that any follow-up training was put on hold due to the COVID-19 pandemic.

In addition, due to significant court process changes arising from the pandemic, the Ministry has issued 33 new directives between mid-March 2020 and June 30, 2021, along with other updated guidelines such as the FRANK Post Court Updating Reference Guide, FRANK Data Entry Audits Reference Guide for Managers, and FRANK User Reference Guide for

Family Cases, to assist court staff to better manage and record their pending cases.

The Ministry indicated it had intended to complete a follow-up review of child protection pending cases at the identified six court locations to confirm their accuracy; however, due to the pandemic, this review did not take place. At the time of our follow-up, the Ministry did not have any plans concerning the other court locations, or how it is going to conduct a regular review of cases pending disposition for over 18 months.

The Ministry plans to once again begin reviewing this recommendation and considering any next steps by September 2022.

## Some Delay in Obtaining Hearings for Domestic Family Law Cases

### Recommendation 6

*To provide timely access to justice specifically for family law cases other than child protection cases, we recommend that the Ministry of the Attorney General, in conjunction with the judiciary:*

- *establish reasonable timelines or best practices for key court events for resolving family law cases received by the Ontario Court of Justice;*

**Status: Little or no progress.**

### Details

There are no legislative timelines that domestic family law cases (that are family law cases other than child protection cases) are required to follow, except that the first hearing of a case concerning access and custody to a child is to be held within six months of the application being filed. How ready and willing the parties are to proceed is the main determinant of case progress, but the courts should be available when parties require their services.

At the time of our 2019 audit, we noted that the Ontario Court established *Guiding Principles and Best Practices for Family Court*, but it does not specify targets for maximum timelines from filing a family law application to a first court appearance.

Our follow-up found that the Ministry made little or no progress, in conjunction with the judiciary, to establish reasonable timelines or best practices for key court events for resolving family law cases.

The Ministry asserted that the courts have the exclusive responsibility and control over the scheduling of cases and assignment of judicial duties under the *Courts of Justice Act*; and any changes proposed by the Family Rules Committee, an independent body that has the authority to make the Family Law Rules (including any rules regarding case management and timelines), are subject to the Attorney General's approval.

The Ministry further indicated that the courts have prioritized urgent family matters. It will, in conjunction with the judiciary, reconsider implementing this recommendation in September 2022 when court operations have been restored after the COVID-19 pandemic.

- *monitor reasons for significant delays and take corrective action where warranted for both the Ontario Court of Justice and Superior Court of Justice.*

**Status: Little or no progress.**

### Details

Our 2019 audit found that for family law cases other than child protection cases, a few Superior Court locations were unable to offer timely court dates for various types of court appearances in accordance with its own Family Law Best Practices. For the Ontario courts that hear family cases, we noted that most court locations reported minimal wait times for the next available first court appearance, but there was missing or limited data reported for some other locations.

Our follow-up found that the Ministry has made little or no progress, in conjunction with the judiciary, to monitor reasons for significant delays and take corrective action where warranted for both courts.

Similar to the response provided by the Ministry for the first action under **Recommendation 6**, the Ministry reiterated its position on the exclusive

responsibility of the judiciary over case scheduling and assignment of judicial duties.

However, the Ministry indicated that it will, in conjunction with the judiciary, reconsider implementing this recommendation by September 2022 when court operations have been restored after the COVID-19 pandemic.

### Recommendation 7

*In order to allow the public to be more informed on wait times, we recommend that the Ministry of the Attorney General, in conjunction with the judiciary, improve the transparency of both the Ontario Court of Justice and Superior Court of Justice by publishing information such as targets and expected wait times for key family court events, by court location.*

**Status:** Little or no progress.

#### Details

Our 2019 audit found that neither the Superior Court nor the Ontario Court publishes data or information on wait times for various family court appearances. As a result, parties in family law cases will not know the expected wait times for family court appearances in the Superior Court, or the wait time for a first court appearance in the Ontario Court. By comparison, the British Columbia Provincial Court began posting public reports in 2005. Their reports, posted twice a year, detail the time from the date a request or order is made for a conference or trial, to the date when cases of that type can typically be scheduled.

Our follow-up found that the Ministry has made little or no progress, in conjunction with the judiciary, to improve the transparency of both courts by publishing information such as targets and expected wait times for key family court events, by court location.

The Ministry indicated that it could not proceed on implementing this recommendation independently as court activity reports and information related to wait times constitute court data and may only be collected, used and reported at the direction of the judiciary. Based on this ownership of the court wait time data, the Ministry stated that it would discuss this recommendation with the courts to the extent possible,

while continuing to respect the independence of the judiciary.

Due to the pandemic and competing priorities, the Ministry expects to discuss this recommendation with the courts only after court operations are restored from the COVID-19 pandemic, with a targeted date of September 2022.

### Recommendation 8

*To report the statistics on pending cases accurately so that case files that should be closed are removed from active-case files at courthouses, we recommend that the Ministry of the Attorney General, specifically for family law cases other than child protection cases:*

- *review existing pending case files to determine their current status;*
- *follow up on cases that have been inactive for over a year to confirm their status; and*
- *update the FRANK case file tracking system accordingly.*

**Status:** Little or no progress.

#### Details

At the time of our 2019 audit, there were 183,997 domestic family law cases recorded as “pending” as of March 31, 2019, in the FRANK case file tracking system. Of these, 30,691, or 17%, were less than a year old; 43,102, or 23%, ranged from one to five years old; and 110,204, or 60%, were over five years old. Based on our review of a sample of domestic family law cases pending disposition for over a year as of March 31, 2019, we found that 56% were either disposed or had been inactive for over a year. Therefore, the number of pending cases recorded in FRANK was overstated.

During our follow-up, we noted that there were 199,202 domestic family law cases recorded as “pending” as of March 31, 2021, in the FRANK case file tracking system. Of these, 27,038, or 14%, were less than a year old; 50,397, or 25%, ranged from one to five years old; and 121,767, or 61%, were over five years old.

However, our follow-up found that little or no progress has been made to ensure the statistics on pending cases are reported accurately, including review of existing pending case files to determine their current status; follow up on cases that have been inactive for over a year to confirm their status; and make appropriate updates to the FRANK case file tracking system.

In late 2019, the Ministry made two system enhancements to FRANK in an attempt to reduce the number of domestic family law cases on the pending lists that should have been identified as closed:

- FRANK can now generate case-specific information such as a timeline of case events.
- FRANK can now issue and update a range of pending notices of approaching dismissal or dismissal orders electronically.

With these enhancements to FRANK, it is more efficient for the Division's staff to follow up on cases that have been inactive for over a year and issue dismissal orders for appropriate cases without preparing the orders manually. These enhancements are supposed to allow the Division's staff to delete the pending cases from FRANK that are no longer active.

However, since the start of the COVID-19 pandemic in March 2020, the Ministry has put on hold the issuance of any notices of approaching dismissal or dismissal orders in family law cases, initially pursuant to the order issued under the *Emergency Management and Civil Protection Act* and subsequently upon the direction from the courts. The Ministry indicated that it intends to consult with the judiciary and reconsider resuming the work on issuing notices of approaching dismissal or dismissal orders by September 2022 when court operations have been restored after the COVID-19 pandemic.

## Poor Contract Management and Oversight of Family Mediation and Information Services

### Recommendation 9

*To increase the value for money paid for on-site mediation services, we recommend that the Ministry of the Attorney General work with the Family Mediation and Information Service providers to establish an activity-based payment structure in their contracts.*

**Status:** In the process of being implemented by March 2024.

### Details

Our 2019 audit found that the Ministry lacked proper contract management and oversight of family mediation, and information and referral coordinator services provided by third-parties across the province. In particular, the Ministry's contracts with service providers for family mediation services do not reconcile payments made to the mediation work performed in the courthouses or include an activity-based payment structure. The Ministry paid service providers the same hourly rate regardless of the services performed, whether the time was spent on actual mediation, which utilized their professional skills, as opposed to other administrative duties, or simply being "available." As such, service providers could still provide the minimum number of hours required without engaging in any mediation work that would help divert cases away from the court system.

Since our 2019 audit, the Ministry conducted preliminary research related to activity-based payment structures that are used by other provinces (such as Alberta) and countries (such as the United States, United Kingdom, France and Denmark) and publicly funded service delivery organizations.

At the time of our follow-up, the Ministry is conducting further research and looking into options for the future delivery of family mediation and information services. It is also assessing the impacts of COVID-19 on delivery of family mediation and information services and considering how the program

needs could have been changed due to virtual versus in-person service delivery.

Based on its research and further study, the Ministry is preparing a plan to finalize a new payment structure and service delivery model for the service providers of the family mediation and information services program by the end of 2021. However, due to the service provider contracts are not being scheduled for possible extension until March 2022, and as the next competitive procurement cycle for selecting service providers is not scheduled until March 2024, the Ministry expects it would not fully implement this recommendation until then.

### Recommendation 10

*To promote the use of Ministry-funded mediation services that can help to divert less complicated matters away from the courts, we recommend that the Ministry of the Attorney General:*

- *determine the desired long-term plan for mediation services;*

**Status: Little or no progress.**

### Details

The family justice system is complex and there are many participants involved. Parties may find out about mediation themselves or be directed to try mediation by, for example, judges, their lawyers, or duty counsel from Legal Aid Ontario. Mediation, when used appropriately, can be more cost-effective for both the parties and the Ministry for resolving family law cases. Parties can benefit from the use of more mediation services, instead of going through the court system for resolving their family law matters.

However, our 2019 audit found that the Ministry had not been a strong promoter of the mediation services it funds. The Ministry delegated the responsibility to promote mediation services to the individual service providers through their service provider contracts. This delegation has contributed to differences in the uptake of mediation at various court locations.

Our follow-up found that the Ministry has made little progress toward any desired long-term plan for mediation services. Since our 2019 audit, the Ministry started initial discussions on long-term program objectives for the family mediation and information service as part of the activity-based payment initiative mentioned in **Recommendation 9**. The Ministry contacted other Canadian provinces, including Alberta, to obtain their existing policy and program models regarding family mediation services, including virtual and other types of service delivery options. The impacts of COVID-19 on the delivery of family mediation and information services and how program needs have changed as more services are being provided virtually is another major consideration for any future program delivery.

The Ministry also held discussions with its inter-provincial counterparts to determine if Ontario can adopt any components for a future model of family mediation and information services.

At the time of our follow-up, the Ministry is still planning to develop a new program logic model and strategy in advance of the next competitive procurement cycle which is planned for March 2024. The Ministry expects the plan will also consider the move to virtual service delivery, performance targets and payment structure. However, the Ministry indicated that any program delivery changes would require consultation with the judiciary and stakeholders that provide family mediation and information services.

- *monitor the uptake of mediation services to determine the effectiveness of the outreach programs;*

**Status: In the process of being implemented by March 2024.**

### Details

Starting in 2020, the Ministry requires all service providers to submit outreach statistics reports to the Ministry on a quarterly basis. The Ministry uses these quarterly reports to monitor the uptake and the trend of mediation services by each service provider. This comparison has permitted the Ministry to start to

monitor the performance of each service provider's performance in fiscal year 2020/21 compared to the previous fiscal year 2019/20, with an understanding that the year-to-year comparison to date might not be comparable given the restrictions under the pandemic.

The Ministry also held informal quarterly meetings with service providers and courthouse management teams regarding the uptake of mediation services and promotion services at courthouse locations across the province. At the time of our follow-up, the most recent informal meeting was held in February 2021.

The Ministry is planning to conduct data analysis of uptake statistics of existing mediation services by region and by courthouse to identify if there are any lessons learned from certain service providers. It is also planning to obtain feedback from service providers on the impact of COVID-19 on mediation service outreach efforts. The implementation target date for this work is March 2024. The Ministry is planning to continue to hold the quarterly meetings with all service providers and courthouse management teams.

- *collaborate with justice system partners to create a province-wide communication strategy to increase the use of family mediation services and communicate this to the family court system's participants.*

**Status:** In the process of being implemented by March 2022.

### Details

Since our 2019 audit, the Ministry has collaborated with justice system partners on attempts to promote and increase the use of family mediation services.

For example:

- The service providers have increased their efforts to promote the availability of virtual mediation services through a variety of print and online services such as websites and social media.
- The service providers have reached out to the judiciary, local Bar, Legal Aid Ontario, and other community organizations to inform them of the availability of family mediation and information services.

- The Ministry worked with both the Superior Court and Ontario Court to include information about family mediation and information services in the directives that are posted on the courts' websites.
- The Ministry worked with the Superior Court to distribute information to their regional judges on the types and scope of mediation services that are available and how to contact the service providers.
- The Ministry prepared a social media campaign to tweet information about mediation services.
- The Ministry worked with the association of service providers to host several virtual communication events for the Members of Provincial Parliament to provide information about mediation and information services for people who are involved in family court process during the pandemic.
- The Ministry will continue its promotion of mediation and information services through its website and Twitter.

At the time of our follow-up, the Ministry is creating a province-wide communication strategy to be approved by management in late 2021. Should this province-wide communication strategy be approved, the Ministry expects to fully implement the recommendation by March 2022.

### Recommendation 11

*To maximize the benefits of using mediation services when appropriate, we recommend that the Ministry of the Attorney General work with family mediation and information service providers to set a target for the percentage of eligible family law cases to be mediated each year, and include the agreed-upon targets in the contracts between them.*

**Status:** Little or no progress.

### Details

Our 2019 audit reported that the Ministry required service providers to report the number of mediation intakes they performed under their service agreements. However, the contracts did not set Ministry targets for mediation intake at each court

location. Such targets would encourage service providers to promote the use of mediation for appropriate family law cases.

Our follow-up found that the Ministry has made little or no progress working with family mediation and information service providers to set a target for the percentage of eligible family law cases to be mediated each year, and to include the agreed-upon targets in the contracts between them.

The Ministry indicated that the COVID-19 pandemic has delayed its efforts to address this recommendation. It plans to establish the appropriate baseline targets before the next competitive procurement cycle for family mediation and information services in March 2024.

### Recommendation 12

*To improve the financial controls in place to validate monthly billings of service providers and confirm services have been rendered, we recommend that the Ministry of the Attorney General perform periodic reviews to verify services billed against source documentation.*

**Status:** In the process of being implemented by September 2022.

### Details

At the time of our 2019 audit, we noted that service providers billed the Ministry each month, up to a pre-determined yearly maximum for services they provided. The Ministry relied on the service providers to bill accurately for the services provided. Our 2019 audit reviewed the Ministry's existing billing verification process. We found that while the Ministry checked for mathematical errors and for basic reasonableness of the billings, such as identifying unusually long days billed by a certain mediator, it did not verify whether the hours of services billed were actually worked.

After our 2019 audit, the Ministry now requires service providers to submit supporting documents such as logs with dates worked, hours worked by their employees and, in some cases, notation of the duties that were performed by the service provider staff. This supporting documentation accompanies and

supports the monthly invoice submitted to the Ministry for review.

However, due to the restrictions placed during the COVID-19 pandemic, the Ministry has been unable to conduct in-person visits at courthouses where the service providers are located so as to verify their billings to the source documents such as timesheets and mediation files. The Ministry indicated once the COVID-related restrictions are lifted, it is planning to conduct the planned in-person audit processes at the service provider locations by September 2022. The Ministry also indicated it will require additional resources and costs associated with any in-person reviews.

## Usage of the Child Support Service Online Tool Fell Far Short of Initial Projection

### Recommendation 13

*To help informed decision-making about the Child Support Service online tool, we recommend that the Ministry of the Attorney General perform a cost/benefit analysis to assess whether this tool should be maintained or modified and/or promoted more.*

**Status:** Little or no progress.

### Details

The Child Support Service online tool allows eligible parents and caregivers to set up and update child support arrangements without going through the family court process. At the time of our 2019 audit, the Ministry and other partner ministries spent \$5.7 million on implementing the online tool, but as of March 2019, the total number of applications received since its launch in 2016/17 was only 1,191. Our audit found that the Ministry had not done an evaluation of the tool to determine why this uptake had been low. As well, the Ministry had not done a cost/benefit analysis to assess whether this tool should be maintained or if any other needed modifications should be made.

At the time of our follow-up, the Ministry has made little or no progress in performing a cost/benefit analysis of the Child Support Service online tool. Since

our 2019 audit, the Ministry conducted a preliminary review of web analytical data, the collection and review of usage statistics, and establishing costs for alternative in-court mechanisms of establishing or recalculating child support. However, the review was based on pre-pandemic data from 2019 and does not reflect the service's current uptake in the new digital court environment. The Ministry indicated that it will reassess the preliminary review and consider any next steps by September 2022.

#### Recommendation 14

*To potentially increase the use of the Child Support Service online tool, we recommend that the Ministry of the Attorney General:*

- *collaborate with Ministry of Finance to track and analyze reasons for unsuccessful applications;*  
**Status: Fully implemented.**

#### Details

Our 2019 audit reported that, as of March 2019, the Ministry had processed very few applications successfully. The percentage has fluctuated and remained quite low since 2016/17, at between 16% and 23% per year. However, the Ministry did not have the information it needed to analyze the reasons for the high rejection rates.

After our 2019 audit, the Ministry of Finance developed a reporting mechanism to track and analyze reasons for unsuccessful applications from individuals who were attempting to use the Child Support Service online tool. In particular, the Ministry of Finance has developed 26 reason codes to provide a breakdown on why the applications were not processed. Based on our review of these monthly reports for the 2020 calendar year, the most common reason for the unsuccessful applications was that the payor failed to provide all required information.

Since January 2020, the Ministry of the Attorney General has received these reports from the Ministry of Finance on a monthly basis to track the reasons for unsuccessful applications.

- *review the online application and approval processes in other jurisdictions to identify areas that could help Ontario increase the success rate of using the tool, and implement improvements identified.*

**Status: In the process of being implemented by September 2022.**

After our 2019 audit, the Ministry has done some work to review the online application and approval process in Alberta to identify areas that could help Ontario increase the success rate of using the Child Support Service online tool.

The Ministry is planning to incorporate the results of interjurisdictional research on the application and approvals processes as part of its cost/benefit analysis discussed in **Recommendation 13**. The Ministry will then decide what changes are needed to improve the success rate of using the online tool.

However, due to the pandemic, the Ministry has put on hold further engagement with other jurisdictions to identify ways to increase the service's success rate. As a result, the Ministry expects that it will not fully implement this recommendation until September 2022.

## Dispute Resolution Officer Program Could Be Expanded to Increase Potential Cost Savings

#### Recommendation 15

*In order to free up more judicial and courtroom time, and increase potential cost savings, we recommend that the Ministry of the Attorney General, together with the judiciary complete their assessment of the costs and benefits of expanding the Dispute Resolution Officer Program across the province, where appropriate.*

**Status: Fully implemented.**

#### Details

In 1996 in Toronto, the Superior Court launched the Dispute Resolution Officer Program (Program) for hearing cases where a party files a motion to change

an existing court order. It had expanded it to only nine out of 50 Superior Court locations by the time of our 2019 audit. As a result, not all parties have the same access to the Program across the province.

Our 2019 audit compared the cost of the Program to the additional costs to the courts if all matters were sent directly to a judge. We estimated that the net savings realized for the nine participating court-houses totalled about \$355,000 in 2018/19. If the Program expands to other Superior Court locations and possibly Ontario Court locations, the province could benefit from further potential savings, while freeing up more judicial time and courtrooms to hear other types of cases.

After our audit, the Ministry, in cooperation with the Superior Court, completed the evaluation of the Program in late 2019. The evaluation concluded that the Program is meeting the performance goal of meaningful progress in family law cases in the majority of Dispute Resolution Officer locations. The evaluation recognized that there are many benefits to the Program such as creating efficiencies by providing opportunities for early case resolution. The evaluation recommended the Program's continuation in all its existing nine court locations. The evaluation also recommended building in additional key performance indicators and conducting further evaluation of the Program.

As a result, the Ministry and the Superior Court extended the Program delivered at all nine existing sites for an additional three years to September 2022.

As well, the Attorney General is working with the Superior Court to expand the Program to three additional court locations—Kitchener, Welland and Kingston—in 2021.

## Ministry Did Not Have a Firm Plan to Achieve Its Target to Expand Unified Family Court across the Province by 2025

### Recommendation 16

*To complete the expansion of Unified Family Court across the province by the target date of 2025, we recommend that the Ministry of the Attorney General:*

- *finalize a plan to execute the expansion of Unified Family Courts in the remaining 25 family court locations, including completing the location needs assessment;*

**Status: Little or no progress.**

### Details

Our 2019 audit reported that there is a need to streamline the process for parties seeking resolution to their family law issues in court. The expansion of Unified Family Court was identified as a means to achieve this. The Ministry set a target in 2017 to complete a province-wide expansion of Unified Family Court in Ontario by 2025 but, at the time of our 2019 audit, the Ministry was unlikely to achieve this target as it had still not finalized a plan.

At the time of our follow-up, we found that little or no progress has been made to finalize the plan to execute the expansion of Unified Family Courts in the remaining 25 family court locations, including completing the location needs assessment. This is primarily because both courts have been focused on other more urgent pandemic-related priorities.

In late June 2021, the Unified Family Court Steering Committee, consisting of representatives from both courts and the Ministry, met and decided to re-focus their efforts on Unified Family Court expansion and discussed how best to move forward with the Phase 2 planning of the expansion. The Ministry indicated that it is committed to finalizing a plan with both courts, for a province-wide expansion of Unified Family Court in Ontario. Following the committee meeting, it is expected that the following work

will be in progress or to be completed by fall 2021/winter 2022:

- identify assumptions or impacts for facilities planning for the Committee's consideration;
- receive feedback from the Committee on the draft plan to consult with Indigenous communities;
- re-establish the project team to govern Phase 2 planning and implementation of the expansion. Other longer-term deliverables will include:
  - completing the facilities' needs assessment once both courts provide the required data;
  - beginning consultations with Indigenous communities once appropriate;
  - developing Phase 2 recommendations for consideration by the Judicial Facilities Working Group;
  - drafting a funding submission to Treasury Board; and
  - drafting a proposal for expansion for submission to the federal government.

The Ministry indicated that the federal government has not committed to provide the required judicial appointments necessary for Unified Family Court expansion. Without these additional federal judicial appointments, the Unified Family Court expansion cannot take place as planned as discussed in the next recommended action.

- *confirm commitment from the federal government for additional judicial appointments necessary.*

**Status:** Little or no progress.

Since our 2019 audit, we noted that the Attorney General has continued to have conversations with his federal counterpart, the Minister of Justice, in which the Attorney General has emphasized Ontario's commitment to Unified Family Court expansion and the Ministry's interest in receiving the necessary judicial appointments from the Federal government as soon as possible.

The issue of Unified Family Court expansion was last tabled by Ontario at the meeting of Federal/Provincial/Territorial Ministers of Justice in March 2021.

Despite the Ministry seeking a commitment for Unified Family Court expansion from the federal government for the necessary additional judicial positions, the federal government has declined to formally make such a commitment. The most recent Federal Budget 2021 did not allocate funding to support Unified Family Court expansion. Ontario cannot take any next steps in its expansion plans without these additional judicial appointments needed to expand the Unified Family Court. Therefore, the Ministry is uncertain of the target date to fully implement this recommendation.

### Recommendation 17

*To correctly capture and maintain accurate information in the FRANK case file tracking system, we recommend that the Ministry of the Attorney General:*

- *require staff at all court locations to perform data entry reviews regularly and consistently;*

**Status:** Will not be implemented. The Office of the Auditor General continues to believe that although the Ministry has quality review checklists in place, it should confirm whether court staff are performing data entry reviews regularly and consistently, and that the data in the FRANK system is accurate.

### Details

Our 2019 audit identified that the data in FRANK was not always reliable. Regular quality reviews are important to help improve this and avoid its recurrence. The Ministry has a data quality review process and guideline that recommends a manager or supervisor review the physical case files against data entered in the FRANK system for completeness and accuracy, using a review checklist developed by the Ministry. However, there was no requirement for the managers and supervisors to follow the Ministry's review process and guideline.

During our follow-up, the Ministry indicated that it will not implement this recommended action as it has already provided four existing FRANK data entry audit checklists for court management to use. The Ministry expects court management to use the

checklists and perform data quality reviews regularly. However, the Ministry has not maintained and does not plan to maintain a central repository to track, monitor and verify whether court locations are actually performing data entry reviews regularly and consistently, and that corrections are made as a result of their reviews.

- *collect, review and monitor results of data entry reviews performed at all court locations to identify and address common errors, to incorporate them in future FRANK training and/or identify needed system improvements.*

**Status:** In the process of being implemented by 2026.

Our 2019 audit also noted that the Ministry did not track performance or collect the results of courthouse reviews. Consequently, the Ministry did not know what types of data entry errors were most common, or why they occurred. Therefore, the Ministry was unable to prevent recurrences of these errors through training, or by adding system controls over data entry to the FRANK system.

At the time of our follow-up, the Ministry indicated that it is currently exploring the recommended functionality that does not exist in FRANK as part of the Courts Digital Transformation project (mentioned in **Recommendation 2**). The Ministry plans to complete the Courts Digital Transformation project by 2026.

## Chapter 1

### Section 1.18

Ministry of Finance and Treasury Board Secretariat

# Public Accounts of the Province

Follow-Up on VFM Chapter 2, *2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2	2				
Recommendation 2	1	1				
Recommendation 3	1				1	
<b>Total</b>	<b>4</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>75</b>	<b>0</b>	<b>0</b>	<b>25</b>	<b>0</b>

### Overall Conclusion

As of September 30, 2021, three of the four actions we recommended in our *2019 Annual Report* have been fully implemented. For example, since our 2019 audit, the province has updated the Agencies and Appointments Directive and the Broader-Public-Sector Business Document Directive to require entities that consolidate into the Public Accounts to publicly post their audited financial statements prior to the issuance of the Public Accounts.

However, the government indicated that it will not update the current legislation to formalize that its accounting will be in accordance with Canadian Public Sector Accounting Standards (PSAS). The continuing need for the current “prescribed” accounting in legislation and regulations (known as legislated

accounting) is unclear, as the government has confirmed its commitment to follow Canadian PSAS. Canadian PSAS are the most appropriate accounting standards for the province to use in order to maintain its financial reporting credibility, accountability and transparency. Using PSAS gives legislators and the public appropriately presented financial information allowing them to better assess the government’s use of public funds. Given the importance of this, we continue to recommend that the government formalize its commitment to follow the accounting standards established by the Canadian Public Sector Accounting Board and repeal existing legislation and regulations that enable accounting treatments to be prescribed if desired by a provincial government in Ontario.

The status of actions taken on each of our recommendations is described in the following sections.

## Background

For the year ended March 31, 2019, we issued an unqualified audit opinion for the second year in a row on the consolidated financial statements for the Province of Ontario. This means that the consolidated financial statements were free from material errors and fairly presented the province's financial position and operating results.

Specific observations made during our audit included the following.

### Use of Legislated Accounting

Annually, we have raised the issue of the prior government having introduced legislation on several occasions to facilitate its establishment of specific accounting practices that may not be consistent with Canadian PSAS. For example, the use of legislated accounting treatments by the province to support the accounting/financing design prescribed under the *Ontario Fair Hydro Plan Act, 2017*, could have had a material impact on the province's annual results and become a significant concern to our Office in the 2017/2018 fiscal year, had the accounting not been corrected.

### Volume 2 of the Public Accounts of Ontario

Prior to 2018/19, Volume 2 of the Public Accounts was one of three supplementary reports that the government printed and made available at the same time as the release of the province's consolidated financial statements. Starting in 2018/19, the province no longer issued *Volume 2* in the same format. Instead, the province set up a website with links to web pages showing the financial statements of each government organization, trust under administration, business and other type of organization listed in Schedule 8 of the province's consolidated financial statements.

We noted that these organizations' financial statements were not all available for viewing through the website when the Public Accounts were released on September 13, 2019. Only 32% of the organizations formerly included in Volume 2 had their statements available as of September 13, 2019 and just 67% of the financial statements of hospitals, colleges, school boards and school authorities were available.

### Ontario Cannabis Retail Corporation

We audited the Ontario Cannabis Retail Corporation (OCRC) for the year ended March 31, 2019. Because OCRC had issues with the integrated reporting of data from its key IT systems, we performed extensive audit testing and expended considerable time and effort in confirming the reliability and accuracy of information from OCRC's IT systems. On September 5, 2019, we were able to issue an unqualified opinion on OCRC's March 31, 2019 financial statements.

We made three recommendations, consisting of four action items needed for improvement.

## Status of Actions Taken on Recommendations

We conducted assurance follow-up work between April 1, 2021 and September 30, 2021, and obtained written representation from the Treasury Board Secretariat and the Ministry of Finance that, effective October 8, 2021, they had provided us with a complete update on the status of the recommendations we made in the *2019 Annual Report*.

### Volume 2 of the Public Accounts of Ontario

#### Recommendation 1

*To increase the transparency of the province's consolidated financial statements, we recommend that the Treasury Board Secretariat:*

- *incorporate electronic copies of the organizations' financial statements, which are consolidated into the Public Accounts, into the Volume 2 website;*  
**Status: Fully implemented.**

### Details

The Office of the Provincial Controller Division has worked with the ministries so that financial statements of organizations that were previously published in paper form will be available in digital form at the same time as other supplementary volumes of future Public Accounts. This included following up with ministries on outstanding financial statements from their agencies as the required deadline approached.

The 2019/20 Public Accounts were released on September 23, 2020 along with links to the supplementary reports. As of September 23, 2020, we observed that 91% of the other organizations and 99% of the broader-public-sector organizations' audited financial statements were available on the website. As of November 2, 2020, the percentages had increased to 93% and almost 100% respectively. The availability of other organizations' statements via website link is comparable to the printed financial statements formerly included in Volume 2 of the Public Accounts, where there were usually a few statements each year that missed the printing cut-off. This is a substantial improvement compared with the prior year, which saw that only 32% of other organizations and 67% of broader-public-sector organizations had their audited financial statements available on the government's website on September 13, 2019, the date the 2018/19 Public Accounts was publicly released.

- *advise the government to revise the Agencies and Appointments Directive and the Broader Public Sector (BPS) Business Documents Directive to specify the posting of an agency's audited financial statements on the agency's or government's website no later than the Public Accounts release date.*  
**Status: Fully implemented.**

### Details

The Treasury Board Secretariat (Secretariat) updated both the Agency and Appointments Directive and the BPS Business Documents Directive to specify the posting of audited financial statements no later than the Public Accounts release date. As well, communications to all affected ministries were made to support the public availability of their agencies' 2019/20 audited financial statements.

The Agencies and Appointments Directive was updated to state that agencies included in the province's consolidated financial statements must make their audited financial statements available no later than 150 days after the fiscal year (March 31) or an earlier date issued by the Office of the Provincial Controller Division for the reporting year. The broader public sector (BPS) Business Documents Directive was updated to state that BPS organizations included in the Public Accounts must post their audited financial statements no later than the release date of the Public Accounts of Ontario.

## Ontario Cannabis Retail Corporation

### Recommendation 2

*In order for the Ontario Cannabis Retail Corporation to operate effectively, we recommend that it develop a plan and take all steps necessary to expedite the resolution of data integration issues between its key IT systems.*

**Status: Fully implemented.**

### Details

The Ontario Cannabis Retail Corporation, operating as the Ontario Cannabis Store (OCS) implemented an Automated Reconciliation Tool (ART) in December 2019 to address the data integration issues among its key IT systems. This tool replaced the previous tool that was used by the OCS.

The implementation of the ART system mitigated the data integration issues across the OCS, leading to more reliable financial record retention. The system also automated many of the steps that were previously performed manually. As well, the system

is maintained and updated in-house compared with the previous system, which was developed and run by an outside vendor.

## Legislated Accounting Standards

### Recommendation 3

*To ensure consistent use of Canadian Public Sector Accounting Standards, we recommend that the government formalize a process to follow the accounting standards established by the Canadian Public Sector Accounting Board to avoid using legislation or regulations to prescribe accounting treatments.*

**Status: Will not be implemented. The Office of the Auditor General of Ontario continues to support the implementation of this recommendation.**

### Details

In 2008, 2009, 2011 and 2012, the government introduced legislation giving it the ability to make regulations requiring the use of specific accounting treatments that may not be consistent with Canadian PSAS.

It is important that Ontario prepare its financial statements in accordance with generally accepted accounting standards, specifically those of Canadian PSAS, in order to maintain its financial reporting credibility, accountability and transparency.

At the time of our follow-up, the province indicated it was committed to preparing its financial statements in accordance with Canadian PSAS in order to provide high-quality financial reports that support transparency and accountability in reporting to the public, the Legislature and other users. However, the province has no legislative requirement for the government to comply with Canadian PSAS. We continue to believe that this recommendation should be implemented and that the province formalize compliance with Canadian PSAS in legislation.

## Chapter 2

### Section 2.01

Ministry of Government and Consumer Services

# Tarion Warranty Corporation

Follow-Up on *October 2019 Special Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2	2				
Recommendation 2	3	3				
Recommendation 3	4	4				
Recommendation 4	1	1				
Recommendation 5	1		1			
Recommendation 6	4	1	2	1		
Recommendation 7	3	1	2			
Recommendation 8	1	1				
Recommendation 9	1		1			
Recommendation 10	4	4				
Recommendation 11	1	1				
Recommendation 12	3	3				
Recommendation 13	3	3				
Recommendation 14	1		1			
Recommendation 15	4	4				
Recommendation 16	2	2				
Recommendation 17	1		1			
Recommendation 18	2		2			
Recommendation 19	3	3				
Recommendation 20	6	6				
Recommendation 21	3		2	1		
Recommendation 22	1			1		
Recommendation 23	2	2				
Recommendation 24	2	2				
Recommendation 25	4	1	1	2		

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 26	2	2				
Recommendation 27	1	1				
Recommendation 28	3	3				
Recommendation 29	4	4				
Recommendation 30	2	2				
Recommendation 31	1	1				
Recommendation 32	1	1				
<b>Total</b>	<b>76</b>	<b>58</b>	<b>13</b>	<b>5</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>76</b>	<b>17</b>	<b>7</b>	<b>0</b>	<b>0</b>

## Overall Conclusion

Tarion Warranty Corporation (Tarion), as of November 16, 2021, has fully implemented 86% of the recommendations which were specifically directed toward it alone. The Ministry of Government and Consumer Services, as of November 16, 2021, has fully implemented 29% of the recommendations which were specifically directed toward it. Combined, Tarion and the Ministry have fully implemented 76% of the actions we recommended in our 2019 Special Report. Tarion and the Ministry have made progress in implementing an additional 17% of the recommendations.

The Ministry established a new regulation requiring Tarion to implement an internal appeal process that allows for simpler, less costly and homeowner-friendly appeals before requiring homeowners to go before the Licence Appeal Tribunal or a court. In addition, Tarion revised its procedures to consider all data about a builder's past building-quality and warranty performance when deciding whether to grant a future licence. Up until February 1, 2021, Tarion was responsible for licensing builders. The government designated the Home Construction Regulatory Authority (HCRA) to regulate homebuilders. Therefore, as of February 1, 2021, Tarion is no longer responsible for granting builder licences. Nonetheless,

Tarion retains information regarding builders to assist homeowners with warranty disputes.

The Ministry and Tarion have made little progress on 7% of the recommendations, including the Ministry establishing performance indicators and targets to measure Tarion's performance. Also, Tarion has not reduced the amount of time provided to builders to resolve defects before stepping in to help homeowners.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Ontario government has designated the non-profit Tarion Warranty Corporation (Tarion) to administer the *Ontario New Home Warranties Plan Act* under oversight of the Ministry of Government and Consumer Services (Ministry). Tarion promotes compliance of homebuilders to ensure they honour their warranties on materials and workmanship in new homes. Until February 2021, when the government designated the Home Construction Regulatory Authority (HCRA) to regulate homebuilders, Tarion was also responsible for licensing builders. At the end of 2020, 5,795 homebuilders (previously 5,600 in 2018) were licensed by Tarion and about

69,000 (60,000 in 2018) new homes were enrolled with Tarion in 2020. Tarion is responsible for promoting compliance by Ontario's approximately 5,800 licensed homebuilders regarding their statutory warranty obligations in connection with the builders' warranty on about 387,000 homes (at the end of 2020). Tarion itself offers no warranties, but helps resolve warranty disputes and provides financial aid to homeowners or arranges for repairs when it determines that builders failed to honour a warranty or declared bankruptcy.

In 2020, Tarion received about 68,000 (70,000 in 2018) requests for help, most of which were resolved with no direct intervention by Tarion, and the organization paid out \$23 million (\$17.4 million in 2018) to about 800 (800 in 2018) homeowners. Tarion receives its revenues from enrolment fees, and investment income on its Guarantee Fund. With the launch of the HCRA on February 1, 2021, Tarion stopped collecting licensing fees, decreased its average enrolment fee by \$50 and began collecting a \$145 plus HST regulatory oversight fee (on behalf of the HCRA) for every home enrolled. The regulatory oversight fee which Tarion collects is remitted back to the HCRA on a weekly basis. Tarion's annual expenditures for 2020 were about \$61 million (\$55 million in 2018). Tarion is overseen by a 12-member Board of Directors (previously a 16-member Board in 2018) and employs about 275 people.

Our audit found that some Tarion processes were difficult for homeowners to navigate, resulting in the denial of thousands of requests for help, and that the Ontario Home Builders' Association had disproportionate influence over Tarion. Laws meant to deter illegal homebuilding were largely ineffective; from 2009 to 2018, Tarion had paid homeowners about \$19.8 million to cover the cost of warranty repairs on 869 illegally built homes.

Other 2019 significant audit findings include:

- In about 65% of the 6,485 requests that Tarion assessed from 2014 to 2018, Tarion found that the builder should have fixed the defects under warranty but did not.
- Between 2014 and 2018, Tarion refused assistance on about 9,700 requests because the homeowners had missed their 30-day deadlines, many by a single day. Homeowners may ask Tarion for help with defects in their homes covered by a one-year warranty by submitting a form only in the first 30 days or the last 30 days of the first year of occupancy, unless it is an emergency. By missing the first 30-day deadline the homeowner is still eligible for the builder's warranty coverage, but Tarion will not help the homeowner by holding the builder accountable.
- Builders who refused to honour some of their warranties, causing Tarion to pay out compensation to homeowners, were able to renew their licences. Until 2012, Tarion's policy was to renew builders' licences regardless of the fact that the builders had put up homes with major structural defects. Some builders whose licences were revoked returned legally to the industry by creating a new company or partnering with an existing one.
- Tarion's online Ontario Builder Directory was missing data about some builders' poor warranty records, Building Code violations and convictions for illegally building homes, and its own investigations into complaints.
- Tarion licensed builders after homeowners alleged that they acted dishonestly and broke the law. As of June 30, 2019, Tarion had a backlog of 41 complaints about builders' dishonest conduct that it had not investigated, all of which were outstanding for more than six months. Five alleged illegal activity, but Tarion had yet to investigate or forward them to the appropriate bodies.
- Tarion's call centre fields about 90,000 calls a year. In a sample of 50 calls recorded between February 1, 2019, and March 31, 2019, we found that in 14% of cases, Tarion's response to caller questions was inaccurate and/or not helpful.
- Tarion based security deposits it collects from builders on outdated information (for example, home values that were lower than the homes' current values), while paying out claims based on current values. Over 10 years it recovered only

about 30% of the \$127 million in claim payouts it made from its Guarantee Fund.

- The information Tarion communicates about its role could lead some to believe that it, rather than builders, provides the warranty. Thus, it is not always clear to homeowners that they can submit warranty claims to their builders.
- Tarion’s senior management was rewarded for increasing profits and minimizing financial aid paid to homeowners.

We made 32 recommendations, consisting of 76 action items, to address our audit findings. We received commitments from the Ministry and Tarion that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between March 2021 and September 2021. We obtained written representation from Tarion Warranty Corporation (Tarion) and the Ministry of Government and Consumer Services that effective November 16, 2021 they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Association Representing Builders Heavily Involved In Tarion Decisions

### Recommendation 1

*So that Tarion Warranty Corporation and any successor organization(s) maintain a balance between the interests of homebuyers and homebuilders (the latter as represented, for example, by the Ontario Home Builders Association), we recommend that:*

- *the Ministry of Government and Consumer Services formally put in a requirement that no stakeholder group should have any advantage over any other one; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Home Builders’ Association (OHBA), who represents the interests of the province’s residential homebuilders, was heavily involved in Tarion decisions, where eight of the 16 directors on its Board were members of, and nominated by, the OHBA. The relationship between the Tarion Board and the OHBA created an imbalance over the years that favoured the interests of builders at the expense of homebuyers.

In our follow-up, we found that the Minister of Government and Consumer Services issued an order on November 27, 2019, to make changes to the structure of the Tarion Board, so that no more than 34%, or four out of 12 director positions on the Tarion Board shall be drawn from builders, or individuals representing builders. The Minister also reduced the size of the Tarion Board from 16 directors to 12. These changes were done to create more balance between the interests of homebuyers and home builders, and to ensure that no stakeholder interest is favoured over another. This order was reflected in Tarion’s by-laws effective April 23, 2020.

- *Tarion discontinue providing monetary sponsorship to the Ontario Home Builders Association.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion, for years has been sponsoring a dinner at the OHBA’s annual conference, where in the last five years, payments to the OHBA for sponsorship totalled \$185,000.

In our follow-up, we found that in April 2020, Tarion drafted and approved a Sponsorship Guidelines policy which states that Tarion will not provide sponsorships to, or purchase memberships from, home builder associations including the OHBA. The policy states that Tarion, however, will continue to strive to sponsor organizations and individuals that enhance the visibility and reputation of Tarion to stakeholders and the general public, and will assist Tarion in fulfilling its core mandate and business priorities. As such, Tarion will continue to consider sponsorships proposals received from other groups

or individuals outside of builder associations, such as home inspector or real estate associations, or consumer groups, on a case-by-case basis in accordance with the policy's guidelines.

## Importance of Homebuyers Understanding the Pre-Delivery Home Inspection Process

### Recommendation 2

*To ensure homebuyers receive sufficient time to familiarize themselves with the Homeowner Information Package so they understand the importance of the Pre-Delivery Inspection (PDI), we recommend that Tarion Warranty Corporation:*

- *require builders to inform homebuyers about the importance of the PDI and provide them with the Homeowner Information Package at the time the purchase agreement for the home is signed;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that as a matter of policy, Tarion allowed builders to give homeowners the Homeowner Information Package as late as the same day of the Pre-Delivery Inspection (PDI). The PDI inspection is when homebuyers can document any defects in their home prior to taking possession. This is important because the warranty does not cover damages caused by the homeowner, or the normal use of the home after possession, and as such, documenting an item in a PDI report will prove later that these defects were not caused by the homeowner after possession. However, because of this policy, homeowners were left with little time to familiarize themselves with the Homeowners Information Package, which explains to a homebuyer their rights, the builder's obligations, and Tarion's role.

In our follow-up, we found that effective in February 2021, a new regulation was introduced so that there will no longer be a requirement for the Homeowner Information Package to be provided to the purchaser. Rather, the builder will need to provide a

'Warranty Information Sheet' to the purchaser at the time the purchase agreement is signed. The Warranty Information Sheet contains information about what is covered under the builders' warranty, information about the PDI, and information about the rights and responsibilities of the homeowner, the builder, and Tarion. In addition, the new regulation requires builders to submit to Tarion contact information for the purchaser signing the purchase agreement within 30 days of the purchase agreement being signed, to allow for earlier communication about understanding and preparing for the PDI, as well as elements of the home warranty that would apply prior to possession.

- *conduct random audits of builders to ensure that they comply with the above requirement or survey homebuyers to confirm builders are complying; and*

**Status: Fully implemented.**

### Details

In our follow-up, we found that in order to keep track of this information, including ensuring the Warranty Information Sheet is being provided, and that the PDI is being conducted, Tarion created a tracking mechanism in its homeowner portal, which allows Tarion to audit a builder as soon as a homeowner advises Tarion that they were not provided with the Warranty Information Sheet, or did not receive a PDI prior to their possession. The homeowner portal allows homeowners to submit claims and manage their warranty online. Homeowners registered under this portal are asked a series of questions once they get possession of their home, including whether they received the Warranty Information Sheet with their purchase agreement, and whether a pre-delivery inspection was conducted with their builder. Tarion compiles a listing of the builders whose homeowners answered "no" to these questions, and audits these builders accordingly. Based on results of the audit, Tarion determines the appropriate course of action, including starting in February 2021 making recommendations to the Home Construction Regulatory Authority (HCRA) for potential licensing

conditions, as well as imposing potential conditions on terms of enrolment of future homes. In addition, Tarion conducts audits, through a random sampling approach, of those builders whose homeowners who are not registered under the homeowner portal on a monthly basis to ensure that this information is being provided to these homeowners as well.

- *send out letters to homebuyers, before their occupancy date, reminding them about the importance of conducting the PDI*

**Status: Fully implemented.**

### Details

In our 2019 audit, Tarion told us that in 2003, it began mailing out letters reminding homeowners to read thoroughly the Homeowner Information Package, which is also available on Tarion's website. However, we found that Tarion only mails out these reminder letters after homebuyers take possession of the home, which happens after the PDI.

In our follow-up, we found that as a result of the implementation of the new regulation, Tarion is communicating directly with purchasers to provide more information and resources about the Warranty Information Sheet and the PDI, as builders are now required to provide Tarion with the purchaser's contact information within 30 days of the purchase agreement being signed, in addition to providing the Warranty Information Sheet with the purchase agreement. For example, Tarion sends a welcome email to homebuyers that provides an overview of the resources available to homeowners, as well as reminding them of the importance of the pre-delivery inspection.

### Recommendation 3

*To provide homebuyers with less confusing information on new-home warranties and their rights, we recommend that Tarion Warranty Corporation clearly explain in its Homeowner Information Package and its other publications:*

- *the respective roles and responsibilities of builders and Tarion;*

**Status: Fully implemented.**

- *that homeowners should submit warranty claims directly to their builders, not Tarion; and*

**Status: Fully implemented.**

- *that Tarion's role is to hold builders accountable for addressing unresolved homeowner warranty claims to builders; and*

**Status: Fully implemented.**

- *that homeowners do not lose their warranty rights with the builder if they do not ask Tarion for assistance.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the information provided by Tarion to homeowners about its role in administering new home warranties could be confusing to some homeowners, because the Homeowner Information Package stated that homeowners will lose their warranty rights if they do not submit their "warranty claims" to Tarion as well as to the builder. We found this could confuse or misguide homeowners who in fact have the right to ask their builder to fix a defect at any time, as missing a Tarion deadline does not mean the homeowner loses their warranty coverage; instead, it means that Tarion will not accept requests for help or hold the builder accountable for its warranty obligation. We questioned why Tarion used the term "warranty claims" to describe homeowners' requests for Tarion's assistance, as this may lead some homeowners to believe that Tarion, rather than the builder, provides the warranty.

In our follow-up, we found that Tarion conducted a review of all of its forms of communication and identified areas for improvements, including its website and the Warranty Information Sheet (previously the Homeowner Information Package). In addition, Tarion developed learning modules and a warranty coverage brochure for homeowners. In our review of these publications, we found that Tarion clarified that homeowners should bring any warranty service requests to their builder's attention in writing as soon as possible and that warranty coverage is

provided by the builder. The materials also clarify that Tarion's role is to ensure that homeowners in Ontario receive the coverage they are entitled to under the builder's warranty. Lastly, the materials indicated that if a homeowner needs assistance with their builder's warranty from Tarion, homeowners should submit their claim to Tarion within the appropriate timelines. We also noted that Tarion removed any reference to the term "warranty claims" to describe homeowners' requests for Tarion's assistance.

#### Recommendation 4

*To eliminate any potential confusion about the role of Tarion Warranty Corporation, we recommend that Tarion either eliminate the word "Warranty" from its name or select a new less confusing name.*

**Status: Fully implemented.**

#### Details

In our audit in 2019, we found that the agency's name—Tarion Warranty Corporation—is confusing, and could also lead some consumers to believe that the warranty on their home is provided by Tarion rather than the builder.

In our follow-up, we found that Tarion removed the word "Warranty" from its name on all public facing materials including its website, social media platforms, email signatures of Tarion staff and any materials provided to homeowners, including the Warranty Information Sheet (previously the Homeowner Information Package). We noted that Tarion did not change its legal business name to eliminate the word "Warranty." Tarion told us that by December 2022, the Board will evaluate the next steps in this process, including whether Tarion's name will be changed legally.

#### Recommendation 5

*To better protect homeowners who take occupancy of an unfinished house so that they retain their full and reasonable warranty rights, we recommend that Tarion Warranty Corporation address the issue of warranty coverage beginning before a house is finished by:*

- *redefining "finished house" for the purposes of homeowners' warranty rights and coverage period so that the one-year warranty period commences only once the home meets this new definition of a finished house; or*

**Status: No longer applicable.**

- *developing a warranty that will protect homebuyers for unfinished items in their homes once the home has met the minimum occupancy standard, and ensuring that the one-year warranty coverage begins only after the items are finished; or*

**Status: In the process of being implemented by December 2022.**

- *working with the relevant ministries to expand what must be completed to meet the minimum occupancy requirement in the Ontario Building Code so that new home buyers are appropriately protected by their warranty rights.*

**Status: No longer applicable.**

#### Details

In our 2019 audit, we found that Tarion's use of the Ontario Building Code's definition of a finished house/condominium effectively diminishes homeowners' warranty rights by potentially shortening the warranty coverage period, where builders have the right to initiate their warranty coverage as of the time a house meets the Ontario Building Code's minimum occupancy requirements, which only requires that limited plumbing fixtures be complete and operational. Once the minimum occupancy requirements are met, a builder can require a homebuyer to take possession of a house, and thus, some builders could shorten their warranty coverage period by the amount of time it takes them to complete any outstanding work after the day they require the homebuyer to take possession of the unfinished house. During our 2019 audit, Tarion told us that it had no official policy to ask builders to extend the warranty for uninstalled items.

In our follow-up, we found that the Ministry engaged in discussions with the Ministry of Municipal Affairs and Housing (MMAH) and determined that the requirements of what must be completed to meet the minimum occupancy requirement in the Ontario Building Code could not practically be expanded. Alternatively, Tarion established an internal working group to develop an extended warranty to protect homebuyers for unfinished items in their homes. The working group recommended:

- extending the one-year, two-year and seven-year warranties for an item that is missing or incomplete on the date of possession; and
- starting the extended warranties on the date on which the item is completed by the builder, or on the last possible date the builder could have made a repair.

A consultation was completed in 2021 to seek public input from stakeholder groups on the new extended warranty for unfinished items at the time of possession. At the time of our follow-up, Tarion was in the process of reviewing input received from stakeholders through its public consultation. Tarion plans to implement the extended warranty for unfinished items in December 2022.

## Dispute Resolution Process Difficult for Homeowners

### Recommendation 6

*To improve homeowners' ability to seek assistance from Tarion Warranty Corporation when they have a warranty dispute with their builder, we recommend that Tarion:*

- *remove its two 30-day deadlines and allow homeowners to submit requests for assistance at any time during the first year of ownership;*  
**Status: In the process of implementing changes by December 2022.**
- *eliminate the 30-day deadline to request a home inspection;*  
**Status: In the process of implementing changes by December 2022.**

### Details

During our 2019 audit, we found that Tarion restricted the times when homeowners may ask for its help in a warranty dispute with builders. Homeowners could only ask Tarion for help during the first 30 days and last 30 days of the first year of occupancy of their home. In addition, homeowners had a 30-day window to request an inspection from Tarion. These restrictions made it more difficult for homeowners to seek help from Tarion.

In our follow-up, we found that effective September 14, 2020, Tarion put in place temporary measures by adding a 10-day grace period for its two 30-day deadlines and its 30-day deadline to request a home inspection, to increase the time homeowners have to access help from Tarion. For formal changes to the deadlines, Tarion plans to move toward introducing a six-month deadline (in addition to the two 30-day deadlines) to provide homeowners with an opportunity to request assistance from Tarion halfway through the first year of occupancy. In addition, for serious issues, homeowners will be able to request assistance from Tarion at any time. For a home inspection, homeowners will be able to request an inspection at any time within the warranty timeframes, or a reasonable period thereafter. At the time of our follow-up, Tarion was in consultation with stakeholders to seek input on changes to its deadlines. Pending the Ministry of Government and Consumer Services approval, Tarion is in the process of seeking public input on a final proposal. Tarion plans for the changes to be implemented by December 2022.

- *permit homeowners to update their listing of unresolved defects after submitting the initial listing; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that homeowners were allowed to provide only one listing of unresolved defects to Tarion in each 30-day window of the first-year warranty, and could not subsequently amend

those listings. Tarion accepted only the first listing of defects and rejected all subsequent ones.

In our follow-up, we found that effective September 14, 2020, Tarion has allowed homeowners to make amendments and additions to initial lists of unresolved defects submitted to Tarion. Homeowners can now make changes to add more items to lists over the course of the first 30 days and last 30 days of the first year of occupancy of their home. Tarion also implemented, on a temporary basis, a 10-day grace period for its two 30-day deadlines, which gives homeowners more time to request help from Tarion.

- *reduce the amount of time provided to builders to resolve defects before stepping in to help homeowners.*

**Status:** Little or no progress.

### Details

In our 2019 audit, we found that when Tarion received a request for help from a homeowner, Tarion gave the builder 120 days to resolve the issues directly with the homeowner. As a result, homeowners had to wait a minimum of four months before they can ask Tarion for an inspection to assess the unresolved defects. When Tarion accepted a homeowner's second request for assistance, it sent another email to the builder asking it to resolve the dispute within 30 days. After 30 days, if it is not resolved, Tarion may inspect the disputed defects and decide within yet another 30 days if the builder should have repaired the defects under warranty.

In our follow-up, we found that Tarion is assessing its policy to reduce the 120-day builder repair period. Tarion told us that reducing the amount of time provided to builders to resolve defects was not practical given the implications of the COVID-19 pandemic when gaining access into homes became more difficult for builders and also, there were delays in the supply chain for obtaining repair materials. At the time of our follow-up, Tarion told us that it plans to begin a consultation with stakeholders to seek input on changes to its builder repair period in March 2022. Tarion expects to make regulatory change to reduce the 120-day builder

repair period with implementation occurring no later than December 2023.

### Recommendation 7

*To resolve homeowners' disputes with their builders in a timely manner, we recommend that Tarion Warranty Corporation:*

- *review its regulatory timelines for delivery of decisions to ensure they are reasonable;*

**Status:** In the process of being implemented by December 2022.

### Details

In our 2019 audit, we found that the regulation requires Tarion to decide if a disputed defect is covered by the builder's warranty within a 30-day period that begins the day after the homeowner has made a request for an inspection. We found that Tarion was late making this 30-day decision in about 45% of the warranty disputes it handled in the past five years, where on average, it took Tarion about 50 days to issue its decision to homeowners in these cases where it had missed its deadline. This further extended the wait for homeowners for their builders to fulfill their warranty obligations.

In our follow-up, we found that Tarion was in the process of seeking input from stakeholders to determine the appropriateness of its regulatory timelines for delivery of decisions. Tarion told us that it plans to make regulatory change to its timelines in December 2022 to ensure homeowners have repairs made by the builder or receive compensation from Tarion in a timely manner.

- *establish a process to ensure its decisions regarding homeowners and builders are made within the required time; and*

**Status:** In the process of being implemented by December 2022.

### Details

In our 2019 audit, we found that Tarion was late making a decision if a disputed defect is covered by a builder's warranty in about 45% of the warranty

disputes it handled in the past five years, where on average, it took Tarion about 50 days to issue its decision to homeowners in these cases where it had missed its deadline. The regulation requires Tarion to make this decision within 30 days of a homeowner making a request for an inspection.

In our follow-up, we found that Tarion is in the process of determining what appropriate timelines are for delivery of decisions to homeowners. Once timelines are established and regulatory changes take effect, Tarion plans to establish a process to ensure that its decisions are made within the required time.

- *promptly notify homeowners and builders in writing of the reasons for a delay if Tarion is unable to meet its own deadline.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that when Tarion misses its own 30-day deadline for making a decision on whether a disputed defect is covered by the builder's warranty, Tarion does not notify homeowners of any delays.

In our follow-up, we found that in July 2020 Tarion started to notify homeowners in writing when a delay may result in Tarion missing its own 30-day deadline in making a decision on whether a disputed defect is covered by the builder's warranty.

### Recommendation 8

*For homeowners to have access to more timely and cost-effective ways to appeal decisions of Tarion Warranty Corporation, and given that about 80% of appeals are settled by Tarion after decisions are appealed but before the cases are heard at the Licence Appeal Tribunal, we recommend that Tarion implement an internal appeal process that allows for simpler, less costly and homeowner-friendly appeals before requiring homeowners to go before the Licence Appeal Tribunal or a court. For example, Tarion could consider creating an appeal mechanism through its internal Ombudsperson's Office.*

**Status: Fully implemented.**

### Details

In our audit, we found that there is no simple process for homeowners to appeal a Tarion decision; instead, homeowners have the option of going before the Licence Appeal Tribunal (Tribunal), or pursuing a costly civil case against their builder in court. We also noted that about 146, or 80%, of appeals brought by homeowners to the Tribunal between 2014 and 2018 were settled by Tarion before the full hearing. We questioned why Tarion did not offer homeowners an impartial appeals process to challenge its decisions that could cost them less money and time, given that about 80% of appeals are settled by Tarion after decisions are appealed, but before the cases are heard at the Tribunal.

In our follow-up, we found that effective November 2020, Tarion implemented a permanent mediation program that includes independent, third-party mediation as part of its dispute resolution processes. The Ministry has also ensured that the program is permanent by establishing it in a new regulation. The mediation program involves the use of an external mediator in cases where a decision has been made by Tarion, and homeowners wish to appeal Tarion's decision. The mediation takes place between the homeowner and Tarion, where Tarion will cover the costs for the mediation. Tarion advised us that it may review the costs allocation after the program has run for a period of time. The mediation is kept confidential and cannot be brought up in any subsequent Tribunal proceeding. The homeowner will choose their mediator, either from Tarion's roster or their own, and Tarion will be represented by an individual from its Warranty Services department who was not previously involved in the dispute. Additionally, homeowners are welcome to bring a support person. Through this process and their mediator, the homeowner and Tarion will try to reach a resolution, which may involve a cash settlement or re-inspection. Once a resolution has been reached, Tarion will make a determination on whether it will seek recovery from the builder.

## Licensing and Regulating of Builders Needs Improvement

### Recommendation 9

*To ensure the licensing process of Tarion Warranty Corporation reflects the intent of the Ontario New Home Warranties Plan Act, we recommend that individuals in homebuilding companies who supervise day-to-day construction, either directly or indirectly via their employer, demonstrate they have the proven technical competence necessary for building new homes or be required to take the appropriate educational courses before being granted a licence by Tarion.*

**Status:** In the process of being implemented by December 2023.

### Details

We found in our 2019 audit that Tarion did not ask licence applicants to complete any courses to demonstrate that they have technical competence in home construction until September 2016. As such, builders who received their first licence prior to September 2016 were exempted from this new requirement, meaning that of the 5,600 currently licensed builders in Ontario, only 300 were required to meet the new requirement. We also noted that only the directors or owners of construction companies are required to complete the educational requirements introduced in 2016, and not those directly involved in supervising day-to-day construction, especially in larger companies. Large builders often employ site supervisors to directly oversee day-to-day construction, but Tarion's educational requirements do not apply to these site supervisors.

In our follow-up, we found that this recommendation was assigned to the Home Construction Regulatory Authority (HCRA) for implementation. The HCRA has issued an advisory notice to licensed builders to remind them that they are accountable, under the Act, for the conduct and competency of their employees, contractors, and agents. Possible outcomes of verified complaints could be additional training or conditions on licences.

The Ministry will consider longer-term opportunities to address competency requirements, which would require further research, consultation and government approval to update the New Home Construction Licensing Act regulations. The Ministry informed us that a longer-term solution is expected to be implemented by the HCRA by December 2023.

The HCRA intends to work with the Ministry to consider longer-term opportunities to update the *New Home Construction Licensing Act* regulations, and provide a long-term solution which addresses competency requirements for new and renewing applicants for licences. The Ministry informed us that these new requirements are expected to be implemented by the HCRA by December 2023.

### Recommendation 10

*To ensure builders who do not honour their warranty obligations to homeowners are held accountable and their poor warranty performances are factored into licensing decisions, we recommend that Tarion Warranty Corporation:*

- *specify what evidence builders must submit to Tarion to request that inspection results be exempted from licensing decisions;*  
**Status: Fully implemented.**
- *verify with homeowners any allegations against them by builders in all cases before approving the exemption of an inspection from a licensing decision;*  
**Status: Fully implemented.**
- *review and update current policies to provide more guidance to inspectors for making decisions on exemptions, and require that they document their decision; and*  
**Status: Fully implemented.**
- *publicly report the number of times each year that approval was given to exempt inspection results from licensing decisions.*  
**Status: Fully implemented.**

## Details

In our 2019 audit, we found that Tarion did not always factor a builder's record of poor warranty service into its licensing decisions. Tarion found that builders did not honour their homeowner warranty in about two-thirds, or 4,133 of its 6,485 warranty-dispute decisions between 2014 and 2018, but factored into its licensing decisions only half of these 4,133 cases. Tarion excluded the other 2,033 cases because builders alleged that homeowners prevented them from honouring their warranty. However, we found that Tarion was exempting the inspection from consideration in its licensing decision based only on information provided by the builder, without verifying the builder's explanation directly with the homeowner, as required by Tarion's own policy.

In our follow-up, we found that as of May 2020, Tarion has updated its policy to clearly specify what evidence builders must submit to apply for exemptions in licensing decisions. This policy is used by inspectors when making decisions on exemptions. Builders are now required to provide evidence to Tarion if an exemption is to be granted. For example, if a builder is requesting an exemption because a homeowner denied access to their home to repair a defect, the builder must provide correspondence with the homeowner to prove that access was denied. Tarion told us that it will then verify any evidence obtained from the builder with the homeowner.

In addition, Tarion, as part of its policy, performs monthly audits on all cases where an exemption was applied to a builder to ensure Tarion's policy is being followed. Any discrepancies with the policy are presented to Tarion's senior management on a monthly basis for further action.

We also found that effective in April 2020, Tarion updated its website to publicly report on the number of times each year that approval is given by Tarion to exempt inspection results against each builder's record.

## Recommendation 11

*To strengthen the builder licensing program of Tarion Warranty Corporation, we recommend that Tarion revise its procedures to consider all data about a builder's past building-quality and warranty performance when deciding whether to grant a future licence.*

**Status:** Fully implemented.

## Details

In our 2019 audit, we found that for years, Tarion had a policy in place to not factor into its licensing decisions any major structural defects caused by builders, and to not recover from builders the compensation it paid out for those defects. When Tarion licensed a builder, it did not take into consideration the homes with major structural defects that the builder constructed and sold, and the total cost Tarion incurred to resolve those issues. In July 2012, Tarion changed its policy to begin including such homes in builders' licensing decisions, but only if the house was sold after July 2012. Even with this policy change, Tarion still did not factor into its licensing decisions the fact that a home with major structural defects was constructed and sold if the builder resolves the defects.

In our follow-up, we found that in April 2020, Tarion implemented a new policy to broaden its review of a builder's past performance for licensing decisions. The new policy requires Tarion to consider in its review the total number of defects caused by builders, the severity and the type of warranty defects.

## Recommendation 12

*To confirm that licensed builders have access to the financial resources necessary to complete proposed projects and cover the potential costs of their warranty obligations, we recommend Tarion Warranty Corporation:*

- *conduct a review to identify the best available external evidence that builders should provide*

*when applying for a licence to establish that they have the financial means to complete proposed projects and honour their warranty obligations;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion licensed builders without obtaining evidence to confirm that they have access to the financial resources necessary to complete proposed projects and cover the potential costs of their warranty obligations. More specifically, licence applicants were not required to submit to Tarion any specific documents, for instance a letter from a financial institution, which would confirm they have access to financial resources.

In our follow-up, we found that in February 2020, Tarion conducted an internal analysis to determine what evidence could be used to assess a builder's financial means. As a result of the review, Tarion revised its policy to require a letter of intent from a financial institution for most new condominium builders. A letter of intent is a declaration from the lending institution that a preliminary commitment has been made to provide funding for the proposed construction project. Tarion's revised policy states that if Tarion identifies risks with the builder, such as rapid expansion from the initial project proposed, a letter of intent may be requested from experienced condominium builders. We noted that a letter of intent is not being required for new or experienced builders of freehold homes; however, Tarion's revised policy states that if the construction project is found to be larger in scope than what was initially proposed, a letter of intent would be required.

- *review all reasons leading to the cancellation of construction projects and factor these reasons into future licensing decisions; and*

**Status: Fully implemented.**

- *always collect and review the required external evidence from builders before making a licensing decision.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that between 2009 and 2018, builders in Ontario cancelled 460 condominium projects accounting for about 33,850 units. We were unable to determine how many of these projects were cancelled for financial reasons because Tarion did not previously collect that information. Tarion began asking builders for reasons and supporting documents for cancelling condominium projects only in 2018 and, as a result, could not factor this information into licensing decisions when approving a builder for new construction projects.

In our follow-up, we found that Tarion has continued to collect information from builders on reasons for cancelling condominium projects since 2018. Since January 2018, 51 condominium projects were cancelled. From collecting information from builders, Tarion found that about 45% were cancelled due to the inability to achieve satisfactory financing, 21% due to the inability to meet the required sale threshold, and 18% were cancelled due to zoning/municipal approval delays. With the tracking of this information in its information system, Tarion now plans to use this information when evaluating the risk of future projects proposed by these builders. As of February 2021, this responsibility was transferred to the Home Construction Regulatory Authority that is now responsible for licensing new home builders. Tarion retains the authority to approve construction projects.

### Recommendation 13

*To better protect consumers from purchasing pre-construction homes that may later be cancelled and/or delayed by legal restrictions on construction land, we recommend that Tarion Warranty Corporation:*

- *undertake a study to identify the types of construction project that would require a review of land title;*

**Status: Fully implemented.**

- *either obtain from the builder a title search for those high-risk proposed construction projects and*

*review it or require the builder to provide a third-party certification of this information; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion did no review to determine whether there were any restrictions on land that builders proposed to develop that could prevent or delay construction. Applicants also did not need to submit any documents, such as a land registry search, which would confirm there are no restrictions on the land that would delay or prevent them from commencing construction. We found that there were no laws in Ontario requiring builders to have the necessary municipal approvals, such as site plan and zoning approvals, before they can be licensed by Tarion.

In our follow-up, we found that in April 2020, Tarion conducted an internal review to determine the types of construction projects that should require a review of municipality approvals. The review found that historically, cancellations for condominium projects were significantly greater, by over 300%, than cancellations for freehold homes. Tarion concluded that reviewing restrictions on land was most appropriate for proposed condominium projects. As a result, Tarion revised its policy to include a step to request the status of municipality approvals for proposed condominium projects to assess whether this will have an impact on the viability of a construction project.

- *establish a process to disclose publicly any restrictions found during the review that could delay or cancel the construction project.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that in February 2019, the government asked Tarion to work with the Condominium Authority of Ontario (Authority), another provincial delegated administrative authority, to better inform consumers of the potential risks associated with buying pre-construction condominiums. By February 2020, Tarion was required to

ask builders to add new disclosures on their standard purchase and sale-agreement forms about issues that could cause cancellation of a condominium project.

In our follow-up, we found that Tarion introduced a condominium information sheet that is required to be attached to every new condominium purchase agreement, which includes a declaration from the builder that the property is free from any registered title restriction that would prevent completion of the condominium project. If the builder is not able to provide this declaration at the time of the purchase agreement, the builder must provide an explanation for how the restriction will be removed so that the proposed projects can proceed.

### Recommendation 14

*To better protect consumers from purchasing pre-construction homes that may later be cancelled and/or delayed by legal restrictions on construction land, we recommend that the Ministry of Government and Consumer Services explore, for potential implementation in Ontario, British Columbia's practice of not allowing builders to market or sell condominium units unless they have already deposited their plans with the land title office or have already obtained a municipal building permit.*

**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we found that there were no laws in Ontario requiring builders to have the necessary municipal approvals, such as site plan and zoning approvals, before they can be licensed by Tarion. In comparison, builders in British Columbia are not allowed to market or sell condominium units unless they have already deposited certain plans with the land title office, or already obtained a municipal building permit.

In our follow-up, we found that the Ministry consulted with representatives of British Columbia and internal government stakeholders in April 2021. The Ministry is to explore potential further consultation with the sector that would be impacted.

### Recommendation 15

To ensure homeowners' complaints against builders are properly investigated, we recommend that Tarion Warranty Corporation:

- establish and release publicly a builder code of conduct that clearly defines actions and behaviours by builders that would constitute dishonest conduct and/or lack of ethics and integrity;  
**Status: Fully implemented.**

- establish clear consequences for builders who breach the code of conduct;  
**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that about 80% of investigations into complaints against builders resulted in no action taken against the builder. We found that Tarion did not consider the seriousness of these allegations when it renewed builders' licences; nor had it established a builders' code of conduct to define the actions and behaviours that would constitute dishonest conduct and lack of integrity. As a result, it was difficult for Tarion to verify whether the allegations were founded. Tarion staff who conducted these investigations told us that it was difficult to determine when builders acted dishonestly or without integrity because Tarion had no code of conduct to define these terms.

In our follow-up, we found that this action item was assigned to the Home Construction Regulatory Authority for implementation. The Home Construction Regulatory Authority issued a guide called "Good Conduct for New Home Builders" and published the guide on its website. The guide was updated in July 2021 to reflect expectations for good conduct along with potential actions that can be taken against any builder found not following the code of conduct. For example, the guide explains that if a builder is found to not have reasonably met the expectations of good conduct, HCRA may refer an issue to the discipline committee, or in severe cases, issue a Notice of Proposal to refuse, suspend or revoke a licence or impose conditions on a licence.

- commit sufficient staff resources to initiate and complete investigations into all homeowners' complaints against builders on a timely basis; and  
**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that as of June 30, 2019, there was a backlog of 41 complaints received in the five-year period from 2014 to 2018 that had not been investigated. All complaints were outstanding for more than six months, with some dating back to early 2017. Tarion told us that the backlog was due to limited staffing resources.

In our follow-up, we found that the backlog of 41 complaints was cleared.

- take into account relevant information in re-licensing decisions for builder code-of-conduct violations  
**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that when allegations of inappropriate behaviour by builders were not investigated on a timely basis, this information was not available to be considered in renewing a builder's licence to put up new homes.

In our follow-up, we found that the responsibility of investigating complaints against builders was transferred to the Home Construction Regulatory Authority in February 2021. Using a newly established guide for builder conduct, the Home Construction Regulatory Authority told us that it ensures investigations into any complaints raised against builders are conducted on a timely basis in order to ensure that this information can be available for consideration in renewing a builder's licence.

### Recommendation 16

To strengthen the builder-licensing process to protect homebuyers so that new homes are constructed in accordance with the Ontario Building Code, and to minimize warranty issues related to the Code, we recommend that Tarion Warranty Corporation:

- *establish clear and specific criteria to help determine when a builder's licence should be restricted or revoked for Code violations; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion had not established clear or specific criteria to determine how many Building Code violations have to occur before a builder's licence is revoked or restricted.

In our follow-up, we found that in April 2020, Tarion revised its policy to include clear criteria that can be used to determine whether a builder's licence should be restricted or revoked for Code violations. For example, if Tarion finds that a builder had Code violations that do not pose a significant risk to health and safety, a warning letter will be issued. If Code violations are found to pose a minor risk to health and safety and a warning letter was issued in the past, a restriction on the builder's license will be imposed. Lastly, if Code violations pose a significant risk to health and safety and the builder is unwilling or unable to correct them, the builder will face a licence revocation. The responsibility for applying this policy was transferred to the Home Construction Regulatory Authority in February 2021.

- *implement a risk-based inspection process to inspect homes for compliance with the Code during construction.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that under the *Ontario New Home Warranties Plan Act*, Tarion could inspect houses and townhouses at the time of construction to assess whether builders are in compliance with the Code. Tarion could therefore make compliance with the Code a licensing requirement for builders, and conduct risk-based inspections of homes built by those who have had Code violations in the past. However, historically, Tarion did not do these types of risk-based inspections.

In our follow-up, we found that Tarion took steps to implement a process to inspect houses and townhouses at the time of construction to assess whether builders are in compliance with the Code using a risk-based approach. In 2020, Tarion identified 30 builders with recent Code violations. Tarion found that 13 of the 30 builders had no new construction projects to inspect. Tarion staff conducted inspections of six builders and identified no significant risks during the inspection. Due to COVID-19 restrictions in 2020, the remaining 11 builders were inspected in 2021.

### Recommendation 17

*To help municipalities plan their inspections and improve builders' compliance with the Ontario Building Code, we recommend that Tarion Warranty Corporation report on a timely basis to municipalities all significant instances of builder non-compliance with the Code that it identifies.*

**Status: In the process of being implemented by November 2021.**

### Details

In our 2019 audit, we found that Tarion does not share Ontario Building Code (Code) violations that are noted as a result of a warranty-related home inspection with municipalities, even though such information could help municipalities better plan inspections and target specific builders. Municipal inspectors inspect new home construction and assess compliance with the Ontario Building Code.

In our follow-up, we found that Tarion consulted on this recommendation and has established a municipal working group to seek input on establishing a process for Tarion to provide Code violation information to municipalities. Tarion informed us that it expects to complete initial work on this item by November 2021.

### Recommendation 18

*To improve builders' compliance with the Ontario Building Code, we recommend that the Ministry of Government and Consumer Services:*

- *work with the Ministry of Municipal Affairs and Housing to recommend consistent inspection standards for use by all municipalities for assessing compliance with the Ontario Building Code; and*  
**Status: In the process of being implemented by December 2022.**

### Details

In our 2019 audit, we found limitations in Ontario Building Code (Code) inspections conducted by municipal inspectors, whose role is to inspect new home construction and assess compliance with the Code. For example, some municipalities do not allow inspectors to carry ladders because of safety issues. As a result, certain home components such as roof attachment or nuts on anchor bolts may not get inspected as required.

In July 2020, the Government of Ontario passed Bill 184, which included amendments to the *Building Code Act, 1992*, which allow for the future establishment of an administrative authority (AA) that will deliver building regulatory services. Between September 2020 and March 2021, the Ministry of Municipal Affairs and Housing had convened nine stakeholder engagement sessions to obtain feedback on how the authority will be governed and held accountable, the services it will deliver, and how it will be funded.

After reviewing the feedback from these stakeholder engagement sessions, the Ministry has determined that there is a need for further information to gain a better understanding of service improvements that are critical to the sector, to help the Ministry to finalize the scope of services to be delegated to a future administrative authority. To that end, the Ministry is planning to host a further round of stakeholder engagement sessions beginning in the Fall of 2021.

In order to identify the best operational practices related to inspections, and to promote best practices among municipalities for promoting compliance with the Building Code, the Ministry is developing a survey to be sent to municipal building officials, and the feedback that we receive will be shared with municipalities to promote improved inspection standards.

In addition, in July 2020 Bill 197 was passed, which enables the Ministry of Municipal Affairs and Housing to make regulations under the *Building Code Act* rather than Cabinet. This change was made to further the government's efforts toward the cross-country harmonization of construction codes, but will also facilitate any proposed changes to the Code as a result of meeting our recommendation.

- *work with the Ministry of Municipal Affairs and Housing to establish a process for municipalities to report on a timely basis to Tarion all significant instances of builder non-compliance with the Code that it identifies during its inspections.*

**Status: In the process of being implemented by December 2022.**

### Details

The Ministry of Municipal Affairs and Housing is developing a process to consult with partners, including Tarion, Ontario Building Officials Association, Large Municipal Building Officials of Ontario, Association of Municipalities of Ontario and various municipalities, and Ontario Home Builders' Association to develop best solutions to address our recommendation.

### Recommendation 19

*To hold builders accountable for the cost of warranty obligations that they do not honour, we recommend that Tarion Warranty Corporation:*

- *update its security deposit policies and adjust its thresholds for the deposits to more closely align with its risk exposure;*

**Status: Fully implemented.**

### Details

In our audit in 2019, we found that Tarion was using outdated, lower compensation amounts from the early 1990s to calculate the amount of security deposits required from builders. Tarion was also using an average home selling price of \$250,000, significantly below the 2018 average price of about \$648,000 to calculate security deposits from builders.

In our follow-up, we found that Tarion updated its security deposit policy in December 2020, which sets out the rules for taking and releasing security deposits by Tarion from builders. According to the new policy, Tarion assesses the security requirement based on a number of factors, such as length of time the builder has been registered with Tarion, number of homes built, credit rating, history of claims paid and financial position of the builder.

- *set collection targets and provide sufficient resources to improve its collections results from builders and their guarantors; and*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion has on average recovered only about 30 cents on every dollar owed by builders and their guarantors. We reviewed Tarion's 16 biggest settlements with homeowners by dollar value from 2014 to 2018, worth a total of \$5 million. Each homeowner received at least \$150,000 in compensation. However, Tarion was able to recover only \$603,000 of the \$5 million from the 16 builders and their guarantors—the remaining \$4.4 million was never collected from these 16 builders.

In our follow-up, we noted that Tarion had undertaken extensive studies to further analyze the collectability issue. Tarion established collection targets for each registration status, and it added an additional full-time employee to the Collections team to improve collection efforts.

- *publicly report on its collection efforts each year.*  
**Status: Fully implemented.**

### Details

In our follow-up, we noted that Tarion publicly reports its collection efforts annually on its website.

### Recommendation 20

*To help homebuyers make more informed choices when selecting a builder, we recommend that Tarion Warranty Corporation add the following information about each*

*licensed builder, all in clear and easy-to-understand language, to the Ontario Builder Directory:*

- *all results of Tarion investigations that found the builder's behaviour lacked honesty and integrity;*  
**Status: Fully Implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, was missing information that could help prospective homebuyers make a more informed choice when selecting a builder. Tarion did not include in the Directory results of Tarion investigations that found the builder's behaviour lacked honesty and integrity.

In our follow-up, we found that the Directory had been updated to include investigation results related to lack of honesty and integrity.

- *past convictions for illegal building activities;*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use did not include past convictions for illegal building activities.

In our follow-up, we found that the Directory had been updated to include charges and convictions related to illegal building activities.

- *the number and percentage of homes with major structural defects that a builder constructed each year;*  
**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, did not include the number and percentage of homes a builder constructed with major structural defects.

In our follow-up, we found that the Directory had been updated to include information on major structural defects.

- *the amount of money a builder owes to Tarion that remains unpaid;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, did not include the amount of money a builder owes to Tarion that remains unpaid for costs that Tarion paid to homeowners when builders did not honour their warranty responsibilities.

In our follow-up, we found that the Directory had been updated to include amounts remaining unpaid to Tarion by the builders.

- *the number of defects under warranty that a builder refused to repair; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, did not include the number of defects under warranty that a builder refused to repair.

In our follow-up, we found that the Directory had been updated to include information on defects that a builder refused to repair.

- *the number of defects the builder refused to repair that were due to the builder's noncompliance with the Ontario Building Code.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, did not include the number of defects the builder refused to repair that were due to the builder's non-compliance with the Ontario Building Code.

In our follow-up, we found that the Directory had been updated to include information on Ontario Building Code defects that the builder refused to repair.

## Recommendation 21

*To discourage illegal home construction in Ontario, we recommend that the Ministry of Government and Consumer Services:*

- *provide Tarion Warranty Corporation with the ability to directly fine any individuals and/or corporations found to have engaged in illegal home construction;*

**Status: In the process of being implemented by January 2023.**

### Details

In our 2019 audit, we found that in the past 10 years, Tarion has paid out \$19.8 million to homeowners to cover the cost of warranty repairs on 869 illegally built homes that builders refused to cover. We also found that it is very difficult and time-consuming for Tarion to successfully prosecute an illegal builder through the courts because it is a challenge to gather sufficient evidence to convict them. Even when Tarion does obtain a successful conviction, an illegal builder usually faces low fines that do not provide a strong deterrent.

In our follow-up, we found that, sections 75 to 79 of the *New Home Construction Licensing Act*, provides the Home Construction Regulatory Authority the ability to implement administrative penalties. However, these sections of the *New Home Construction Licensing Act* have not been proclaimed. The Ministry of Government and Consumer Services is working with the Home Construction Regulatory Authority to develop a regulation to implement administrative penalties. Once the regulation has been drafted, the Ministry would publicly consult on the proposal and seek approval from the Government to proclaim sections 75 to 79 of the *New Home Construction Licensing Act*.

- *establish an appeals process for individuals and/or corporations wishing to dispute the fines imposed by Tarion; and*

**Status: In the process of being implemented by January 2023.**

### Details

Implementation of this action item is dependent on the implementation of administrative penalties. The Home Construction Regulatory Authority is yet to develop a mechanism to fine any individuals and/or corporations found to have engaged in illegal home construction, along with an appeals process.

- *establish a process by which Tarion can share information about illegal builders to governments for investigation of potential tax evasion.*

**Status:** Little or no progress.

### Details

In our audit in 2019, we found that there are significant financial incentives to build homes illegally. Builders avoid paying Tarion fees and, sometimes, a significant amount of tax, including HST and, under the principal residence capital gains tax exemption, income tax. All of these costs apply to the sales of new homes, built and sold by legal builders.

In our follow-up, we noted that the Ministry of Government and Consumer Services is working with the Ministry of Finance to establish a process so that Tarion and the Home Construction Regulatory Authority can share illegal building information with the Ministry of Finance. The Ministry of Government and Consumer Services is in the process of reviewing privacy legislations to ensure information sharing is consistent with the *Freedom of Information and Protection of Privacy Act* and other privacy legislations.

### Recommendation 22

*To help reduce illegal building in Ontario, we recommend that Tarion Warranty Corporation work with the Ministry of Government and Consumer Services to impose restrictions on the owner-built exemption such as those in place in British Columbia.*

**Status:** Little or no progress.

### Details

We found in our 2019 audit that laws currently in place in Ontario to deter illegal building are largely ineffective. In contrast, British Columbia, which has an owner-built home exemption similar to

Ontario's, has specific laws designed to prevent individuals from abusing the exemption. For example, owner-builders in British Columbia must live in the house for a minimum of 12 months before they can sell it. They must then wait 18 months from occupancy of their first owner-built home before applying to build a second, three years before applying for a third, and five years for each subsequent owner-built exemption. Owner-built homes that are sold are not covered by warranty. Rather, the individual who built the home is personally liable for the warranty coverage for up to 10 years, and this information must be disclosed to the homebuyer.

During our follow-up, the Ministry of Government and Consumer Services informed us that it is working with Tarion and the Home Construction Regulatory Authority to examine potential options to address illegal building in Ontario. This has included looking at British Columbia's approach to owner-builders.

### Recommendation 23

*So that investigations into illegal building activity are completed on a timely basis, we recommend that Tarion Warranty Corporation:*

- *procure a case-management system to increase staff efficiency on investigations; and*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that there was no dedicated case-management system, which would help with the planning, prioritizing and tracking of investigations. Instead, staff must enter data into four different systems to document their work, which was time-consuming and inefficient.

In our follow-up, we found that the Home Construction Regulatory Authority has implemented a new Customer Relations Management (CRM) System, which is capable of facilitating compliance and investigations activities.

- *commit the necessary staff resources to eliminate the backlog of investigations.*

**Status:** Fully implemented.

### Details

In our 2019 audit, we found that, as of June 30, 2019, Tarion had a backlog of 139 tips that it had not yet investigated, the majority of which (107) were received between 2018 and 2019. Of the remainder, four tips were from 2016 and 28 from 2017. Tarion had classified 24 of them as high priority, because they related to more than one illegally built home. Four more involved repeat offenders.

In our follow-up, we noted that Tarion had eliminated the backlog.

## Issues Raised by Tarion's Own Ombudsperson Not Always Fully Resolved

### Recommendation 24

*To resolve issues identified by the Ombudsperson's Office of Tarion Warranty Corporation, we recommend that Tarion work directly with the Ombudsperson's Office to:*

- *fully resolve all issues raised in the Ombudsperson's public reports since 2008; and*

**Status: Fully Implemented.**

### Details

In our 2019 audit, we found that issues raised by Tarion's ombudsperson were not always fully resolved. Since its inception in 2008, Tarion's Ombudsperson's Office has issued 10 reports, including 33 recommendations for Tarion to improve how it licenses builders and resolves warranty disputes.

In our follow-up, we noted that Tarion addressed all 13 of the outstanding recommendations from the past reports.

- *post the results of this review on Tarion's website.*

**Status: Fully implemented.**

### Details

In our follow-up, we noted that Tarion had posted recommendations with their associated status for each recommendation on its website.

## Lack of Government Oversight Led to Ongoing Issues Not Being Addressed

### Recommendation 25

*To ensure Tarion Warranty Corporation meets its mandated responsibilities to help homeowners who seek its help, we recommend that the Ministry of Government and Consumer Services:*

- *consider requiring, in statute, a binding agreement between Tarion and the Ministry that sets out Tarion's accountability;*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that there was no statutory requirement for an agreement between the Ministry of Government and Consumer Services and Tarion to set out the accountability relationship and the respective authorities and responsibilities of the two parties, as there was with most other such administrative authorities and the Minister.

In our follow-up, we noted that the government passed legislative changes that require Tarion to sign a binding administrative agreement with the Minister. Tarion and the Minister entered into a new Administrative Agreement on February 26, 2021.

- *establish a process to track and analyze information provided by Tarion;*

**Status: In the process of being implemented by December 2021.**

### Details

In our audit in 2019, we found that the Ministry of Government and Consumer Services could not effectively evaluate whether Tarion was fulfilling its mandate and could not make informed decisions to seek improvements because it did not have effective systems and processes to ensure it collected the right information from Tarion.

In our follow-up, we noted that the Ministry of Government and Consumer Services has developed preliminary recommendations for enhancing the key operating statistics that Tarion reports to the Ministry. Once the metrics are finalized, a formal business

process and protocol is to be developed for the Ministry to track and analyze data provided by Tarion.

- *establish performance indicators and targets to measure Tarion's performance; and*  
**Status: Little or no progress.**

### Details

As we mentioned above, the Ministry of Government and Consumer Services is in the process of developing appropriate performance measures, targets and assessment approaches.

- *assess Tarion's performance against these targets on a regular basis and take corrective actions where necessary.*  
**Status: Little or no progress.**

### Details

This recommendation will be implemented once the Ministry of Government and Consumer Services has identified appropriate performance measures, targets and assessment approaches.

### Recommendation 26

*Keeping consumer protection as the primary consideration, and complexity and costs as additional considerations, and with Tarion's agreement to implement the recommendations in this report (with government monitoring the timely implementation of these recommendations), we recommend that the Ministry of Government and Consumer Services continue to thoroughly assess the following, taking both qualitative and quantitative factors into account:*

- *proceeding with a separate regulatory authority for regulating and licensing builders or maintaining this responsibility within Tarion; and*  
**Status: Fully implemented.**

### Details

During our audit in 2019, we found that the government wanted to create a separate regulatory authority for regulating and licensing builders. In February 2019, the government said that it was moving forward with this change. The plan called for a new

regulator to take over Tarion's current role of regulating builders by fall 2020.

In our follow-up, we noted that the government has proceeded with establishing a separate regulatory authority to regulate and license new home builders and vendors. On November 6, 2020, the government filed regulations to designate the Home Construction Regulatory Authority as the regulatory authority under the *New Home Construction Licensing Act, 2017*. The designation came into effect when the Act was proclaimed on February 1, 2021.

- *maintaining Tarion as the warranty administrator or changing to a multi-provider insurance model.*  
**Status: Fully implemented.**

### Details

During our audit in 2019, we found that the government was evaluating different approaches for providing new-home warranties. The government was considering the option of delivering new home warranties through a competitive, multi-provider insurance model in which builders obtain warranty insurance from private-sector insurers.

In our follow-up, we noted that the government made the decision to maintain Tarion as the warranty administrator in December 2019.

## Tarion Operations

### Recommendation 27

*So that Tarion Warranty Corporation staff who deal with the public are qualified to perform home inspections and correctly answer questions regarding possible violations of the Ontario Building Code, we recommend that Tarion require such staff to obtain the Ontario Building Code certification.*

**Status: Fully implemented.**

### Details

In our audit in 2019, we found that some Tarion staff assigned to assist homeowners in resolving their warranty disputes did not have the appropriate

qualifications. At the time of our audit, we found that only 16 of Tarion's 51 inspection staff had the Code certification, and Tarion had no process to ensure that qualified staff always perform the more complex inspections, which are more likely to relate to non-compliance with the Code.

In our follow-up, we found that Tarion implemented a policy and training that ensures all potential Ontario Building Code issues are reviewed by Ontario Building Code qualified persons before a final assessment is made. In addition, Tarion also hired two directors with an in-depth understanding of the Ontario Building Code to oversee the inspection program.

### Recommendation 28

*To provide homeowners and builders with accurate information in a timely manner, we recommend that Tarion Warranty Corporation:*

- *commit the necessary staff resources to ensure it meets its internal targets for answering calls within specified times;*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that in each of the five years between 2014 and 2018, only 40% of calls on average were answered within the two-minute time frame, although Tarion's goal was to answer 70% of the calls within two minutes.

In our follow-up, we noted that Tarion hired additional staff to support internal targets for answering calls.

- *periodically review recorded calls to ensure callers are given accurate and helpful information; and*

**Status: Fully implemented.**

#### Details

In our audit in 2019, we listened to a sample of 50 recorded calls between February 1, 2019, and March 31, 2019, and found that in 14% of our sample, Tarion's response to caller questions was inaccurate and/or unhelpful.

In our follow-up, we noted that Tarion implemented a quality assurance audit process in March 2020 to review recorded calls, to ensure callers are given accurate and helpful information by call centre representatives. According to the new process, the Supervisor of the Call Centre is responsible for reviewing between two and four randomly selected calls per day.

- *establish a clear customer-service standard for call-centre staff that focuses on providing more helpful information for homeowners to better navigate the dispute-resolution process and identify those who may need further assistance.*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that callers were occasionally given inaccurate information. For instance, without obtaining all the facts, Tarion told one caller that a roof leak was not covered by the builder's warranty when, in fact, it would be covered in certain circumstances.

In our follow-up, we noted that Tarion created a new call centre customer service standard and revised its existing policies to better train its call centre staff to ensure callers are given accurate information. In addition, Tarion also conducts daily quality assurance audits.

### Recommendation 29

*To establish and maintain the internal Ombudsperson's Office's formal independence from senior management of Tarion Warranty Corporation, we recommend that:*

- *the Ombudsperson's Office report directly to Tarion's Board of Directors (Board) on all operational matters, including budget and salary approvals;*

**Status: Fully implemented.**

#### Details

In our 2019 audit, we found that the CEO has been reviewing the operating budget of the Ombudsperson's Office, which could diminish that Office's independence from senior management. We also

noted that the CEO was directly involved in deciding the Ombudsperson's salary increases.

In our follow-up, we found that the Ministry of Government and Consumer Services signed a new administrative agreement with Tarion in February 2020. The new administrative agreement clarifies the roles and responsibilities of the Ombudsperson's Office, and it requires that the Ombudsperson's Office report directly to Tarion's Board of Directors on all operational matters, including budget and salary approvals. We also reviewed the revised employment letter of the Ombudsperson, which clearly states that the Ombudsperson's function now reports directly to the Tarion Board.

- *the Board review the performance of the Ombudsperson's Office;*

**Status: Fully implemented.**

### Details

In our follow-up, we found that the Ministry of Government and Consumer Services signed a new administrative agreement in February 2020. The new administrative agreement requires the Board to review the performance of the Ombudsperson's Office.

- *Tarion management abstain from any role or involvement in evaluating or reviewing the performance of any employee of the Ombudsperson's Office; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that 12 months after taking the job, the Ombudsperson received a 20% salary raise on the recommendation of the CEO, without any documented performance evaluation. When we asked about the lack of any written evaluation, the Ombudsperson told us that the CEO does such evaluations verbally.

In our follow-up, we found that the Ministry of Government and Consumer Services signed a new administrative agreement with Tarion in February 2020. The new administrative agreement requires that the Board review the performance of the Ombudsperson and management must abstain from any role

or involvement in evaluating or reviewing the performance of the Ombudsperson, or any employee within the Ombudsperson's Office.

- *Tarion work with the Ministry of Government and Consumer Services to add a provision in the Ontario New Home Warranties Plan Act that prevents Tarion from accessing any information in homeowners' files held by the Ombudsperson's Office.*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that Tarion has asked the Ombudsperson to disclose to it confidential information about homeowners who have complained to the Ombudsperson. For example, in 2018, Tarion's legal department asked the Ombudsperson on two occasions to disclose information in a homeowner's file to help it prepare for a hearing before the Licence Appeal Tribunal.

In our follow-up, we found that the Ministry of Government and Consumer Services signed a new administrative agreement in February 2020. The new administrative agreement specifically states that the files and records of the Ombudsperson and their Office cannot be accessed by Tarion.

### Recommendation 30

*To better align the compensation structures of Tarion Warranty Corporation with the intent of the Ontario New Home Warranties Plan Act, we recommend that Tarion:*

- *review and revise the key performance indicators it uses in the corporate performance scorecard to reflect its mandate of regulating builders and assisting homeowners with warranty disputes; and*

**Status: Fully implemented.**

### Details

In our 2019 audit, we found that five of the 11 key performance indicators used in the corporate performance scorecard incentivized Tarion to maximize profit and minimize expenses, which can have the unintended consequence of keeping claims payouts to a minimum. Tarion's compensation policies for

senior executives appeared misaligned with the spirit and intent of the *Ontario New Home Warranties Plan Act*, which is to regulate builders and assist homeowners with warranty disputes.

In our follow-up, we found that Tarion delinked all key performance indicators related to financial measures from its incentive plan. In addition, Tarion also included more performance indicators to measure Tarion's services to consumers, such as call response time in the Call Centre, timeliness of inspections, and issuance of Warranty Assessment Reports within established time frames.

- *undertake a review to assess the current bonus pay method to determine whether it is consistent with public-sector practices, and adjust it accordingly.*  
**Status: Fully implemented.**

### Details

In our 2019 audit we found that vice presidents and higher can earn bonuses worth 30% to 60% of their annual salaries, and that senior management accounted for one-third of the \$2 million paid in bonuses in 2018.

In our follow-up, we found that Tarion adjusted the compensation of its executive team members following a compensation study undertaken by a consultant it retained in January 2020. According to the new compensation structure, the maximum amount of bonus a senior management team member can earn is 30% of their annual salary. The recent changes to the compensation are expected to yield a savings of about \$700,000 per year.

### Recommendation 31

*To confirm the sufficiency of assets in the Guarantee Fund to cover any future catastrophic construction defects, we recommend that Tarion Warranty Corporation conduct a review of the Fund on an annual basis.*  
**Status: Fully implemented.**

### Details

We found in our 2019 audit that the value of the Guarantee Fund was more than double the amount required to offset estimated future liabilities. Tarion

maintains a Guarantee Fund to compensate homeowners whose builder does not honour their warranty claims. The Guarantee Fund provides a financial reserve to help shield Ontario homeowners from possible catastrophic construction defects. Therefore, it is critical to periodically review the value of the Guarantee Fund to ensure it has sufficient assets.

During our follow-up, we noted that Tarion continues to perform the review of the Guarantee Fund on an annual basis, to confirm the sufficiency of assets in the Guarantee Fund to cover any future catastrophic construction defects.

### Recommendation 32

*To improve transparency of and public access to Tarion Warranty Corporation, we recommend that Tarion hold annual open meetings where members of the public can physically attend to ask questions and voice concerns.*  
**Status: Fully Implemented.**

### Details

In our 2019 audit, we found that Tarion held its last in-person meeting in 2015, where many angry homeowners attended and voiced concerns about "poor customer service" and difficult warranty administration processes. The following year, in 2016, Tarion switched to online annual meetings, where people could not physically attend but could submit questions in writing. Questions were screened and selectively answered. The requirement for a public meeting was included in the 2010 accountability agreement between the Ministry and Tarion so that people could attend to obtain organizational updates and ask questions in-person to Tarion management and employees.

During our follow-up, we found that the administrative agreement signed in February 2021 required Tarion to hold annual public meetings open to the general public within two weeks after the annual report is published. Tarion told us that due to COVID-19 it has not started holding public meetings in-person. Tarion informed us that it expects to hold its annual public meeting in-person in 2022.

# Follow-Up Reports Issued by the Standing Committee on Public Accounts

## Summary

The Standing Committee on Public Accounts (Committee) holds hearings throughout the year when the Legislature is in session on chapters in our Annual Reports or our special reports, and presents its observations and recommendations in its own reports that it tables in the Legislative Assembly. Further details on the Committee are outlined in our report *The Standing Committee on Public Accounts*, from our 2021 *Annual Report*. The ministries, agencies of the Crown and organizations in the broader public sector are responsible for implementing the recommendations made by the Committee; our role is to independently express a conclusion on the progress that the audited entity made in implementing the actions contained in those recommendations.

This year we followed up on the status of the implementation of the Committee's recommendations from six Committee reports tabled between June 2020 and April 2021. Our objective is to provide the Committee with information on the actions being taken by audited entities to provide the requested information and address the recommendations that the Committee made in its reports to the Legislature.

We conduct our follow-up work and report on the results in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. Our Office complies with the

Canadian Standard on Quality Control. We comply with the independence and other ethical requirements of the Code of Professional Conduct issued by Chartered Professional Accountants of Ontario, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

Our follow-up work consists primarily of inquiries and discussions with the government, the relevant ministries or broader-public-sector entities, a review of their status reports, and a review of selected supporting documentation. In a few cases, internal auditors also assist us with this work. The procedures performed in this work vary in nature and timing from an audit and do not extend as far. As this is not an audit, we cannot provide a high level of assurance that the corrective actions described have been implemented effectively. The actions taken or planned may be more fully examined and reported on in future audits. Status reports will factor into our decisions on whether future audits should be conducted in these same areas.

As noted in **Figure 1**, progress has been made toward implementing 69% of the Committee's 165 recommended actions, including 85 or just over 51% of them that have been fully implemented, which is more than double the actions that were fully implemented in our 2020 Annual Report (24%). Metrolinx fully implemented 94% of the recommended actions in the Committee's report on GO Station Selection, and the Ministry of Finance, Treasury Board Secretariat, and Independent Electricity System Operator made

progress on 86% of the recommended actions in the Committee's report on the Fair Hydro Plan.

However, there has been little or no progress on 24% of the Committee's recommended actions. In particular, we found that the Ministry of Children, Community and Social Services has made little or no progress on implementing 26 of the 44 or 59% of the recommended actions in the Committee's report on the Ontario Disability Support Program (ODSP). For instance, the Ministry had not yet explored measures to reduce and/or eliminate the ODSP practices and procedures which have led to increased ODSP case-load growth. We also found that Tarion made little to no progress in reducing the amount of time they provide to builders to resolve defects in homes before stepping in to help homeowners – currently, 120 days. Tarion aims to implement a reduced builder repair period by December 2023. Further, they made little to no progress in establishing prescribed, transparent, and appropriate timeframes for fixing defects.

A further nine or just over 5% of the Committee's recommended actions will not be implemented, and two or just over 1% are no longer applicable.

Metrolinx informed us that they will not be implementing seven out of 30 or 23% of recommended actions, from the Committee's report on LRT Construction and Infrastructure Planning. This includes recommendations to Metrolinx to prepare a funding strategy as well as an action plan with timelines for

approval by both the province and municipal governments. They noted that as a Crown corporation, they are governed by the provincial budget process, which is not in Metrolinx's control and instead is dependent on budget requests submitted to Treasury Board Secretariat by the Ministry of Transportation.

Two other recommended actions that will not be implemented are from the report on Food Safety Inspection Programs. The Ministry of Agriculture, Food and Rural Affairs informed us that it would not implement the Committee's recommended action to collaborate with the Canadian Food Inspection Agency to develop and implement an effective progressive compliance approach to working with farmers whose meat products have tested positive for drug residues. Instead the Ministry indicated that will continue to take strong compliance actions at the meat plant level, and continue to raise awareness across the supply chain through an education campaign about the responsible use of livestock medicines. The Ministry also informed us that it would not collaborate with the Canadian Food Inspection Agency to extend the protocol for quality assurance inspection and grading of chicken eggs to include non-chicken eggs as it determined that there is neither a sufficient quantity of non-chicken eggs sold in Ontario nor a significant food safety risk to warrant the inspection or grading of non-chicken eggs.

More specific details are presented in the section that follows **Figure 1**.

**Figure 1: Overall Status of Implementation of Recommendations from the Standing Committee on Public Accounts**

Prepared by the Office of the Auditor General of Ontario

Report Section	# of Recs	# of Actions Recommended	Status of Actions Recommended				
			Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
3.01 The Fair Hydro Plan: Concerns About Fiscal Transparency, Accountability and Value for Money Tabled June 2020	7	7	6	0	1	0	0
3.02 Food Safety Inspection Programs Tabled February 2021	16	22	6	8	6	2	0
3.03 GO Station Selection Tabled March 2021	15	17	16	0	1	0	0
3.04 LRT Construction and Infrastructure Planning Tabled February 2021	12	30	18	4	1	7	0
3.05 Ontario Disability Support Program Tabled April 2021	17	44	9	9	26	0	0
3.06 Tarion Warranty Corporation Tabled February 2021	18	45	30	8	5	0	2
<b>Total</b>	<b>85</b>	<b>165</b>	<b>85.0</b>	<b>29.0</b>	<b>40.0</b>	<b>9.0</b>	<b>2.0</b>
<b>%</b>	<b>—</b>	<b>100</b>	<b>51.5</b>	<b>17.6</b>	<b>24.2</b>	<b>5.5</b>	<b>1.2</b>

## Chapter 3

### Section 3.01

# The Fair Hydro Plan: Concerns About Fiscal Transparency, Accountability and Value for Money

## Standing Committee on Public Accounts Follow-Up on *October 2017 Special Report*

On April 17, 2019, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2017 special report, *The Fair Hydro Plan: Concerns About Fiscal Transparency, Accountability and Value for Money*. The Committee tabled a report on this hearing in the Legislature in June 2020. A link to the full report can be found at <http://www.auditor.on.ca/en/content/standingcommittee/standing-committee.html>.

The Committee made seven recommendations and asked the Ministry of the then Energy, Northern Development and Mines (now the Ministry of Energy), Ministry of Finance, and the Treasury Board Secretariat to report back by the end of October 2020. The Ministry of Energy, Northern Development and Mines formally responded to the Committee on September 28, 2020, and the Ministry of Finance, the Treasury Board Secretariat, and the Independent Electricity System Operator formally responded to the Committee on September 30, 2020. A number of the issues raised by the Committee were similar to the audit observations of our 2017 audit, which we followed up on in 2021. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between April 13, 2021, and September 24, 2021, and obtained written representation from the Treasury Board Secretariat

and the Independent Electricity System Operator that effective November 16, 2021, they have provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

As of September 24, 2021, six out of seven (86%) of the Committee's recommended actions had been fully implemented. There has been little or no progress on one (14%) of the recommended actions, which was delayed while the Treasury Board Secretariat prioritized more immediate needs related to the COVID-19 response. The Treasury Board Secretariat anticipates having a formal process in place to address this recommended action by December 2022.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from the Ministry of Finance, the Treasury Board Secretariat and the Independent Electricity System Operator, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in June 2020 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	1				
Recommendation 2	1	1				
Recommendation 3	1	1				
Recommendation 4	1	1				
Recommendation 5	1			1		
Recommendation 6	1	1				
Recommendation 7	1	1				
<b>Total</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>86</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>0</b>

**Figure 2: Committee Recommendations and Detailed Status of Actions Taken**

Prepared by the Office of the Auditor General of Ontario

<b>Committee Recommendation</b>	<b>Status Details</b>
<p><b>Recommendation 1</b></p> <p>The Standing Committee on Public Accounts recommends that the Treasury Board Secretariat, Office of the Provincial Controller Division, and the Office of the Auditor General must consistently review and implement best practices and must strive to maintain a collegial and productive relationship.</p> <p><b>Status: Fully implemented.</b></p>	<p>The interests of government ministries, agencies, Crown corporations, the Office of the Provincial Controller Division (OPCD) and the Office of the Auditor General of Ontario (Office) are best served when there are early discussions on accounting treatments in relation to Canadian Public Sector Accounting Standards and International Financial Reporting Standards and any potential impacts on the Public Accounts.</p> <p>A new working group has been structured to identify and discuss accounting issues in advance and disclose any current projects and seek input at the staff level on advice. The Controllership Policy &amp; Accounting Consultation Branch of the OPCD leads engagement with the Office as part of broader engagement on accounting issues of mutual interest.</p> <p>The current relationship between OPCD and the Office is collegial and productive. Accounting working group meetings between OPCD and the Office occur monthly.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 2</b></p> <p>The Standing Committee on Public Accounts recommends that the Independent Electricity System Operator should continue to adopt the accounting recommendations outlined by the Auditor General in the <i>2017 Annual Report</i> to maintain ongoing transparency in its accounting decisions.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Independent Electricity System Operator (IESO) has adopted the recommendations outlined by the Auditor General effective for its 2018 fiscal year. More specifically, Chapter 2 of the <i>2017 Annual Report</i> recommends that the IESO use Canadian Public Sector Accounting Standards in the preparation of its financial statements; remove market accounts recorded on its financial statements; and, discontinue the use of rate regulated accounting in the preparation of its financial statements.</p> <p>In its 2018 financial statements, the IESO restated its 2017 comparative financial statements to address the Auditor General's recommendations. In addition, the IESO no longer consolidates its market accounts. To provide increased transparency, the IESO's market accounts are now reported as a separate set of audited financial statements.</p> <p>The IESO engaged the Auditor General of Ontario to conduct the audit of its 2018 financial statements, which resulted in the IESO receiving an unqualified audit opinion.</p> <p>As of 2019, the IESO's financial statements are audited by a private sector audit firm. In the normal course of our audit work for the 2019/20 and 2020/21 Public Accounts, the Office reviewed the private sector auditor's files to confirm agreement with and establish reliance on the unqualified audit opinions issued on the IESO's 2019 and 2020 financial statements.</p>
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Finance and Ontario Financing Authority must implement measures to ensure that all provincial borrowing is transparent and structured in a way that is the least costly for Ontarians.</p> <p><b>Status: Fully implemented.</b></p>	<p>The following is an excerpt of the formal response from the Minister of Finance to the Committee on September 30, 2020:</p> <p>The Government implemented several measures to use a financing structure to fund the electricity bill reduction in a cost-effective and transparent manner:</p> <ul style="list-style-type: none"> <li>• The Province suspended Ontario Power Generation's Fair Hydro Trust borrowing, with April 24, 2018 being the last date Fair Hydro Trust debt was issued, and the rate mitigation provided under the now former Global Adjustment Refinancing program was financed cost effectively by the Province. In addition, the Province reflected the cost of the Global Adjustment refinancing rate mitigation program as an expense in Public Accounts, beginning in fiscal 2017-18.</li> <li>• In September 2018, the Government made the decision to replace Global Adjustment Refinancing and the debt issued to date by the Fair Hydro Trust was consolidated with the Province's debt in the Public Accounts of the Province from 2019-20 onwards.</li> <li>• In the 2018 Fall Economic Statement, the Government committed to providing funding to maintain electricity rates at the level provided for under Global Adjustment Refinancing, but in a more transparent manner.</li> <li>• In May 2019, the Government brought forward the <i>Fixing the Hydro Mess Act, 2019</i>, which amended the <i>Ontario Fair Hydro Plan Act, 2017</i>, and other acts that replaced the Fair Hydro Plan with a rate relief structure that would take advantage of lower government borrowing costs, while increasing transparency. Moreover, moving forward, the legislation does not permit any new debt to be issued by the Fair Hydro Trust.</li> <li>• On November 1, 2019, the new Ontario Electricity Rebate (OER) replaced the rate reduction provided by Global Adjustment refinancing under the Fair Hydro Plan and the former Ontario Rebate for Electricity Consumers (OREC) equivalent to the amount of the eight per cent provincial portion of the HST. The OER rebate appears as a transparent, on-bill line item, showing the true cost of electricity rate reduction for eligible residential, farm and small business consumers. The cost of the OER appears in the Province's annual Public Accounts beginning in fiscal 2018-19.</li> </ul> <p>Finally, the government is also transparently reporting the cost of the Province's electricity relief programs in Public Accounts following the end of each fiscal year.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that to prevent the intentional misrepresentation and falsification of financial information resulting in additional costs as occurred with the Fair Hydro Plan in 2017, the Province and the Independent Electricity System Operator (IESO) must always follow Canadian Public Sector Accounting Standards. When questions arise on the application of the Standards regarding a particular accounting issue, the Province and the IESO have a duty to consult with the Auditor General of Ontario.</p> <p><b>Status: Fully implemented.</b></p>	<p>The IESO is following Canadian Public Sector Accounting Standards and has committed to consult with the Auditor General regarding accounting issues. The IESO contacts the Office as needed to discuss relevant accounting matters. In addition, the IESO has attended annual accounting educational updates offered by the Office.</p> <p>In 2018 and 2019, the IESO consulted with the Office regarding the IESO's cancellation of 750 energy contracts and their appropriate accounting and disclosure.</p> <p>In October 2019, the IESO engaged the Auditor General's office, seeking its input in establishing the IESO's first-ever accounting framework for the IESO market accounts.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that the Board of any provincial agency seeking indemnification for its activity, must inform the Legislative Assembly of Ontario through the Standing Committee on Government Agencies as well as the Office of the Auditor General of Ontario.</p> <p><b>Status: Little or no progress.</b></p>	<p>The Treasury Board Secretariat is undertaking a review to determine the appropriate instrument to use to ensure that provincial agencies, including their Board of Directors and senior management, are fully aware of the expectations and their responsibilities in a request for indemnities or indemnification for its Board and board members for their activities.</p> <p>The Treasury Board Secretariat anticipates having a formal process for requirements for provincial agencies seeking indemnities for their Board of Directors for their activities, documented and in place by December 2022. This will include requiring notification to the Legislative Assembly of Ontario through the Standing Committee on Government Agencies as well as notification to the Office of the Auditor General of Ontario.</p> <p>The Treasury Board Secretariat informed the Office that activity toward implementing this recommendation was delayed while the Treasury Board Secretariat prioritized more immediate needs related to the COVID-19 response.</p>
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that the Government must always follow and comply with Public Sector Accounting Standards.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Province is committed to preparing its financial statements in accordance with generally accepted accounting principles in order to provide high-quality financial reports that support transparency and accountability in reporting to the public, the Legislature and other users.</p> <p>The Office notes that the Province has received unqualified opinions on its consolidated financial statements for the past four years since the 2017/18 fiscal year.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that the Government must always release the Public Accounts financial statements accompanied by the Auditor General of Ontario's opinion to ensure Ontario is following Public Sector Accounting Standards.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Province is committed to preparing its financial statements in accordance with generally accepted accounting principles in order to provide high-quality financial reports that support transparency and accountability in reporting to the public, the Legislature and other users, including the accompanying Auditor General of Ontario's opinion.</p> <p>The Office notes that the Province has received unqualified opinions on its consolidated financial statements for the past four years commencing with the 2017/18 fiscal year. Further, the Public Accounts have been released accompanied by the Office's audit opinion in each of these years.</p>

## Chapter 3

### Section 3.02

# Food Safety Inspection Programs

## Standing Committee on Public Accounts Follow-Up on Section 3.06, 2019 Annual Report

On March 4, 2020, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2019 audit of Food Safety Inspection Programs. The Committee tabled a report on this hearing in the Legislature on February 22, 2021. A link to the full report can be found at <http://www.auditor.on.ca/en/content/standingcommittee/standing-committee.html>.

The Committee made 16 recommendations and asked the Ministry of Agriculture, Food and Rural Affairs (Ministry of Agriculture) and the Ministry of Health to report back by June 2021. The Ministries formally responded to the Committee on June 23, 2021. A number of the issues raised by the Committee were similar to the audit observations of our 2019 audit, which we have also followed up on this year. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between June 2021 and July 2021, and obtained written representation from the Ministry of Health that effective October 28, 2021 and the Ministry of Agriculture that effective October 29, 2021, they have provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

As of July 2021, 27% of the Committee's recommended actions had been fully implemented, and 37% of the recommended actions were in the process of being implemented. There has been little or no progress on 27% of the recommended actions, and 9% of the recommended actions will not be implemented.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from the Ministry of Agriculture, Food and Rural Affairs and the Ministry of Health, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in February 2021 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	<b># of Actions Recommended</b>	<b>Status of Actions Recommended</b>				
		<b>Fully Implemented</b>	<b>In the Process of Being Implemented</b>	<b>Little or No Progress</b>	<b>Will Not Be Implemented</b>	<b>No Longer Applicable</b>
Recommendation 1	2	1			1	
Recommendation 2	1		1			
Recommendation 3	2		2			
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 6	1	1				
Recommendation 7	1			1		
Recommendation 8	1				1	
Recommendation 9	1		1			
Recommendation 10	1	1				
Recommendation 11	1		1			
Recommendation 12	1		1			
Recommendation 13	2		1	1		
Recommendation 14	2			2		
Recommendation 15	2	1	1			
Recommendation 16	2			2		
<b>Total</b>	<b>22</b>	<b>6</b>	<b>8</b>	<b>6</b>	<b>2</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>27</b>	<b>37</b>	<b>27</b>	<b>9</b>	<b>0</b>

Note: Recommendations 1 through 11 were made to the Ministry of Agriculture, Food and Rural Affairs, and Recommendations 12 to 16 were made to the Ministry of Health.

## Figure 2: Committee Recommendations and Detailed Status of Actions Taken

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
<p><b>Recommendation 1</b></p> <p>The Ministry of Agriculture, Food and Rural Affairs should collaborate with the Canadian Food Inspection Agency to develop and implement:</p> <ul style="list-style-type: none"> <li>an effective progressive compliance approach to working with farmers whose meat products have tested positive for drug residues; <b>Status: Will not be implemented.</b></li> <li>a protocol for tracing animals back to their original farms and producers and to alert farmers to positive drug residue findings. <b>Status: Fully implemented.</b></li> </ul>	<p>The Ministry of Agriculture met with the Canadian Food Inspection Agency (CFIA) in September 2020 to determine their roles and responsibilities regarding following up on drug residue violations. CFIA confirmed with the Ministry of Agriculture that its ability to formally penalize farmers who supplied animals with drug-residue levels above the allowable limit is dependent on regulations and in most cases is limited only to banned and illegal substances. The Ministry of Agriculture also consulted with its legal services and determined that the current legislation does not grant the Ministry of Agriculture the authority to impose fines on farmers who supply animals that contain drug residue levels above the allowable limits. The Ministry of Agriculture will continue to take strong compliance actions at the meat plant level, and continue to raise awareness across the supply chain through an education campaign about the responsible use of livestock medicines.</p> <p>In June 2021, the Ministry of Agriculture developed an internal policy that articulates its process in responding to adverse drug residue violations. The policy outlines that in the event of an adverse drug result, in addition to its current protocols of notifying the slaughterhouse and CFIA, it would also attempt to trace back to the producer. In the event that a producer cannot be traced, the Ministry of Agriculture would send a letter to the last identified place where the animal was supplied from.</p>
<p><b>Recommendation 2</b></p> <p>The Ministry of Agriculture, Food and Rural Affairs should collaborate with the Public Health Units to develop and implement consistent Ministry-approved inspection guidelines for Public Health inspectors to follow when inspecting facilities that engage in high-risk meat processing activities such as smoking and curing. <b>Status: In the process of being implemented by January 2022.</b></p>	<p>The Ministry of Agriculture has provided to the Ministry of Health higher-risk meat processing guidance and training materials, and the meat inspection checklist its inspectors use is in accordance with the criteria outlined in the Meat Regulations. Two Public Health Inspectors also attended the Ministry of Agriculture's meat school training program from April to June 2021 in order to provide input in developing Ministry of Health inspection tools and training materials. The Ministry of Health, with support from the Ministry of Agriculture, is in the process of developing a draft facility inspection checklist, and then will validate it with Public Health Units through consultation. This list will be finalized for release and use by January 2022.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs should collaborate with Health Canada to:</p> <ul style="list-style-type: none"> <li>• add glyphosate to the list of chemicals to be monitored and tested as part of the ongoing regular pesticide-residue sample testing;</li> <li>• use test results to periodically reassess whether glyphosate should be approved for use in farming and the appropriate maximum residues allowed in produce.</li> </ul> <p><b>Status: In the process of being implemented by May 2022.</b></p>	<p>The Ministry of Agriculture developed a two-year glyphosate baseline study in May 2020. This study adds glyphosate testing to all commodities currently collected as part of the Foods of Plant Origin (FOPO) Food Safety Monitoring program. The Ministry of Agriculture will share the results of the study with Health Canada's Pest Management Regulatory Agency when the study is complete, as approval for the use of glyphosate for use in farming and its maximum residue level fall under Health Canada's jurisdiction. The permanent inclusion of glyphosate in the FOPO monitoring program is dependent on the results of the baseline study and will be determined after the study is completed in May 2022.</p>
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs should develop and implement a risk-based approach to sampling produce suppliers and regularly update its database of producer information to include types of crops grown, production volumes, where the produce is sold, and other data as available.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Ministry of Agriculture obtained access to the Agrincorp database to make use of some of the produce-related data to help inform its current producer inventory and has incorporated this producer information into its fresh fruit and vegetable sampling plan. Sample selection is risk based and favours produce items which are consumed often, consumed raw, and/or for which outbreaks have been reported worldwide. In addition, the Ministry of Agriculture has developed and implemented a business profile survey for its inspectors to collect more detailed information about growers of Ontario produce, including the crops grown, production volume or acreage and the locations where the produce is sold. The Ministry of Agriculture continues to build the producer database by collecting business profiles (using the business profile questionnaire) from new producers not previously captured in the database.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs should collaborate with Public Health Units to jointly conduct food safety inspections of dual facilities that both process fish and sell it at retail.</p> <p><b>Status: Fully implemented.</b></p>	<p>In March 2021, the Ministry of Agriculture and the Ministry of Health signed a Memorandum of Understanding (MOU) that clarifies roles and responsibilities for each entity, and promotes joint inspections of dual premises that both process fish and sell it at retail. The MOU also clarifies that while neither party is expected to conduct a full inspection of a dual premise, either party may inspect other areas of the facility and take appropriate actions to mitigate food safety hazards.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that to improve the safety of goat milk products in Ontario, the Ministry of Agriculture, Food and Rural Affairs should implement policies that prioritize the significance of infractions; establish deadlines for correcting infractions; and implement compliance tools for goat milk producers with repeated infractions.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Ministry of Agriculture developed a policy document in June 2021 that outlines how dairy goat farm inspection results are to be interpreted and ranked, how grades are to be assigned based on inspection findings and describes the timelines around progressive compliance follow-up activities. The policy is to be used by all Food Safety Inspectors to ensure a consistent risk-based approach to follow-up activities and compliance actions.</p> <p>Under this policy document, 123 items on the Dairy Goat Farm Inspection Report will be ranked from “Low” to “Critical.” For example, the overall adequate condition of the building, with the exterior in good repair, and the tools to keep dairy operations clean are ranked as a “Low”, while the animal’s health and welfare is ranked as a “Critical” part of the inspection report. Farms will be assigned a timeline to fix issues, depending on the number and severity of the non-compliant findings during the inspection. For example, a farm which has a small number of “Low” deficiencies (up to three deficiencies) can take up to 13 months to fix the issue. On the other hand, a farm that has even one “Critical” deficiency will be immediately assigned a Raw Milk Quality Program Coordinator who will conduct a risk assessment to determine the follow-up timelines and can order an immediate shutdown of the farm for three weeks for the issue to be fixed. The farms will also be graded depending on their level of compliance during the inspection. Any farm receiving a “Non Grade A” rating will be immediately shut off from supplying to the milk market for a minimum of seven days, which can be extended to bring the farm into compliance. The premises must meet Grade A standards prior to the shut-off being lifted.</p>
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that, to ensure the safety of all milk products in Ontario, the Ministry of Agriculture, Food and Rural Affairs should include inspection oversight of sheep and water buffalo milk and milk products in its dairy food safety program.</p> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry of Agriculture has implemented a protocol for assisting public health units in their food safety oversight of sheep and water buffalo milk processors by providing technical and scientific expertise related to the milk production process. The inspection oversight of sheep and water buffalo milk processors continues to rest with the Ministry of Health under the <i>Health Protection and Promotion Act</i>. The Ministry of Agriculture continues to support public health units by conducting joint inspections at sheep and water buffalo milk processors upon request. However, the Ministry of Agriculture has not engaged the Ministry of Health or farmers directly regarding inspections and sample testing of milk at sheep and water buffalo farms.</p>
<p><b>Recommendation 8</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs should collaborate with the Canadian Food Inspection Agency to extend the protocol for quality assurance inspection and grading of chicken eggs to include non-chicken eggs.</p> <p><b>Status: Will not be implemented.</b></p>	<p>The Ministry of Agriculture informed us that it would not implement this recommendation because the Ministry collaborated with the CFIA in November 2020 to assess the risks and benefits of extending chicken-egg inspection and grading requirements to non-chicken eggs and determined that there is neither a sufficient quantity of non-chicken eggs sold in Ontario nor a significant food safety risk to warrant the inspection or grading of non-chicken eggs. Furthermore, the Ministry did a survey in the winter of 2020 of Public Health Units on non-chicken eggs and received consensus that sale of non-chicken eggs is uncommon in Ontario, that there have been very few food safety issues related to non-chicken eggs and the current requirements under Ontario Regulation 493/17 are sufficient to address food safety related to non-chicken eggs. Under O. Reg 493/17 that applies to Public Health Units, inspectors have to check that non-chicken eggs are clean, have no visible cracks, and stored at a temperature of 4 degrees Celsius or less. Non-chicken egg farmers who sell inter-provincially are also licensed by the CFIA.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 9</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs should assess the risks and benefits of implementing a mandatory requirement that all food marketed as organic that is produced and consumed in Ontario be certified to the federal Canadian Organic Standards.</p> <p><b>Status: In the process of being implemented by November 2023.</b></p>	<p>In June 2021, the Ministry of Agriculture assessed the risk and benefits of implementing a mandatory requirement that all food marketed as organic that is produced and consumed in Ontario be certified to the federal Canadian Organic Standards. However, the Ministry of Agriculture decided not to impose organic certification requirements at this time for farmers who only sold produce locally. The Ministry of Agriculture is also aware of a private member's bill, Bill 54 the Organic Products Act, which proposed to prohibit the marketing and labelling of products as "organic" unless they have been certified as organic in accordance with the Act. While recently government prorogued the legislature and ended Bill 54, the Ministry of Agriculture anticipated that Bill 54 may be re-introduced in the next legislative period and its potential passage occur by November 2023.</p>
<p><b>Recommendation 10</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs collaborate with the Canadian Food Inspection Agency to update the Ministry's meat Inspection Policy and Procedure Manual to include guidance on the inspection of federal and provincial labelling requirements; and ensure the Ministry checks for allergens and labelling more thoroughly during inspections.</p> <p><b>Status: Fully implemented.</b></p>	<p>The Ministry of Agriculture updated the <i>Meat Inspection Policy and Procedure Manual</i> in March 2021 to include additional information and inspection procedures regarding federal labelling requirements. The Ministry of Agriculture has also met with the CFIA to develop a process for informing federal partners when a provincial inspector identifies a potential non-compliance with federal labelling requirements in a provincially licenced meat plant. Since March 2020, the Ministry of Agriculture has identified and notified the CFIA on six mislabelling incidents. For example, in March 2021, a German salami spice was found at a provincial plant containing mustard as an ingredient but was not declared on the label. The label was corrected during the inspection and the CFIA followed up and issued a recall.</p>
<p><b>Recommendation 11</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Agriculture, Food and Rural Affairs publicly disclose the results of its food-safety inspections and sample testing.</p> <p><b>Status: In the process of being implemented by November 2023.</b></p>	<p>The Ministry of Agriculture is currently assessing the benefits and risks of the food safety inspection dataset that would be made public as part of the reporting and is reviewing public disclosure options. In the fall and winter 2021, the Ministry plans to submit risk assessments to management for review. In early 2022, the risk and issues management process required to open the data to the public will be developed and implemented throughout 2022 and 2023. By November 2023, the Ministry intends to have implemented its approved plan to publicly post its food safety inspection data.</p>
<p><b>Recommendation 12</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Health should establish clear protocols and minimum standards for inspection requirements at special events based on a consistent risk assessment which includes relevant factors such as event size, expected attendance, and types of food preparation.</p> <p><b>Status: In the process of being implemented by May 2024.</b></p>	<p>The Ministry of Health developed a draft document with a jurisdictional scan of best practices and evidence on food safety at special events in early 2021, and developed a stakeholder engagement plan as of July 2021 that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit. As part of next steps, the Ministry will be engaging Public Health Units and other stakeholders to update the risk categorization tool and related guidance documents; provide the necessary training to the Public Health Unit staff; and develop local policies to implement this recommendation by May 2024.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 13</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Health should work with the Public Health Units to:</p> <ul style="list-style-type: none"> <li>establish a consistent set of inspection and quality assurance procedures, protocols and tools for conducting consistent food premises inspections for use by all Public Health Units; <b>Status: Little or no progress.</b></li> <li>require consistent enforcement of Ontario Regulation 493/17: “Food Premises” which requires food premises to have at least one certified food handler or supervisor who has completed food-handler training on the premises during all hours of operation. <b>Status: In the process of being implemented by December 2022.</b></li> </ul>	<p>In July 2021, the Ministry of Health developed a stakeholder plan that identifies key ministries, municipalities, public health units, federal government, public health associations and industry stakeholders that the Ministry of Health will be engaging with in late 2021 and into 2022 to implement the recommendations from the 2019 Food Safety audit but had not taken specific steps to address the recommendation to establish a consistent set of inspection and quality-assurance procedures, protocols and tools. The Ministry of Health advised us it still intended to implement it.</p> <p>The Ministry of Health held an educational webinar in March 2020 for the Public Health Units to reinforce the amendments to the Food Premises Regulation that requires at least one certified food handler at the food premises during all hours of operation. The Ministry of Health provided a refresher training to the Public Health Units in its September 2021 Environmental Health Quarterly meeting and reminded them of the enforcement requirements around food handlers. Through late 2021 and into 2022, the Ministry of Health’s technical working group will determine and implement, if needed, further improvements to the consistency of enforcement of the requirement to have at least one certified food handler at the food premise during operating hours. The Ministry anticipates the work will be completed by December 2022.</p>
<p><b>Recommendation 14</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Health should work with the Public Health Units to establish a single consistent and comparable food premises grading system to be used across Ontario and to ensure that:</p> <ul style="list-style-type: none"> <li>all Public Health Units publicly report their inspection results through a single provincial website;</li> <li>the latest inspection results are posted onsite at food premises. <b>Status: Little or no progress.</b></li> </ul>	<p>In June 2021, the Ministry of Health has developed a draft jurisdictional scan of current public health quality-assurance procedures, which includes disclosure of food premise inspection results, but has not undertaken any other steps to address this recommendation. The Ministry of Health advised us it still intended to implement the recommendation.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 15</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Health, in collaboration with the Public Health Units and Public Health Ontario, should ensure that there is updated and consistent guidance to Public Health Units to:</p> <ul style="list-style-type: none"> <li>ensure consistency in the recording of foodborne-illness data in the Integrated Public Health Information System by Public Health Units; <b>Status: Fully implemented.</b></li> <li>develop and implement a public education campaign on all aspects of food safety at home and at food premises, including home-based and online food premises. <b>Status: In the process of being implemented by May 2024.</b></li> </ul>	<p>The Ministry of Health collaborated with Public Health Ontario and the Public Health Units in 2019 to update and release a revised iPHIS user guide on December 17, 2019 that states that data entries about foodborne illnesses are now mandatory to ensure consistent information across Public Health Units. The Province's Foodborne Illness Outbreak Protocol was also updated in March 2020 to require Public Health Units to prioritize iPHIS data entry in the case of an outbreak.</p> <p>The Ministry of Health has posted guidance on home-based food businesses on its website as of December 2020, which includes information such as the requirement for an inspection before opening a home-based food business, guidance on which types of food are considered low-risk and that all home-based food businesses, except for those selling low-risk food items, are required to operate with a certified food handler. The Ministry of Health intends to complete necessary research and conduct stakeholder consultations to fully implement this action item by May 2024.</p>
<p><b>Recommendation 16</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Health should work with Public Health Units to:</p> <ul style="list-style-type: none"> <li>implement a requirement that Public Health Units determine and initiate a response within 24 hours of receiving a significant potential foodborne illness-related complaint and conduct food premises inspections within no more than 48 hours of receiving a complaint of a potential foodborne illness; <b>Status: Little or no progress.</b></li> <li>provide detailed, timely, and publicly available information about public health inspections and reports on food premises. <b>Status: Little or no progress.</b></li> </ul>	<p>The Ministry of Health has not taken specific steps to address the recommendation to require Public Health Units to determine and initiate a response within 24 hours of receiving a significant foodborne illness-related complaint and conduct food premises inspections within no more than 48 hours of receiving a complaint of a potential foodborne illness, but it advised us it still intended to implement it.</p> <p>The Ministry has not taken specific steps to address this recommendation, but it advised us it still intended to implement it.</p>

## Chapter 3

### Section 3.03

# Metrolinx— GO Station Selection

## Standing Committee on Public Accounts Follow-Up on Section 3.07, 2018 Annual Report

On Month February 26, 2021, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2018 audit of Metrolinx – GO Station Selection. The Committee tabled a report on this hearing in the Legislature in March 2021. A link to the full report can be found at <http://www.auditor.on.ca/en/content/standingcommittee/standingcommittee.html>

The Committee made 15 recommendations and asked Metrolinx and the Ministry of Transportation (Ministry) to report back by February 2021. The Ministry formally responded to the Committee in July 2021. A number of the issues raised by the Committee were similar to the audit observations of our 2018 audit, which we followed up on in December 2020. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between July 2021 and September 2021, and obtained written representation from Metrolinx and the Ministry of Transportation that effective November 25, 2021, they have provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

As of September 30, 2021, 94% of the Committee's recommended actions have been fully implemented. The one outstanding recommendation requires the Standing Committee on Government Agencies to request Metrolinx to appear before its Committee to discuss its operation and report on its annual report.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from both Metrolinx and the Ministry of Transportation, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in December 2020 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	1				
Recommendation 2	1	1				
Recommendation 3	1	1				
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 6	1			1		
Recommendation 7	2	2				
Recommendation 8	1	1				
Recommendation 9	1	1				
Recommendation 10	2	2				
Recommendation 11	1	1				
Recommendation 12	1	1				
Recommendation 13	1	1				
Recommendation 14	1	1				
Recommendation 15	1	1				
<b>Total</b>	<b>17</b>	<b>16</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>94</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>

**Figure 2: Committee Recommendations and Detailed Status of Actions Taken**

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
<p><b>Recommendation 1</b></p> <p>The Standing Committee on Public Accounts recommends that, should Transit-Oriented Communities opportunities be identified, the Ministry of Transportation conduct its own assessment of whether or not the Kirby and Lawrence East GO stations should be built, and whether these stations would benefit the regional transportation network.</p> <p><b>Status: Fully implemented.</b></p>	<p>As noted in our Metrolinx–GO Station Selection follow-up (<b>Section 1.06, 2020 Annual Report</b>), in November 2018 the Ministry of Transportation (Ministry) directed Metrolinx to stop procurement of new GO stations, including Kirby and Lawrence East, and asked Metrolinx to adopt a new market-driven strategy by which Metrolinx was to seek partnerships with private builders to deliver new GO stations. Metrolinx is now in the process of reviewing each potential site for a new GO station, including Kirby and Lawrence East, to be delivered through a commercial partnership with a third party such as a developer or landowner. Once this work is completed, before seeking Treasury Board approval to permit Metrolinx to sign commercial agreements with development partners, the Ministry intends to independently assess the partnership opportunities that Metrolinx identifies, including Kirby and Lawrence East, if Metrolinx identifies partnership opportunities for these locations.</p>
<p><b>Recommendation 2</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx continue to assess the Transit-Oriented Communities opportunities available, and recommend which stations should be considered for potential contracts with private developers.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that there are a number of Transit-Oriented Communities (TOC) transactions in Metrolinx's GO Heavy Rail and Light Rail Transit (LRT) portfolio that are in active negotiations or have already reached the conditional or binding agreement transaction stage. In all instances, a negotiation strategy for these transactions has been employed using consistent terms, in accordance with TOC governance.</p> <p>TOC transactions requiring capital funding fall under the unified governance and approvals structure set out by the Metrolinx Capital Project Approvals Policy (February 2019). Under this policy, there are up to three governance bodies that review and approve of TOC proposals:</p> <ul style="list-style-type: none"> <li>• The Metrolinx Investment Panel—consists of Chief Executive Officer, Chief Financial Officer, Chief Planning Officer, Chief Operating Officer, Chief Capital Officer, Deputy Chief Capital Officer</li> <li>• The Metrolinx Board of Directors</li> <li>• Provincial Treasury Board/Management Board of Cabinet (TB/MBC) through Ministry of Transportation (MTO)</li> </ul> <p>The Investment Panel is Metrolinx management's accountable governance body for benefits management of TOC proposals that require capital funding, which are reported into the Metrolinx Board of Directors for approvals. Under this governance body, the business cases for TOC proposals have been reviewed for their alignment with the broader service network prior to authorization to proceed. Investment Panel and Board memos provide recommendations based on an assessment on various factors such as the business case analysis, options on commercial/procurement structures, funding status, potential risks, and interface with other parts of the organization.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Transportation provide information about how the Transit-Oriented Communities program works, including how exactly stations are chosen and prioritized.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, the Ministry of Transportation (Ministry) reported to the Standing Committee on Public Accounts that the TOC program is meant to place more housing and jobs near or at transit stations along the routes of the province's four priority subway projects, including the Ontario Line, Finch West Extension, Scarborough Extension and the Yonge North Extension.</p> <p>In February 2020 and May 2020 respectively, the Province of Ontario entered into Memoranda of Understanding on Transit-Oriented Development with the City of Toronto and York Region. In July 2020, the <i>Transit-Oriented Communities Act</i> was passed, which will rethink the relationship between transit, housing, and commercial spaces and enable more timely construction of vibrant communities around transit stations along the routes of the Province's four priority subway projects. In December 2020, the <i>Ontario Rebuilding and Recovery Act</i> received Royal Assent, which enables the use of regulation to extend the measures of the <i>Transit-Oriented Communities Act</i>. This includes provincial transit initiatives beyond the GTA, including GO Rail expansion and Light Rail Transit projects.</p> <p>Stations are chosen and prioritized based on Metrolinx's Investment Panel assessment. Under this governance body, the business cases for TOC proposals are reviewed for their alignment with the broader service network prior to authorization to proceed. Investment Panel and Board memos provide recommendations based on an assessment of various factors such as the business case analysis, options on commercial/procurement structures, funding status, potential risks, and interface with other parts of the organization.</p>
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that working with development partners, Metrolinx and Infrastructure Ontario ensure that the public is consulted in the station assessment and the Transit-Oriented Communities process.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that it continues to engage the community to participate in a consistent, meaningful, transparent and timely manner, and will continue as part of the TOC process. For example, between 2018 and 2020, Metrolinx made multiple public engagements for Woodbine GO Station and the Park Lawn GO Station. Metrolinx notes that the community will continue to have multiple opportunities to provide input through these processes.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx ensure it is always operating in a transparent and accountable way, adhering to its obligations under the <i>Freedom of Information and Protection of Privacy Act</i> (FIPPA).</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that it will continue to operate with transparency and in accordance with the <i>Freedom of Information and Protection of Privacy Act</i> (FIPPA).</p> <p>Metrolinx is required by law to meet the requirements of FIPPA and provide a general right of access to information under its control, subject to limited and specific exemptions and exclusions, such as Cabinet Records. As an Agency of the Government of Ontario, Regulation 460 designates Metrolinx as an "institution" subject to FIPPA. In addition, the Memorandum of Understanding between the Minister of Transportation and the Chair of Metrolinx acknowledges that the Agency is bound to follow the requirements set out in FIPPA. Metrolinx's team of Freedom of Information (FOI) specialists administers the operations of the Freedom of Information program and co-ordinates responses to requests for information within legislated time frames, which includes receiving access requests, communicating with and assisting requesters, gathering records, identifying information subject to an exemption or exclusion, and issuing access decisions.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx appear annually before the Standing Committee on Government Agencies to report on its annual report.</p> <p><b>Status: Little or no progress.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that when such a request is made Metrolinx will appear before the Committee to review the annual report or any other aspect of the agency's mandate and operations.</p>
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx:</p> <ul style="list-style-type: none"> <li>implement a policy of requiring official Ministerial direction when the province's objectives are not in alignment with Metrolinx's business cases, plans and decisions;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>consistently request official Ministerial direction when required by this policy.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that under the <i>Metrolinx Act</i>, Metrolinx is required to conform with provincial transportation policies and plans applicable in the regional transportation area.</p> <p>As noted in our Metrolinx–GO Station Selection follow-up (<b>Section 1.06, 2020 Annual Report</b>), we found that Metrolinx had started to request official direction when ministerial decisions differed from the results of its business cases. For instance, in late 2019 Metrolinx asked for ministerial direction on its plan to lower GO local short-distance fares. Further, in 2019 Metrolinx implemented a policy that requires its staff to obtain written direction from the Ministry of Transportation when the province's objectives are not in alignment with Metrolinx's business cases, plans and decisions. Between November 26, 2018, and June 30, 2020, Metrolinx received 11 Ministerial directions on various matters.</p> <p>Since then, between November 26, 2018, and June 30, 2020, Metrolinx received a further seven Ministerial directions on various matters.</p>
<p><b>Recommendation 8</b></p> <p>The Standing Committee on Public Accounts recommends that the Minister of Transportation should consistently provide Metrolinx with letters of direction outlining the Minister's decisions.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, the Ministry Transportation (Ministry) reported to the Standing Committee on Public Accounts that letters of direction serve as accountability mechanisms, which may be issued by the Minister of Transportation on any aspect of the <i>Metrolinx Act</i> (as per section 31 of the <i>Metrolinx Act, 2006</i>). The directives are formal governance tools employed by the Minister to increase accountability and provide transparency on government priorities.</p> <p>In order to facilitate Metrolinx's delivery of provincial priorities in accordance with government direction, the Ministry has increased its use of letters of direction in order to provide clear direction pertaining to the Minister's decision(s) and expectation(s). The Ministry will continue to provide Metrolinx with letters of direction to ensure enhanced accountability and transparency around decision-making.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 9</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx continue to engage municipal stakeholders through working groups and regional roundtables in order to support co-ordinated, accountable and transparent decision-making for transit investments in the province.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that, as an agency of the Province of Ontario, Metrolinx is accountable to the province through the Ministry of Transportation. Metrolinx has been tasked with the mandate “to provide leadership in the coordination, planning, financing, development and implementation of an integrated transit network in the regional transportation area [Greater Golden Horseshoe].” As such, Metrolinx co-ordinates and participates in a regional consultation framework that allows for collaboration and seeks to advance regional solutions with key stakeholders in the Greater Golden Horseshoe. This includes triannual meetings of the Regional Roundtable of Chief Administrative Officers and Chief Executive Officers of municipalities and transit agencies, the quarterly Municipal Planning Leaders Forum (MPLF) of planning and transportation senior executives, and a monthly technical advisory group known as the Municipal Technical Advisory Committee (MTAC). Municipalities are regularly informed of Metrolinx transit planning initiatives and studies through this consultation framework. Additionally, Metrolinx communicates and requests formal feedback from affected municipalities by sending draft business cases before they are published.</p> <p>Metrolinx also established governance frameworks with the City of Toronto (November 2019), Durham Region (October 2020), York Region (April 2021), Brampton (Sept 2021) and Mississauga (Sept 2021).</p>
<p><b>Recommendation 10</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx:</p> <ul style="list-style-type: none"> <li>consistently review the inputs and assumptions used in business cases for their relevance and reliability;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>continue to use the most up-to-date inputs and assumptions in its business case analyses.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that it has taken active steps to ensure that the practice of reviewing and updating business case inputs and assumptions (also referred to as “parameters”) has been formally documented and that there is a supporting procedure outlining specific refresh dates.</p> <p>The Metrolinx Capital Approvals Policy, which was approved by the Board of Directors on February 7, 2019, and “outlines the framework through which capital projects at Metrolinx will be approved, funded and governed,” states that, “a Metrolinx Business Cases follow a consistent set of standards, and methods ... [which are] periodically updated based on review of best practices in project appraisal. The Planning Analytics Team in the Sponsors Office of Planning and Development is responsible for this guidance and for ensuring that any decisions made by the Investment Panel are based on Business Cases that follow the guidance.”</p> <p>The Metrolinx Planning Analytics Team has reviewed the existing inputs as assumptions used in business cases and, based on existing/new emerging data (such as census data and academic research), has created guidelines for the frequency of review for each input and assumption. For example, there is now a requirement to refresh the Value of Time variable every year (12 months), which is updated annually based on Statistics Canada data released in March of each year.</p> <p>Metrolinx will follow these guidelines in continuing to review and refresh business case parameters. Details on these parameters and their respective rates of refresh will be added to the next version.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 11</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx make public the names, titles, and organizational affiliations of the expert advisory panel it set up to review the criteria used to develop business cases for transit projects, as well as the criteria used to select panel members, any payment panel members receive, and the scope of the panel's work.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that current members of the advisory panel and the terms of reference are published on Metrolinx's website and panel members are not compensated for their participation. The advisory panel's role is to ensure that Metrolinx's business case practices are up to date and based on the latest research. The advisory panel is comprised of experts from academia, industry and public policy. Metrolinx also publicly reports on the criteria used to select panel members, their organizational affiliations, any payment panel members receive, and the scope of the panel's work.</p>
<p><b>Recommendation 12</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx explain to the Committee how the City of Toronto's SmartTrack vision, including the proposal to reduce fares for GO trips within Toronto, has factored, or will factor, into station decisions.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that full fare integration between GO and local transit providers such as the Toronto Transit Commission (TTC) was an assumption made during the development of the New Stations Preliminary Design Business Cases, approved by the Metrolinx Board of Directors in March 2018.</p> <p>The sequence of business cases (initial business case, preliminary design business case, full business case) throughout the project lifecycle ensures that decisions for each project are made on the latest fare-integration assumptions available at that time.</p> <p>The SmartTrack stations were evaluated as part of the 2018 "GO Expansion RER New Stations Business Case Analysis," which included the assumption of the discounted double fare agreement (a \$1.50 fare discount for riders connecting between GO and TTC).</p> <p>Recent business cases include the changes introduced in 2019 to lower the GO base fares and improve alignment with local transit fares. Fare integration is now considered as a sensitivity analysis when appropriate.</p> <p>The fare and service integration strategy continues to be revisited by the Ministry of Transportation and the municipalities.</p>
<p><b>Recommendation 13</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should ensure that station selection and other planning decisions do not directly or indirectly threaten protected natural heritage areas such as the Greenbelt, and shall be consistent with relevant plans and policies, including the Greenbelt Plan and the province's growth plan.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that as part of the planning process for new stations and other transit infrastructure, an Environmental Assessment (EA) or Transit Project Assessment Process (TPAP) is required. Both studies consider potential impacts to natural heritage and environmental features, including areas designated within the Greenbelt Plan, the Niagara Escarpment, or regional conservation areas. Compatibility with relevant plans and policies are also considered as part of the business case when new stations are proposed. Metrolinx works closely with municipalities to ensure consistency with local official plans. For TOC stations proposed by a third party as part of the market-driven approach, the station proponent is required to secure the necessary approvals from the relevant planning authorities to ensure compatibility with applicable land use plans.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 14</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx or the provincial government update the Committee on potential direct or indirect impacts to the Greenbelt, including development pressures, resulting from the recent approval or opening of stations within or near the Greenbelt, including the Kirby GO station.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that land use plans often contemplate new development, higher densities, and a mix of land uses located in proximity to transit stations. This is considered good planning practice and is consistent with the policies of the Growth Plan. Although supportive of this practice, Metrolinx is not the approval authority on land-use planning. All decisions with respect to local land uses, including any new development located near transit stations (or otherwise), are led by the municipality in conjunction with regional planning authorities and the Ministry of Municipal Affairs and Housing.</p> <p>As mentioned in <b>Recommendation 13</b>, an Environmental Assessment or Transit Project Assessment Process are conducted where new stations and transit infrastructure are considered, and each of these processes examine impacts to the Greenbelt and other environmental features. However, these studies focus on the transit station and infrastructure itself and would not include surrounding land development.</p>
<p><b>Recommendation 15</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should ensure that the “business-as-usual” option in its business cases reflects actual business-as-usual policy as it exists at the time of publication, including fare policy.</p> <p><b>Status: Fully implemented.</b></p>	<p>In July 2021, Metrolinx reported to the Standing Committee on Public Accounts that Business Case Guidance, published in April 2019, specifies that the Business as Usual (BAU) scenario should be drawn from existing commitments. Investments are incremental to what exists today and what is currently funded, committed, or in delivery. Conformance with Business Case Guidance is confirmed through an assurance process for any business cases submitted to Metrolinx’s Investment Panel.</p>

## Chapter 3

### Section 3.04

# Metrolinx—LRT Construction and Infrastructure Planning

## Standing Committee on Public Accounts Follow-Up on Section 3.07, 2018 Annual Report

On May 1, 2019, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2018 audit of LRT Construction and Infrastructure Planning administered by Metrolinx. The Committee tabled a report on this hearing in the Legislature in February 2020. The full report can be found at [www.auditor.on.ca/en/content/standingcommittee/standingcommittee.html](http://www.auditor.on.ca/en/content/standingcommittee/standingcommittee.html).

The Committee made 12 recommendations and asked Metrolinx, Infrastructure Ontario and the Ministry of Transportation to report back by February 2020. Metrolinx formally responded to the Committee in June 2020. Several issues raised by the Committee were similar to the audit observations of our 2018 audit, which we followed up on in 2020. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between April 5, 2021, and September 3, 2021, and obtained written representation from Metrolinx, Infrastructure Ontario and the Ministry of Transportation that effective November 25, 2021, they have provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

As of September 30, 2021, 60% of the Committee's recommended actions had been fully implemented, and 14% of the recommended actions were in the process of being implemented. There has been little or no progress on 3% of the recommended actions and 23% of the recommended actions will not be implemented.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from Metrolinx, Infrastructure Ontario and the Ministry of Transportation, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in May 2021 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3	3				
Recommendation 2	6	2			4	
Recommendation 3	6	3	2		1	
Recommendation 4	1			1		
Recommendation 5	3	2			1	
Recommendation 6	3	1	2			
Recommendation 7	1	1				
Recommendation 8	2	1			1	
Recommendation 9	1	1				
Recommendation 10	1	1				
Recommendation 11	2	2				
Recommendation 12	1	1				
<b>Total</b>	<b>30</b>	<b>18</b>	<b>4</b>	<b>1</b>	<b>7</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>60</b>	<b>14</b>	<b>3</b>	<b>23</b>	<b>0</b>

**Figure 2: Committee Recommendations and Detailed Status of Actions Taken**

Prepared by the Office of the Auditor General of Ontario

<b>Committee Recommendation</b>	<b>Status Details</b>
<p><b>Recommendation 1</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should:</p> <ul style="list-style-type: none"> <li>provide the Committee with a list of projects from the amended 2041 Regional Transportation Plan, in order of priority, as well as information on sources of funding, where available;</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts with a list of projects from the amended 2041 Regional Transportation Plan, in order of priority, as well as information on sources of funding, where available.</p> <p>As noted in our Metrolinx–LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx began working with municipal stakeholders and the Ministry of Transportation in the fall of 2018 to develop and implement a prioritization framework for building the evidence around almost 70 unfunded rapid transit projects from the 2041 Regional Transportation Plan's Frequent Rapid Transit Network (FRTN). In April 2019, the Ontario Budget formally announced a commitment to five high-priority projects previously unfunded, including the Yonge Subway Extension to Richmond Hill.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>periodically report to the Ministry of Transportation and the general public on the progress of the plan; and <b>Status: Fully implemented.</b></li> <li>publicly release the prioritization framework guiding Metrolinx’s infrastructure project selection process. <b>Status: Fully implemented.</b></li> </ul>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts confirming annual public reporting on the prioritization framework and project status, as well as making the document publicly available on the Metrolinx website.</p>
<p><b>Recommendation 2</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should:</p> <ul style="list-style-type: none"> <li>answer the 61 questions presented by the City of Toronto in response to the 2041 Regional Transportation Plan and share the answers with the Committee; <b>Status: Will not be implemented.</b></li> <li>develop an action plan to identify and address the growing connectivity needs of the Greater Toronto and Hamilton Area (GTHA) regional transportation network as a whole, given that previously envisioned connections have been lost with changes in transit project plans; <b>Status: Fully implemented.</b></li> </ul>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that although Metrolinx has been working with the City of Toronto and the Toronto Transit Commission on the subway program, it will not address the 61 questions presented by the City of Toronto in response to the 2041 Regional Transportation Plan. Metrolinx explained that the questions which relate to the Ontario Line are answered through the work to be completed in the Ontario Line Business Case, expected by the end of 2022. Metrolinx did note that the Initial Business Cases (IBC) for each project demonstrates how the operating concept performs on the optimized alignment, providing information which addresses most of the Transit Planning and Design, Project Delivery and Project Specific Questions posed in the 61 questions. In addition, the Preliminary Design Business Cases (PDBC) explore how the benefits and costs of each project can be further optimized with a refined operating concept which further addresses the Transit Planning and Design, Project Delivery and Project Specific Questions posed in the 61 questions.</p> <p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx began working with municipal stakeholders and the Ministry of Transportation in the fall of 2018, to develop and implement a prioritization framework for building the evidence for unfunded rapid transit projects in the 2041 Regional Transportation Plan. In February 2020, the Metrolinx Board of Directors endorsed the Advancing Transit Priorities Prioritization Framework and its results as a consistent annual approach to build an early evidence base to inform business case sequencing for unfunded projects. The lost connections referenced by the audit are the Eglinton Crosstown LRT’s westward extension from Weston to Pearson Airport, an east-west rapid transit connection between the Finch West LRT and the Sheppard subway, and the Hurontario LRT’s northward extension from Steeles to downtown Brampton. One of the three projects with a “lost connection” referenced was the Eglinton Crosstown LRT’s westward extension. Funding for this project was announced as part of the province of Ontario’s April 2019 Budget.</p> <p>In March 2020, Infrastructure Ontario and Metrolinx issued a Requests for Qualifications (RFQs) to advance tunnelling work on the Eglinton Crosstown West Extension – the first phase of work for the project. Metrolinx published the Initial Business Case for the project on February 28, 2020. Planning for the project continues, including due diligence work, further refining the design and engineering work and seeking environmental approvals.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>• update its prioritization framework to guide the delivery of the projects identified in the 2041 Regional Transportation Plan; <b>Status: Fully implemented.</b></li>   <li>• prepare and propose a funding strategy for approval by the Province and municipal governments; <b>Status: Will not be implemented.</b></li>   <li>• prepare an action plan with execution timelines correlated with the funding strategy; and <b>Status: Will not be implemented.</b></li>   <li>• publicly report on its status in meeting this action plan. <b>Status: Will not be implemented.</b></li> </ul>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that in the fall of 2018, Metrolinx began working with municipal stakeholders and the Ministry of Transportation to develop and implement a prioritization framework for building the evidence for unfunded rapid transit projects in the 2041 RTP.</p> <p>In February 2020, the Metrolinx Board of Directors endorsed the Advancing Transit Priorities Prioritization Framework and its results as a consistent annual approach to build an early evidence base to inform business case sequencing for unfunded projects. The Prioritization Framework is also publicly available on the Metrolinx website.</p> <p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts, and matching the response to our Metrolinx–LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), that as a Crown corporation, Metrolinx continues to be governed by the provincial budget process under which the Ministry of Transportation submits Metrolinx’s budget request to the Treasury Board Secretariat on Metrolinx’s behalf. As such, the process to secure long-term funding is not in Metrolinx’s control. Metrolinx will continue to use business cases to build evidence and to make the case for seeking capital funding in co-ordination with the Province through the Ministry of Transportation.</p>
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public accounts recommends that Metrolinx should:</p> <ul style="list-style-type: none"> <li>• evaluate whether its current use of consultants is justified and adjust where appropriate to reduce the dependency on a single consulting firm; <b>Status: In the process of being implemented by March 31, 2022.</b></li> </ul>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that it undertook a re-examination of its use of integrated contractor staff in 2019 before the incumbent program management services provider’s contract was extended. As noted in our Metrolinx–LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx conducted an examination of overall spending on consulting in its capital program as compared with international comparators and assessed the consultant’s hourly rates in hindsight against similar recently procured contracts. Management reached the conclusion that Metrolinx would get the best value by continuing with its present consultant, and should extend its contract to December 31, 2022, at a cost of \$293 million. This analysis, including other alternatives, was presented to the Metrolinx Investment Panel on January 22, 2019, and to the Metrolinx Board of Directors, which endorsed management’s recommendation in February 2019. As part of the assessment, Metrolinx also planned to reduce its reliance on consultants over the contract period, ending on December 31, 2022. The strategy also determined that there should be a planned gradual transition as certain duties are transferred to Metrolinx, Infrastructure Ontario or other suppliers.</p> <p>Although Metrolinx still has a dependency on one project management consulting firm, which has been the case since 2010, Metrolinx noted that it is incorporating a gradual 18% planned reduction in spending on its main consultant over two years from March 31, 2020, to March 31, 2022. In addition, rather than continue to fully rely on its sole consultant, Metrolinx elected to conduct separate procurements for various program management consulting contracts, including hiring a consultant to perform project tasks on the Subway Program. Metrolinx awarded the new contract in March 2020. The program includes the Ontario Line, Yonge North Subway Extension, Eglinton Crosstown West Extension and Scarborough Subway Extension. Through the use of newly procured consultants, Metrolinx indicated that it plans to reduce reliance on its main consultant as a proportion of overall program management costs from 77% to 60% over two years from March 31, 2020, to March 31, 2022.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>establish the scope of work and budget before hiring consultants and use this to assess proposals from bidders;</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>Metrolinx confirmed that its process in assessing proposals from bidders includes establishing scope of work and budget prior to hiring. Metrolinx's new subway consultant procurement was assessed based on this framework.</p> <p>Metrolinx's senior management evaluated the bidders based on the skills and experiences the supplied staff would need to fulfill the contract. This information was scored during the technical evaluation process, and the consultant's proposed hourly rates were scored in the financial evaluation process. The hourly rates proposed by the winning proponent were multiplied by the forecasts of the level of effort that would be needed over the life of the contract in order to establish the budget limit that was proposed to the Board for approval.</p>
<ul style="list-style-type: none"> <li>conduct a request-for-proposal process to procure defined program management services;</li> </ul> <p><b>Status: Will not be implemented.</b></p>	<p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), although Metrolinx conducted an examination of overall spending on consulting in its capital program as compared with international comparators, no request for proposal process to procure defined program management services was conducted. The Office of the Auditor General continues to believe that this would be a reasonable process to undertake given that the same primary consultant has benefited from Metrolinx's business since 2010 without Metrolinx conducting an open Request for Proposal.</p> <p>As noted above, in March 2020, Metrolinx did award program management contracts for various projects including the Subway Program rather than extend all responsibilities for program management services for these projects to the incumbent. However, the additional program management contract represents only 23% of the total spending for program management services in fiscal 2020/21. This is not expected to change significantly until March 31, 2022, as Metrolinx anticipates a gradual planned reduction in reliance on its primary consultant as a proportion of overall program management costs by another 17%.</p>
<ul style="list-style-type: none"> <li>before extending contracts, evaluate and document whether it would be more appropriate to re-tender and/or use in-house staff;</li> </ul> <p><b>Status: In the process of being implemented by March 31, 2022.</b></p>	<p>As noted above and in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx only justified the continued use of its current contractors versus conducting an open-market RFP given the large value of the contract. Metrolinx did note that no contract extensions took place since March 2020 and that there are no plans in place to incur any additional extensions on the current consultant's contracts. Metrolinx does plan, however, to reduce spending on its primary consultant by 17% and gradually reduce overall dependency on its primary consultant as a proportion of overall program management costs from 77% to 60% by the end of March 31, 2022.</p>
<ul style="list-style-type: none"> <li>periodically review contractor records and assess contractor performance; and</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that it has enhanced the contract terms with the incumbent firm holding the program management contract as well as implemented an agency-wide Vendor Performance Management Program. As noted in our Office's 2020 Follow-Up to the 2018 audit, the new mechanism for imposing penalties, with which the primary consultant agreed, took effect on April 1, 2020. The primary consultant agreed to a set of key performance indicators to monitor performance, including the timely drafting of invoices, submission of task plans and completion of deliverables. Metrolinx will be able to hold back payment of the primary consultant's invoices if its performance is not satisfactory. Metrolinx has conducted two reviews since March 2020 with no issues identified in the contractor's performance.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>use the competitive bidding process instead of sub-consultants, where possible.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), in April 2019, Metrolinx amended the contract with the program management consultant, removing the 2.5% mark-up and implementing a new process called “Subconsultants Approval Process for Project Management Services Contracts.” The new process contains three key controls: a requirement that there be a detailed review to determine whether in-house expertise is already available among current consultant staff for the proposed subconsultant work; senior management approval; and a validation of charge rates and time.</p> <p>At the time of our PAC follow-up, Metrolinx confirmed that no new subconsultants were added as part of its primary consultant contract since our original 2018 audit. Although Metrolinx continues to use existing subconsultants through the primary program management consultant and did not assess whether a separate procurement was warranted, it is undertaking a reduction in the use of subconsultants. Metrolinx separately procured six new contracts through competitive bids, indicating a reduction in reliance on its primary program management subconsultants from 42% in fiscal 2019/20 to 25% by March 31, 2022.</p>
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that the:</p> <ul style="list-style-type: none"> <li>Ministry of Transportation should direct Metrolinx to stop renewing contracts with companies that perform poorly on the vendor performance review.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>During our Office’s PAC follow-up, the Ministry of Transportation (Ministry) explained that although it is able to provide direction to Metrolinx through a number of formats, including through the annual agency Mandate Letter, as well as Letters of Direction, it has not developed options with respect to implementing the recommendation.</p> <p>However, the Ministry estimates that it will complete developing options with respect to implementing the recommendation and obtain direction from senior management, which is estimated to occur by February 2022.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should work with the AFP consortium to:</p> <ul style="list-style-type: none"> <li>promptly resolve issues identified by Metrolinx’s technical advisors and the Toronto Transit Commission (TTC) regarding designs that do not meet project requirements and specifications;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>minimize the number of partial design reviews and approvals by Metrolinx’s technical advisors and the Toronto Transit Commission (TTC); and</li> </ul> <p><b>Status: Will not be implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that as of March 2021, the Eglinton Crosstown LRT project has advanced significantly through the project lifecycle. Metrolinx has worked with its technical advisors, the TTC and the AFP consortium to largely conclude the design phase of the project.</p> <p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx had 380 rejected design submissions outstanding. As of July 2021, with design activity almost entirely completed, only seven design submissions with some issues remain. Metrolinx anticipates these remaining designs will be completed by December 2021.</p> <p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx’s project agreement with the AFP consortium was not renegotiated to include provisions that would allow Metrolinx to restrict partial submissions. Metrolinx can encourage the AFP consortium to submit its designs in a size and sequence that optimizes the design process and conserves the resources of all parties. Under the project agreement, the consortium can and did choose to proceed “at risk,” that is, proceeding knowing that it was assuming responsibility should it later be assessed that it has built the infrastructure in a manner not in compliance with the design or with the requirements of the project agreement. This has not changed since our 2018 audit.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>design future contracts with provisions to avoid substantial penalties.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts, as noted by our Office's 2020 follow-up to the 2018 Audit, that Metrolinx has amended contracts or introduced provisions in contracts intended to protect it from additional costs because of delays. For example, Metrolinx introduced a new provision for the Hurontario LRT project that is supposed to transfer the risk and responsibility for design, manufacturing, delivery, testing and commissioning of vehicles to the selected contractor. Metrolinx negotiated the terms of this agreement with the vehicle provider, Alstom, between August 2017 and April 2019, finalizing the agreement in October 2019. This agreement intends to protect Metrolinx from the risk of additional costs that might arise from possible communications problems between systems on the LRT line (the responsibility of Mobilinx, the winning AFP consortium) and systems on the trains (the responsibility of Alstom, the vehicle supplier) since the risk is transferred in the procurement process. In the case of vehicle supply arrangements for the Finch West LRT, Metrolinx contracted directly with the vehicle supplier (also Alstom), but the contract included more aggressive penalties for delays than had been considered in the past.</p>
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should:</p> <ul style="list-style-type: none"> <li>consult regularly with relevant stakeholders on cost estimates as part of the budget-setting and cost-monitoring process;</li> </ul> <p><b>Status: In the process of being implemented by September 2022.</b></p> <ul style="list-style-type: none"> <li>provide a valid reason for the \$237 million settlement with the consortium; and</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that an enhanced process and oversight mechanism was implemented in 2019 to ensure collaboration with relevant stakeholders. The Governance framework, which was developed in collaboration with the City of Toronto, TTC and Ministry of Transportation, reflects the number of regional transit programs in delivery, such as GO Expansion, LRT and the Subways Program. As noted in our Office's 2020 follow-up to the 2018 Audit, the enhanced oversight process intends to provide budget certainty to parties; timely resolution of a critical scope question prior to a point when resolution might have entailed significant impact on the project's cost or schedule; and alignment between the TTC, as future operating partner, and Metrolinx, the asset owner and electronic fare system provider. However, on the question of cost reimbursement related to bus services, Metrolinx noted that arbitration was initiated by the TTC in November 2019 regarding the issue and is due to start in late 2020 or early 2021. Metrolinx also noted that cost negotiations related to the arbitration started in March 2020 and are ongoing.</p> <p>In June 2020, Metrolinx provided the Standing Committee on Public Accounts with an explanation for the reasons it used to assess the settlement amount. This explanation identified that the claim settlement reached with CTS in 2018 was to settle claims raised by CTS for costs incurred by it up to the settlement date resulting from matters that it asserted were either the sole responsibility of Metrolinx or the shared responsibility of CTS and Metrolinx. Metrolinx used a portion of the project contingency fund (which is included in the Treasury Board approval for the project) to pay for the settlement.</p> <p>However, our 2020 follow-up and 2018 audit noted that Metrolinx agreed to pay the consortium a settlement amount of \$237 million that it determined to be a portion of the estimated total risk exposure but did not obtain documentation from the AFP consortium to support the claim amount. In addition, we also noted that, where Metrolinx had assessed that delays might have been of its own making, it did not have sufficient documentation to justify the amount of the settlement paid by Metrolinx.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>explain what steps have been taken to ensure that cost overruns and delays are not repeated, and make the information public.</li> </ul> <p><b>Status: In the process of being implemented.</b></p>	<p>As noted in our Metrolinx–LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Metrolinx has relied on measures introduced as a result of the claim settlement agreement with the consortium. The settlement included new requirements for the consortium to submit a detailed schedule each month, measure deterioration of or improvement in the schedule, provide a critical path assessment, and hold monthly executive staff meetings with Metrolinx.</p> <p>At the time of our PAC follow-up, the consortium had not submitted either a compliant work schedule or a recovery plan, with the project continuing to experience delays. Furthermore, given the unprecedented pandemic, Metrolinx did not have control of the circumstances to implement this recommendation.</p>
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Transportation and the Treasury Board Secretariat should obtain all supporting documentation relating to a financial settlement, and sign off on any financial settlements before they occur.</p> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, the Ministry reported to the Standing Committee on Public Accounts that it has worked with Metrolinx to establish a formalized process, issued through a Letter of Direction to Metrolinx in November 2019 for resolving material settlements. Metrolinx is required to approach future claims that cannot be managed without significantly impacting the project budget using the following process:</p> <p>Metrolinx will inform the Minister of Transportation and the Deputy Ministry of Transportation through weekly touchpoints on material claims, if any, on Metrolinx transit projects that are anticipated to enter into settlement negotiations within a six-month period.</p> <p>At a minimum of two weeks prior to formal settlement negotiation of the claim, Metrolinx will provide written notice to the Minister of Transportation and the Deputy Minister of Transportation outlining the negotiation strategy and the value and basis of the claim. This update will contain Metrolinx’s assessment on the likelihood of the claim to cause financial pressure beyond the provincially approved Project Budget and appropriation envelope.</p> <p>If Metrolinx is not able to dismiss the claim but is able to manage the settlement amount of any claim from within the project budget, and settling does not create future project pressures, Metrolinx may proceed to settle the claim while keeping MTO informed.</p> <p>If Metrolinx is not able to dismiss the claim and is not able to manage the settlement amount of any claim without causing a financial pressure on the project, MTO and Metrolinx will seek Treasury Board Secretariat and Management Board of Cabinet approval on a settlement agreement prior to its execution.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 8</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should:</p> <ul style="list-style-type: none"> <li>clarify its commitment to the electrification of the GO rail network; and</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>set a clear timeline for the electrification of the GO rail network, specifying when each GO line will be electrified.</li> </ul> <p><b>Status: Will not be implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee of Public Accounts that Metrolinx is committed to bringing electrified trains to the GO rail network as part of a broader investment to bring faster and more convenient service options to the region's travellers.</p> <p>In 2017 Metrolinx published the GO Rail Network Electrification Environmental Project. The assessment identified various infrastructure requirements including tracks and switches, layovers, and electrification to achieve established service level targets across the network. In February 2020, Metrolinx also began public consultations on a significant addendum to the 2017 Project Report (EPR), which further refined environmental components as well as assessed additional electrification infrastructure required for new tracks and layover facilities, and other infrastructure required within the Union Station Rail Corridor. Metrolinx published the addendum in June 2021.</p> <p>Furthermore, in February 2021, Metrolinx publicly confirmed it had adjusted the Rail Corridor Electrification procurement (OnCorr) to require bidders to provide electrified service using the overhead catenary system (OCS) solution which is accepted as the international standard and said it would not entertain alternative electrification solutions that the procurement had previously accommodated, such as the use of hydrogen-powered trains.</p> <p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that it is not possible to set a clear timeline for the electrification of the GO rail network as under the current procurement model, the timelines associated with implementing service improvements along each corridor, including the introduction of electric service, are to be provided by the competing bidders as part of their proposals. Metrolinx will be able to communicate to the public and elected officials about the electrification phasing option and associated timeframes once it concludes the procurement process and selects a winning proponent, expected in January 2022.</p> <p>However, in setting out its requirements to bidders, Metrolinx has not and will not specify in which order the lines are to be electrified or specify dates for each. Instead, the procurement incents bidders to implement electrification quickly by evaluating the proponent's submission based on the ability to achieve the largest benefits as soon as possible in line with the GO Expansion full Business Case.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 9</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should provide the Committee with details on how Metrolinx is structuring agreements with private sector developers, and make this information available to the public.</p> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that since December 2018, Metrolinx and Infrastructure Ontario have advanced a Market Driven approach to the delivery of station infrastructure through Transit-Oriented Development (TOD), now referred to as Transit-Oriented Communities (TOC). The TOC Program applies to the Greater Golden Horseshoe transit network and addresses four work streams: market-driven third-party funded, joint development, dispositions, and entrance connections. For example, in Market Driven TOC opportunities, the TOC program has established an intake process, including a Conflict of Interest (COI) standard operating procedure. When a third-party approaches Metrolinx with a Market Driven TOC opportunity, Metrolinx follows the TOC In-take Process to determine whether there is a viable TOC opportunity, to assess the viability of the potential partner, to evaluate which work stream the opportunity falls within, and a valuation to determine whether an opportunity demonstrates a fair exchange of value.</p> <p>Metrolinx intends to use this approach to leverage third-party investment to reduce public funding for transit expansion, offer new transit services faster and at a lower cost to taxpayers. In spring of 2020, Metrolinx openly solicited third-party interest for new GO rail stations in and around 12 locations identified through business cases. Landowners/developers within 800 metres of a proposed site were contacted directly and invited to submit an expression of interest. Metrolinx and Infrastructure Ontario have a number of TOC transactions that are in active negotiations or have already reached the conditional or binding agreement transaction stage. In all instances, a negotiation strategy for these transactions has been employed using consistent terms, in accordance with TOC governance, to ensure that Metrolinx operations, infrastructure, and customers are protected and that a fair exchange of value is achieved for all parties.</p>
<p><b>Recommendation 10</b></p> <p>The Standing Committee on Public Accounts recommends that Infrastructure Ontario should develop tools and remedies for incorporation into Alternative Financing and Procurement (AFP) contracts to address early indications of project delays.</p> <p><b>Status: Fully implemented.</b></p>	<p>As noted in our Metrolinx—LRT Construction and Infrastructure Planning follow-up (<b>Section 1.07, 2020 Annual Report</b>), Infrastructure Ontario introduced new provisions into AFP contracts that build on existing mechanisms in these contracts to allow for assessment of the progress of construction and, in certain circumstances, to require the contractor to accelerate construction in order to complete the project by the scheduled date. These provisions include the review of regular schedule submissions and any failures to maintain the schedule. Since our 2018 audit, Infrastructure Ontario and Metrolinx have included the new provisions and used these mechanisms on, for example, the Highway 427 Expansion, Highway 401 Tunnel, Groves Memorial Hospital and Etobicoke General Hospital.</p> <p>During our 2020 follow-up, Infrastructure Ontario implemented new tools but was unable to demonstrate if the tools were effective in addressing early indications of project delays. Since then, Infrastructure Ontario has been able to successfully demonstrate that it has used the new tools in the Highway 401 Tunnel and Highway 427 projects, and found that they were effective in identifying and addressing early indications of contractors' delays. For example, on the 401 Tunnel project, Infrastructure Ontario and Metrolinx issued a notice to the contractors in March 2020 that the project was falling behind schedule. The new tool obligated the contractors to mitigate the schedule, reaching on-time substantial completion in July, 2021.</p>

Committee Recommendation	Status Details
	<p>The Highway 427 project, which was substantially completed in September 2021, did experience delays, however. In order to deal with project delays and allow for the opening of the road, Infrastructure Ontario entered into an agreement to advance the cost of certain disputed work, subject to Infrastructure Ontario's right to seek reimbursement of that amount. As a result, Infrastructure Ontario was able to utilize the new tools and open the road to the public. Infrastructure Ontario indicated that it is confident that the tools utilized demonstrate that the approach on this project was successful in meeting project deadlines and achieving provincial objectives, including preventing the contractor from shifting responsibility for the delays to the province.</p>
<p><b>Recommendation 11</b></p> <p>The Standing Committee on Public Accounts recommends that Infrastructure Ontario and Metrolinx should:</p> <ul style="list-style-type: none"> <li>• initiate an independent, transparent, and rigorous assessment of the costs and benefits embedded in the traditional delivery model in comparison with a Public-Private Partnership (P3) model before signing a contract with a consortium; and</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>• clarify the process of calculating/estimating the risk transfer, which is central to the Public-Private Partnership (P3) model, and make the information public.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>Infrastructure Ontario retained a third-party advisor to develop a Value for Money (VFM) for each project based on the VFM Methodology published on Infrastructure Ontario's website. There are several key inputs that drive the VFM for each project, including project costs and benefits and most notably, the project risk matrices that are completed by a third-party independent advisor with input from the project team, technical advisors and other relevant project advisors. The VFM for each project compares the estimated risk adjusted cost of procuring the project as a Public-Private Partnership (P3) model versus a more traditional delivery model approach (typically a Design-Bid-Build). The VFM analysis is used to verify the validity of using a P3 delivery model for a given project and is a rigorous assessment of the costs, benefits, and risks inherent in both a traditional delivery model and a P3 model.</p> <p>Every project requires a positive VFM, which is an independent assessment calculated by a third-party advisor and confirmed through a VFM letter issued to Infrastructure Ontario by the advisor. A positive VFM must be demonstrated to Infrastructure Ontario's Board of Directors prior to signing a contract with a consortium. Infrastructure Ontario confirmed that this methodology has been used on all P3 projects since 2007.</p> <p>Infrastructure Ontario conducts a VFM analysis to validate the use of a P3 model when launching a project. A key component of this analysis is the assumption of risk transfer to the private sector and mitigation of public sector risks under AFP. The VFM analysis is utilized at three stages of a procurement:</p> <p>Stage 1 – Prior to release of the RFP: The Infrastructure Ontario Board of Directors must approve release of all RFPs, and will not do so unless positive VFM is demonstrated by procuring a project using the P3 model;</p> <p>Stage 2 – Authorization to enter into the Project Agreement: Following the close of the RFP and bid evaluation, the preferred bid is compared to the public sector comparator (PSC), and the updated PSC with the current cost information is presented to the Infrastructure Ontario Board of Directors for approval. Approval for a P3 procurement will not proceed unless positive VFM is demonstrated;</p> <p>Stage 3 – Publication of the VFM analysis: After the project agreement has been finalized, Infrastructure Ontario releases a public report that contains the final VFM analysis, along with details on the project, the procurement process and the project agreement. The objective of the report is to provide the public and others with an understanding of the project and the basis for the decision to deliver the project via AFP.</p>

Committee Recommendation	Status Details
	<p>Infrastructure Ontario notes that a key component of the VFM exercise is the comprehensive risk analysis. For every project, risk workshops are conducted with participants which include Infrastructure Ontario staff, public sector project sponsors, and external experts. A risk matrix is used to identify risks and quantify their public sector impact, following a prescribed methodology:</p> <p>Step 1: Identify the project risks  Step 2: Allocate the risks  Step 3: Estimate probability of risk occurrence and resulting cost impact ranges, and  Step 4: Run statistical analysis to quantify total risks retained by the public sector.</p>
<p><b>Recommendation 12</b></p> <p>The Standing Committee on Public Accounts recommends that Metrolinx should provide the Committee with details on how it plans to reduce its operating subsidy to zero, including any anticipated impacts on pricing, service levels, and ridership levels.</p> <p><b>Status: Fully implemented.</b></p>	<p>In June 2020, Metrolinx reported to the Standing Committee on Public Accounts that Metrolinx's long-term objective is to eliminate its reliance on the provincial operating subsidy. Working toward this objective, Metrolinx has a plan to reduce its reliance on the provincial operating subsidies by taking a more commercial approach to conduct its business. To achieve this, Metrolinx has been focusing on actions to increase ridership and fare revenue, increase non-fare revenue opportunities and finding efficiencies. However, the ongoing COVID-19 pandemic has impacted Metrolinx's ability to achieve this plan due to significant declines in ridership and revenues. Prior to the pandemic, Metrolinx had successfully executed a number of strategies to help reduce reliance on the provincial operating subsidies. These measures, including increasing fare revenue and implementing operational efficiencies, has resulted in a year-over-year reduction in Metrolinx's provincial operating subsidy requirement plan from \$505.3 million in 2018/19 to \$321.2 million in 2019/20 and improved its planned cost-recovery ratio from 64.5% to 69.0% within the same period as highlighted in the publicly released 2019/20 Metrolinx Business Plan.</p> <p>As of September 2021, Metrolinx notes that it continues to implement cost-saving strategies and efficiencies, including through the business improvement plans (BIPs). Metrolinx has achieved a total net savings of over \$135 million from BIPs implementation in fiscal 2020/21, which is primarily due to savings and efficiencies driven by service level adjustments. For 2021/22, Metrolinx is forecasting a total BIPs savings of \$166 million and BIPs revenue of \$11 million.</p>

## Chapter 3

### Section 3.05

# Ontario Disability Support Program

## Standing Committee on Public Accounts Follow-Up on Section 3.09, 2019 Annual Report

On November 4, 2020, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2019 audit of the Ontario Disability Support Program. The Committee tabled a report on this hearing in the Legislature in April 2021. A link to the full report can be found at <http://www.auditor.on.ca/en/content/standingcommittee/standing-committee.html>.

The Committee made 17 recommendations and asked the Ministry of Children, Community and Social Services (Ministry) to report back by August 2021. The Ministry formally responded to the Committee on August 12, 2021. A number of the issues raised by the Committee were similar to the audit observations of our 2019 audit, which we followed up on in 2021. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between May 21, 2021 and August 25, 2021, and obtained written representation from the Ministry that effective November 8, 2021, it has provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

The Ministry of Children, Community and Social Services, as of August 25, 2021, has fully implemented 21% of the Committee's recommended actions. The Ministry has made progress in implementing 20% of the recommended actions. There has been little or no progress on 59% of the recommended actions.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from the Ministry of Children, Community and Social Services, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in April 2021 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2			2		
Recommendation 2	4		2	2		
Recommendation 3	2	1		1		
Recommendation 4	3	3				
Recommendation 5	1			1		
Recommendation 6	2	1	1			
Recommendation 7	3	2	1			
Recommendation 8	5	2	2	1		
Recommendation 9	4			4		
Recommendation 10	3		1	2		
Recommendation 11	2		1	1		
Recommendation 12	1		1			
Recommendation 13	3			3		
Recommendation 14	2			2		
Recommendation 15	3			3		
Recommendation 16	1			1		
Recommendation 17	3			3		
<b>Total</b>	<b>44</b>	<b>9</b>	<b>9</b>	<b>26</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>21</b>	<b>20</b>	<b>59</b>	<b>0</b>	<b>0</b>

## Figure 2: Committee Recommendations and Detailed Status of Actions Taken

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
<p><b>Recommendation 1</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should:</p> <ul style="list-style-type: none"> <li>determine and evaluate which ODSP policies and procedures and economic and social factors have led to ODSP caseload growth in Ontario; and</li> <li>explore measures to reduce and/or eliminate the ODSP practices and procedures which have led to increased ODSP caseload growth (non-compliant with legislation and regulation), so that only individuals who are eligible for ODSP receive benefits from the program.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry has started to take action to address this recommendation. The Ministry analyzed the extent that its policies and procedures in the administration and delivery of ODSP have contributed to caseload growth between 1986 and 2019, and planned to conduct further analysis on the period from 2008/09 to 2018/19 to consider more operational factors, including how non-compliance with ODSP policies and procedures may have contributed to caseload growth. The Ministry indicated that it expects to complete this analysis by June 2022. Thereafter, the Ministry will determine applicable corrective action, and a timeline for taking such action.</p>
<p><b>Recommendation 2</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to ensure that the ODSP financial eligibility process is carried out in accordance with provincial legislation and policy, should:</p> <ul style="list-style-type: none"> <li>strengthen third-party information sharing to streamline and automate the financial eligibility verification process as much as possible;</li> <li>monitor and track instances where caseworkers are not adequately completing the financial eligibility process;</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry indicated that it plans to automate the performance of third-party checks during the application process to ensure that third-party verifications checks are consistently completed on all applications prior to an eligibility decision. However, the Ministry could not provide a timeline for when it expected to implement all of the automated third-party checks for ODSP applicants and recipients.</p> <p>The Ministry has not made progress toward implementing this recommendation. The Ministry indicated that it plans to automate the performance of third-party verification checks during the application process to ensure that third-party verifications checks are consistently completed on all applications prior to an eligibility decision.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>provide mandatory and regular training for caseworkers on third-party data sources and how to identify discrepancies; <b>Status: In the process of being implemented by March 2022.</b></li> <li>review information in the Social Assistance Management System and ensure information is regularly maintained and up-to-date. <b>Status: In the process of being implemented by March 2022.</b></li> </ul>	<p>The Ministry has developed a course for interpreting third-party verification reports. The Ministry informed us that the course would be mandatory for all front-line ODSP staff, and that all front-line staff will have to complete the training by March 31, 2022.</p> <p>The Ministry developed a new report in its Social Assistance Management System to capture clients for whom a Social Insurance Number (SIN) is missing. The Ministry advised us that it began sending this report to ODSP field staff in January 2021 and directed staff to follow up with ODSP recipients to obtain their SIN and to perform the mandatory Canada Revenue Agency (CRA) verification check. The Ministry expects to have obtained missing SIN numbers, or to have taken action where a recipient has not provided their SIN, such as suspending the case, by March 2022.</p>
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should improve the financial eligibility process of clients transferring from Ontario Works to ODSP by:</p> <ul style="list-style-type: none"> <li>providing clear directives and communication to municipalities and staff administering Ontario Works regarding their responsibilities for performing third-party checks prior to transferring recipients to ODSP, and ODSP caseworker responsibilities in instances where these checks have not been performed; <b>Status: Fully implemented.</b></li> <li>monitoring Ontario Works caseworkers' compliance with completing financial eligibility requirements and putting accountability measures into place in instances of non-compliance. <b>Status: Little or no progress.</b></li> </ul>	<p>The Ministry updated its directives and communicated them to Ontario Works and ODSP staff in March 2021 to indicate that Ontario Works was responsible for performing mandatory third-party Equifax Canada Inc. (Equifax) and CRA checks prior to transferring recipients to ODSP, and that such checks have to have been completed within 12 months of the date the recipient's file is transferred to ODSP. The updated directives also state that ODSP caseworkers are responsible for ensuring these third-party verification checks have been performed – in instances where they have not been performed, ODSP caseworkers are responsible for performing them.</p> <p>The Ministry has not made progress in implementing a process to monitor compliance with the updated requirements for completing third-party verification checks, or to put in place mechanisms to hold Ontario Works service managers accountable in instances of non-compliance with requirements to complete mandatory third-party verification checks. The Ministry advised us that it planned to undertake a quality assurance review to assess compliance with updated requirements, and that the results would be used to make decisions on future monitoring activities. The Ministry also indicated that it would be working to design a strengthened accountability model for Ontario Works by January 2023 that includes a new performance framework and an enhanced service agreement, and that as part of this process, the Ministry would explore including compliance requirements related to third-party checks.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should strengthen the adjudication process by:</p> <ul style="list-style-type: none"> <li>evaluating the number of disability application reviews it expects its triage adjudicators to complete and reassessing the target, if necessary; <b>Status: Fully implemented.</b></li> <li>monitoring trends and differences in the rates that adjudicators approve applicants as disabled and take steps to facilitate corrective actions where differences are determined to be unreasonable; <b>Status: Fully implemented.</b></li> <li>implementing a formal process and adequate information tracking for adjudicators' rationales for accepting or rejecting applications and review the appropriateness of decisions to approve and reject applicants as disabled. <b>Status: Fully implemented.</b></li> </ul>	<p>The Ministry, in consultation with its adjudicators, reviewed the reasonableness of its target for the number of disability applications it expects its triage adjudicators to complete, and established a new target range in September 2020 of between 13 and 16 applications each day.</p> <p>The Ministry developed an ongoing process to monitor and investigate significant differences in the rates that adjudicators approve applications as disabled, and to take corrective action when necessary. The Ministry analyzed adjudicator approval rates over a one-year period to determine the median approval rate and selected those adjudicators that were furthest from the norm for review. Based on its review of the decisions of 15 adjudicators, the Ministry concluded that overall adjudicator decision-making was reasonable and in compliance with the <i>Ontario Disability Support Program Act, 1997</i> (ODSP Act) and its regulations. Although the Ministry indicated that it did not observe overall trends that required corrective action for all adjudicators, it provided feedback to adjudicators to change their decision in some specific cases.</p> <p>The Ministry developed and implemented an adjudication quality assurance framework in July 2020 to regularly review the appropriateness of disability adjudication decisions. By May 2021, the Ministry had reviewed 226 decisions, and made changes as a result of these reviews to 11 of the 226 decisions it reviewed. The Ministry indicated that it plans to review approximately 270 decisions annually.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should update the Ministry's handbook and triage guidelines on a regular basis to reflect current medical information. <b>Status: Little or no progress.</b></p>	<p>The Ministry had replaced its handbook and triage guidelines with an updated handbook in 2020. The Ministry advised us that the intent of the new handbook was to reflect advances in treatment associated with medical conditions. The Ministry also indicated that it planned to work with the Ministry of Health and external HIV stakeholders regarding a potential update to the HIV adjudication guideline to take into consideration medical advances over the last 15 years. However, the Ministry could not provide a time frame for doing so.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should:</p> <ul style="list-style-type: none"> <li>record information about health care professionals who complete disability applications in its IT system and monitor any discrepancies; <b>Status: In the process of being implemented by April 2022.</b></li> <li>review, assess and address the appropriateness of applications completed by physicians who complete an atypical number of disability applications. <b>Status: Fully implemented.</b></li> </ul>	<p>The Ministry identified that it is in the process of undertaking technological enhancements to its Disability Adjudication Database to add the functionality for recording the names and addresses of health-care professionals who complete disability applications, as well as any concerns identified in these applications. In addition, the Ministry noted that it is developing a process for health-care professionals to submit disability applications online, which will include the name and address of the health-care professional who completes the application. The Ministry plans to implement these changes by April 2022.</p> <p>The Ministry identified that in 2020, it had put in place an annual process to analyze and identify trends related to disability applications and the health-care professionals who complete them, and a process for taking corrective action on quality issues identified in the completion of disability applications.</p> <p>In the fall of 2020, the Ministry completed an analysis for the 2018/19 and 2019/20 fiscal years of disability applications, utilizing data from the Ministry of Health, and identified 95 health-care professionals who had completed a disproportionate number of disability applications. The Ministry noted that it assessed a 10% sample of the disability applications completed by each of these health-care professionals to identify quality problems in their completion. The Ministry indicated that its assessment did not identify any irregularities or concerns that required corrective action.</p>
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should strengthen the medical review process by:</p> <ul style="list-style-type: none"> <li>analyzing the increase in the proportion of cases it does not assign a medical review by disability type and assess whether the increase is reasonable, and if not, action change; <b>Status: In the process of being implemented by March 2022.</b></li> </ul>	<p>The Ministry completed an analysis by disability type of the assignment of medical review dates to disabled applicants and determined that the increases in the proportion of cases that it did not assign a medical review were reasonable based on the demographic changes of ODSP applicants and as a result of improved mental health information provided to the Ministry.</p> <p>In addition to this analysis, in February 2021, the Ministry implemented a quarterly adjudication file review process. This process will include assessing the appropriateness of whether a medical review date is assigned, and where a medical review date is assigned – the appropriateness of the time frame for the review. The Ministry expects to have completed a sufficient number of file reviews to help determine whether the increase in the proportion of cases not assigned a medical review is reasonable by March 2022.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>reviewing and updating the requirements for obtaining evidence in support of medical review decisions and adequately documenting the rationale; <b>Status: Fully implemented.</b></li> <li>regularly updating the Adjudication Framework with up-to-date policies and practices. <b>Status: Fully implemented.</b></li> </ul>	<p>In July 2021, the Ministry updated its requirements for obtaining evidence in support of medical review decisions and documenting the rationale for such decisions so that they are clearly supported and consistent with the regulations under the ODSP Act.</p> <p>In 2020, the Ministry updated its ODSP adjudication framework to be consistent with the regulations under the ODSP Act. The updated framework requires adjudicators to set a medical review date unless the adjudicator is satisfied that the person's condition, impairment and restrictions are not likely to improve.</p>
<p><b>Recommendation 8</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, along with the Social Benefits Tribunal, should work together to:</p> <ul style="list-style-type: none"> <li>review the impact of Ministry attendance on the outcome of Social Benefits Tribunal hearings and determine the optimal number of hearings caseworkers should attend; <b>Status: Fully implemented.</b></li> <li>evaluate the Ministry's written submissions to the Social Benefits Tribunal when caseworkers are absent from hearings to determine if the submissions could be improved; <b>Status: Little or no progress.</b></li> <li>review whether the high overturn of Ministry decisions at the Social Benefits Tribunal could be reduced; <b>Status: In the process of being implemented by May 2022.</b></li> <li>explore best practices and alternate models for appeals in other jurisdictions for lessons to enhance consistency in disability decision making between the Ministry and the appeals body; <b>Status: Fully implemented.</b></li> </ul>	<p>The Ministry completed a review and analysis of the impact of Ministry attendance on the outcome of Tribunal hearings and determined that the Ministry should attend all of the hearings. The Ministry indicated that because the Social Benefits Tribunal (Tribunal) is an independent body, to preserve its independence in decision-making, the Tribunal was not involved in addressing the action items in <b>Recommendation 8</b>. The Ministry set a target in January 2021 to attend 90% of Tribunal hearings pertaining to disability adjudication based on the volume of scheduled hearings and taking into consideration that there would be hearings that officers would not be able to attend on short notice. The Ministry noted that it will continue to monitor the volume of Tribunal hearings and assess the Ministry's resources to continue to attend the majority of Tribunal hearings.</p> <p>The Ministry has not yet taken steps to address this recommendation. The Ministry indicated that it plans to independently evaluate the Ministry's written submissions to the Tribunal to determine if the submissions can be improved by December 2022.</p> <p>The Ministry completed an independent review and analysis of the impact of Ministry attendance on the outcome of Tribunal hearings and set a target in January 2021 to attend 90% of Tribunal hearings pertaining to disability adjudication to help reduce the rate at which the Tribunal overturns the Ministry's decisions. The Ministry plans to independently review the impact of its increased attendance at Tribunal hearings by May 2022.</p> <p>The Ministry independently completed a scan of the appeals frameworks in other jurisdictions to understand and assess alternative appeal mechanisms and potential lessons learned for social assistance.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>jointly provide the government with sufficient information to make a decision on system/appeal process improvements.</li> </ul> <p><b>Status: In the process of being implemented by December 2022.</b></p>	<p>The Ministry indicated that it consulted with the Ministry of the Attorney General regarding options and improvements to the social assistance appeals process and proposed alternatives to the government for an appeals framework that could increase consistency with the ODSP Act. The Ministry advised us that it is in the process of refining its proposed alternatives to the government and expects to provide the government with additional information by December 2022.</p>
<p><b>Recommendation 9</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to ensure only eligible recipients continue to receive ODSP benefits, should:</p> <ul style="list-style-type: none"> <li>require proactive communication between caseworkers and clients;</li> <li>establish a risk-based timeframe for ODSP caseworkers to review the ongoing eligibility of all ODSP recipients;</li> <li>conduct eligibility reviews in accordance with the risk-based timeframe to avoid creating a backlog of cases;</li> </ul> <p><b>Status: Little or no progress.</b></p> <ul style="list-style-type: none"> <li>determine the optimal number of eligibility verification reviews the Ministry should complete on an annual basis in order to ensure entitlement and fairness in the provisions of ODSP funds.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry has not made progress toward implementing these recommendations. The Ministry indicated that in the future, it plans to implement a risk-based eligibility determination process to monitor the ongoing eligibility of all ODSP recipients.</p> <p>The Ministry has yet to complete a cost-benefit analysis to determine the optimal percentage of reviews the Ministry should complete on an annual basis. The Ministry indicated that it plans to complete such an analysis by January 2022.</p>
<p><b>Recommendation 10</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to strengthen the eligibility verification process, should:</p> <ul style="list-style-type: none"> <li>enhance its system and processes to confirm the causes that lead to undetected changes in recipients' financial eligibility and share findings with caseworkers;</li> <li>take action to address and reduce the causes that lead to undetected changes in recipients' financial eligibility;</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry has not made progress toward implementing these recommendations. The Ministry advised us that it planned to make system enhancements to fully capture all eligibility verification review outcomes so it can better analyze the causes that led to undetected changes in recipients' financial eligibility, and to develop and implement a formal process to communicate observations from these reviews by December 2021. Thereafter, the Ministry plans to establish a process to take action to prevent the causes that led to undetected changes in recipients' financial eligibility.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>explore measures to increase uptake of MyBenefits for clients to report changes in personal circumstances. <b>Status: In the process of being implemented by March 2022.</b></li> </ul>	<p>Through promotion strategies that include emails to recipients and social media posts, the Ministry advised us that it increased the number of ODSP recipients registered for MyBenefits from approximately 31,400 in December 2020, to 41,000 in May 2021. The Ministry is targeting to have 52,000 ODSP recipients registered for MyBenefits by the end of March 2022.</p>
<p><b>Recommendation 11</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to reduce unintentional overpayments to ineligible recipients and intentional fraud by ineligible recipients, should:</p> <ul style="list-style-type: none"> <li>enhance its systems and processes to determine and record the cause of overpayments and take action to reduce the total number; <b>Status: Little or no progress.</b></li> <li>explore additional measures to reduce the number of undetected eligibility changes or instances of intentional fraud. <b>Status: In the process of being implemented by December 2021.</b></li> </ul>	<p>The Ministry has not yet taken steps to address this recommendation. Although the Ministry has not established a timeline for addressing this recommendation, the Ministry indicated that it plans to assess and analyze potential system enhancements to better document overpayment creation reasons and identify root causes in order to take preventative action.</p> <p>The Ministry noted that it revised its process for assessing and investigating allegations of fraud, and that it was introducing the revised process to its local ODSP offices in phases throughout 2021. The Ministry indicated that it expects to provide training on the new process to all caseworkers, as well as administrative support clerks and managers involved in assessing and investigating fraud allegations by the end of 2021. In addition, the Ministry indicated that by the end of 2021, it plans to implement a process and tools to monitor the performance of the revised process for assessing and investigating allegations of fraud.</p>
<p><b>Recommendation 12</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should complete medical reviews on a timely basis. <b>Status: In the process of being implemented by December 2021.</b></p>	<p>The Ministry has taken steps to reduce the backlog of overdue medical reviews from 19,000 in March 2019, to 12,450 at the end of April 2021. The Ministry informed us that it expects to complete the remaining overdue medical reviews by December 2021.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 13</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, to improve the employment outcomes of non-disabled adults on the Ontario Disability Support Program, should:</p> <ul style="list-style-type: none"> <li>review its process for adult dependent referrals to Ontario Works employment assistance to improve their ability to obtain timely employment;</li> <li>monitor whether all adult dependents have been referred to Ontario Works employment assistance or have a valid waiver in place;</li> </ul> <p><b>Status: Little or no progress.</b></p> <ul style="list-style-type: none"> <li>put in place mechanisms to confirm that local ODSP offices, managers, and caseworkers comply with legislative and policy requirements for ODSP and employment support programs.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry has made little progress toward implementing these recommendations. In February 2019, the Ontario government announced a plan to transform employment services. The plan includes a new service delivery model to integrate social assistance employment services into Employment Ontario under the Ministry of Labour, Training and Skills Development (MLTSD). MLTSD selected three service system managers for three different catchment areas where the prototype for the new employment services model began to be provided in January 2021. The Ministry identified that the transformation of employment services is targeted to be rolled out across the province by the end of 2023.</p> <p>In the meantime, the Ministry noted it planned to enhance ODSP caseworker awareness of Employment Ontario's suite of training and employment supports and to review the ODSP non-disabled caseload in order to refer them to employment assistance activities or to ensure that a valid waiver from participating in employment assistance activities is in place.</p> <p>The Ministry has made little progress toward implementing this recommendation. The Ministry identified that by January 2023, the Ministry would design a strengthened accountability model for Ontario Works that includes a new performance framework and an enhanced service agreement. As part of the new accountability model, the Ministry indicated that it will explore including compliance requirements related to participation in employment assistance activities for non-disabled adults on ODSP.</p>
<p><b>Recommendation 14</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to effectively manage staffing caseloads, should:</p> <ul style="list-style-type: none"> <li>identify and implement measures to improve the efficiency and effectiveness of caseworkers' work and enable caseworkers to spend more time on high-impact client work;</li> </ul> <p><b>Status: Little or no progress.</b></p> <ul style="list-style-type: none"> <li>take steps to reduce inefficiencies.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry released its Vision for Social Assistance Transformation in February 2021 that outlines plans for a new social assistance delivery model where municipalities provide life stabilization support for ODSP recipients. The Ministry identified that as part of its design of a new delivery model it will also develop a staffing model to define the roles and responsibilities of caseworkers, and that the staffing model will factor in workloads and caseloads. The Ministry expects to complete the design of the new delivery model by June 2022 and to implement the model by June 2024.</p> <p>The Ministry had not yet taken steps to address this recommendation. The Ministry indicated that it intends to complete the implementation of the new social assistance delivery model, including the associated staffing model, by June 2024.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 15</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to ensure employment support programs benefit ODSP recipients, should:</p> <ul style="list-style-type: none"> <li>regularly assess the needs of the population of ODSP recipients and identify those who may benefit from appropriate employment supports; <b>Status: Little or no progress.</b></li> <li>regularly provide the information on employment supports to those ODSP recipients who may benefit from them; <b>Status: Little or no progress.</b></li> <li>track and analyze the employment outcomes by employment service provider (for-profit and non-profit) and monitor if ODSP recipients receive long-term employment. <b>Status: Little or no progress.</b></li> </ul>	<p>The Ministry has not made progress toward implementing this recommendation. In February 2019, the Ontario government announced a plan to transform employment services. The plan includes a new service delivery model to integrate social assistance employment services into Employment Ontario under the Ministry of Labour, Training and Skills Development (MLTSD). The Ministry identified that the transformation of employment services is targeted to be rolled out across the province by the end of 2023. With the transformation of employment services, the Ministry indicated that it will obtain more information from ODSP recipients interested in employment services. ODSP recipients interested in employment services will complete the Common Assessment tool – an employment readiness assessment tool, shared between the Ministry and Employment Ontario.</p> <p>The Ministry has not undertaken specific steps to address this recommendation.</p> <p>The Ministry has not made progress toward implementing this recommendation. The Ministry identified that social assistance employment services are being integrated into Employment Ontario under MLTSD. The transformed employment services are targeted to be rolled out across the province by the end of 2023. The Ministry noted that the scope of the transformation of employment services includes the development of a monitoring and evaluation framework that is intended to ensure that recipients' needs are met.</p>
<p><b>Recommendation 16</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services should work with the Ministry of Labour, Training and Skills Development to put in place processes that prevent payment to two different service providers for the same employment outcomes. <b>Status: Little or no progress.</b></p>	<p>The Ministry identified that it has not made progress toward implementing this recommendation. As described in <b>Recommendation 15</b>, social assistance employment services are being integrated into Employment Ontario under MLTSD. The transformed employment services are targeted to be rolled out across the province by the end of 2023. The Ministry identified that the scope of the transformation of employment services includes the development of a monitoring and evaluation framework that is intended to ensure that value-for-money is achieved.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 17</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Children, Community and Social Services, in order to make informed and publicly transparent decisions using outcome-based information, should:</p> <ul style="list-style-type: none"> <li>• design and implement performance indicators and targets for the program and recipient outcomes;</li> <li>• regularly monitor the performance of the program against performance metrics; and</li> <li>• report publicly on program performance against performance metrics.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>The Ministry had made little progress in implementing these recommendations. The Ministry has developed a performance measurement framework for ODSP and designed performance indicators to measure program and recipient outcomes. However, the Ministry has not set targets for all its indicators and has not yet established a time frame for doing so. The Ministry indicated that following the release of the performance measurement framework, it will develop a set of monitoring reports to establish and report on performance against outcome targets.</p>

## Chapter 3

### Section 3.06

# Tarion Warranty Corporation

## Standing Committee on Public Accounts Follow-Up on *October 2019 Special Report*

On November 27, 2019, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2019 audit of Tarion Warranty Corporation. The Committee tabled a report on this hearing in the Legislature in February 2021. A link to the full report can be found at <http://www.auditor.on.ca/en/content/standingcommittee/standingcommittee.html>.

The Committee made 18 recommendations and asked the Ministry of Government and Consumer Services (Ministry) to report back by June 2021. The Ministry formally responded to the Committee on June 22, 2021. A number of the issues raised by the Committee were similar to the audit observations of our 2019 audit, which we followed up on in 2021. The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between March 2021 and September 2021, and obtained written representation from the Ministry of Government and Consumer Services and Tarion Warranty Corporation that effective November 16, 2021, they have provided us with a complete update of the status of the recommendations made by the Committee.

### Overall Conclusion

As of September 30, 2021, 67% of the Committee's recommended actions had been fully implemented, and 18% of the recommended actions were in the process of being implemented. There has been little or no progress on 11% of the recommended actions. In addition, 4% of the recommendations are no longer applicable.

### Detailed Status of Recommendations

**Figure 2** shows the recommendations and status details that are based on responses from the Ministry of Government and Consumer Services and Tarion Warranty Corporation, and our review of the information provided.

**Figure 1: Summary Status of Actions Recommended in February 2021 Committee Report**

Prepared by the Office of the Auditor General of Ontario

<b>RECOMMENDATION STATUS OVERVIEW</b>						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	1	1				
Recommendation 2	4	1	2	1		
Recommendation 3	1	1				
Recommendation 4	3		1			2
Recommendation 5	1		1			
Recommendation 6	4	4				
Recommendation 7	1	1				
Recommendation 8	3	3				
Recommendation 9	4	4				
Recommendation 10	2	2				
Recommendation 11	7	6		1		
Recommendation 12	3		2	1		
Recommendation 13	2	2				
Recommendation 14	4	1	1	2		
Recommendation 15	1	1				
Recommendation 16	2	2				
Recommendation 17	1		1			
Recommendation 18	1	1				
<b>Total</b>	<b>45</b>	<b>30</b>	<b>8</b>	<b>5</b>	<b>0</b>	<b>2</b>
<b>%</b>	<b>100</b>	<b>67</b>	<b>18</b>	<b>11</b>	<b>0</b>	<b>4</b>

**Figure 2: Committee Recommendations and Detailed Status of Actions Taken**

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
<p><b>Recommendation 1</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Government and Consumer Services protect the interests of home buyers and ensure that homebuilders fulfill their warranty by formally requiring that Tarion's board of directors maintain a balance between representing the interests of homebuyers and home builders while maintaining consumer protection in its decision-making.</p> <p><b>Status: Fully implemented.</b></p>	<p>In our 2019 audit, we found that the Ontario Home Builders Association (OHBA), who represents the interests of the province's residential homebuilders, were heavily involved in Tarion decisions, where Tarion policy required that eight of the 16 directors on its Board be members of, and nominated by, the OHBA. The relationship between the Tarion Board and the OHBA created an imbalance over the years that favoured the interests of builders at the expense of homebuyers.</p> <p>In our follow-up we found that the Minister of Government and Consumer Services issued an order on November 27, 2019, to make changes to the structure of the Tarion Board, where no more than 34%, or four out of 12 director positions on the Tarion Board shall be drawn from builders, or individuals representing builders. The Minister also reduced the size of the Tarion Board from 16 directors to 12. These changes were done to create more balance between the interests of homebuyers and home builders, and to ensure that no stakeholder's interest is favoured over another.</p>
<p><b>Recommendation 2</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>• remove its two 30-day deadlines and allow homeowners to submit requests for assistance at any time during the first year of ownership;</li> </ul> <p><b>Status: In the process of being implemented by December 2022.</b></p> <ul style="list-style-type: none"> <li>• eliminate the 30-day deadline to request a home inspection;</li> </ul> <p><b>Status: In the process of implementing changes by December 2022.</b></p> <ul style="list-style-type: none"> <li>• permit homeowners to update their listing of unresolved defects after submitting the initial listing;</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>During our 2019 audit, we found that Tarion restricted the times when homeowners may ask for its help in a warranty dispute with builders. Homeowners could only ask Tarion for help during the first 30 days and last 30 days of the first year of occupancy of their home. In addition, homeowners had a 30-day window to request an inspection from Tarion. These restrictions made it more difficult for homeowners to seek help from Tarion.</p> <p>In our follow-up, we found that effective September 14, 2020, Tarion put in place temporary measures by adding a 10-day grace period for its two 30-day deadlines, and its 30-day deadline to request a home inspection, to increase the time homeowners have to access help from Tarion. Tarion told us that it is in the process of assessing options to formally change deadlines for homeowners to submit requests for assistance through regulatory change. At the time of our follow-up, Tarion was in the process of obtaining approval from the Ministry of Government and Consumer Services to hold consultations with stakeholders to seek input on changes to its 30-day deadlines. Tarion plans to finalize the public input on a final proposal and announce these changes in fall 2021. The changes will be implemented in 2022.</p> <p>In our 2019 audit, we found that homeowners were allowed to provide only one listing of unresolved defects to Tarion in each 30-day window of the first-year warranty, and could not subsequently amend those listings. Tarion accepted only the first listing of defects and rejected all subsequent ones.</p> <p>In our follow-up, we found that effective September 14, 2020, Tarion has allowed homeowners to make amendments and additions to initial lists of unresolved defects submitted to Tarion. Homeowners can now make changes to add more items to lists over the course of the first 30 days and last 30 days of the first year of occupancy of their home. Tarion also implemented on a temporary basis, a 10-day grace period for its two 30-day deadlines, which gives homeowners more time to request help from Tarion.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>significantly reduce the amount of time provided to builders to resolve defects before stepping in to help homeowners, and establish prescribed, transparent, and appropriate timeframes for fixing defects.</li> </ul> <p><b>Status: Little or no progress.</b></p>	<p>In our 2019 audit, we found that when Tarion received a request for help from a homeowner, Tarion gave the builder 120 days to resolve the issues directly with the homeowner. As a result, homeowners had to wait a minimum of four months before they can ask Tarion for an inspection to assess the unresolved defects. When Tarion accepted a homeowner's second request for assistance, it sent another email to the builder asking it to resolve the dispute within 30 days. After 30 days, if it is not resolved, Tarion may inspect the disputed defects and decide within yet another 30 days if the builder should have repaired the defects under warranty.</p> <p>In our follow-up, we found that Tarion is assessing its policy to reduce the 120-day builder repair period. At the time of our follow-up, Tarion was in consultation with stakeholders to seek input on changes to its builder repair period. Tarion expects to make regulatory change to reduce the 120-day builder repair period in December 2022, with implementation occurring no later than December 2023.</p>
<p><b>Recommendation 3</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation either eliminate the word "Warranty" from its name or select a new name that better reflects its mandate.</p> <p><b>Status: Fully Implemented.</b></p>	<p>In our audit in 2019, we found that the agency's name – Tarion Warranty Corporation – is confusing, and could also lead some consumers to believe that the warranty on their home is provided by Tarion rather than the builder.</p> <p>In our follow-up, we found that Tarion removed the word "warranty" from its name on all public-facing materials including its website, social media platforms, email signatures of Tarion staff and any materials provided to homeowners, including the Warranty Information Sheet (previously the Homeowner Information Package). We noted that Tarion did not change its legal business name to eliminate the word "warranty." Tarion told us that by February 2022, the Board will evaluate the next steps in this process, including whether Tarion's name will be changed legally.</p>
<p><b>Recommendation 4</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation address the issue of warranty coverage that starts before a house is truly finished by:</p> <ul style="list-style-type: none"> <li>redefining "finished house" for the purposes of homeowners' warranty rights and coverage period so that the one-year warranty period commences only once the home meets this new definition of a finished house;</li> </ul> <p><b>Status: No longer applicable.</b></p>	<p>In our 2019 audit, we found that Tarion's use of the Ontario Building Code's definition of a finished house/condominium effectively diminishes homeowners' warranty rights by potentially shortening the warranty coverage period. Builders have the right to initiate their warranty coverage as of the time a house meets the Ontario Building Code's minimum occupancy requirements, which only require that limited plumbing fixtures be complete and operational. Once the minimum occupancy requirements are met, a builder can require a homebuyer to take possession of a house, and thus, some builders could shorten their warranty coverage period by the amount of time it takes them to complete any outstanding work after the day they require the homebuyer to take possession of the unfinished house. During our 2019 audit, Tarion told us that it had no official policy to ask builders to extend the warranty for uninstalled items.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>developing a warranty that will protect homebuyers for unfinished items in their homes once the home has met the minimum occupancy standard, and ensuring that the one-year warranty coverage begins only after the items are finished; <b>Status: In the process of being implemented by December 2022.</b></li> <li>working with the relevant ministries to expand what must be completed to meet the minimum occupancy requirement in the Ontario Building Code so that new home buyers are appropriately protected by their warranty rights. <b>Status: No longer applicable.</b></li> </ul>	<p>In our follow-up, we found that the Ministry of Government and Consumer Services engaged in discussions with the Ministry of Municipal Affairs and Housing (MMAH) and determined that the requirements of what must be completed to meet the minimum occupancy requirement in the Ontario Building Code could not practically be expanded. Alternatively, Tarion established an internal working group to develop an extended warranty to protect homebuyers for unfinished items in their homes. The working group recommended:</p> <ul style="list-style-type: none"> <li>extending the one-year, two-year and seven-year warranties for an item that is missing or incomplete on the date of possession; and</li> <li>starting the extended warranties on the date on which the item is completed by the builder, or on the last possible date the builder could have made a repair.</li> </ul> <p>A consultation was completed to seek public input from stakeholder groups on the new extended warranty for unfinished items at the time of possession. At the time of our follow-up, Tarion was in the process of reviewing input received from stakeholders through its public consultation. Tarion plans to implement the extended warranty for unfinished items in December 2022.</p>
<p><b>Recommendation 5</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation increase the maximum limit of \$300,000 paid to homeowners when builders do not honour their warranty, to better reflect the costs of home construction in Ontario.</p> <p><b>Status: In the process of being implemented by December 2022.</b></p>	<p>In 2021, Tarion conducted a jurisdictional review of all warranty programs across Canada to benchmark the \$300,000 maximum against what is offered in other jurisdictions. Tarion also engaged a third party to provide the average construction costs for homes in Ontario to compare a rebuild cost to the warranty maximum. Tarion has developed recommendations for potential changes to the maximum and plans to conduct public consultation by the end of 2021, with changes to be implemented by December 2022.</p>
<p><b>Recommendation 6</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>specify what evidence must be submitted by builders to justify exempting inspection results from Tarion’s licensing decisions; <b>Status: Fully implemented.</b></li> <li>verify with homeowners any allegations made against them by builders in all cases before approving the exemption of an inspection from a licensing decision; <b>Status: Fully implemented.</b></li> <li>review and update current policies to provide more guidance to inspectors for making decisions on exemptions, and require that they document their decision; <b>Status: Fully implemented.</b></li> </ul>	<p>In our 2019 audit, we found that Tarion did not always factor a builder’s record of poor warranty service into its licensing decisions. Tarion found that builders did not honour their homeowner warranty in about two-thirds, or 4,133 of its 6,485 warranty-dispute decisions between 2014 and 2018, but factored into its licensing decisions only half of these 4,133 cases. Tarion excluded the other 2,033 cases because builders alleged that homeowners prevented them from honouring their warranty. However, we found that Tarion was exempting the inspection from consideration in its licensing decision based only on information provided by the builder, without verifying the builder’s explanation directly with the homeowner, as required by Tarion’s own policy.</p> <p>In our follow-up, we found that as of May 2020, Tarion updated its policy to clearly specify what evidence builders must submit to apply for exemptions in licensing decisions. This policy is used by inspectors when making decisions on exemptions. Builders are now required to provide evidence to Tarion if an exemption is to be granted. For example, if a builder is requesting an exemption because a homeowner denied access to their home to repair a defect, the builder must provide correspondence with the homeowner to prove that access was denied. Tarion told us that it will then verify any evidence obtained from the builder with the homeowner.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>publicly report the number of times each year that approval was given to exempt inspection results from licensing decisions.</li> </ul> <p>Status: Fully implemented.</p>	<p>In addition, Tarion, as part of its policy, performs monthly audits of all cases where an exemption was applied to a builder to ensure Tarion's policy is being followed. Any discrepancies with the policy are presented to Tarion's senior management on a monthly basis for further action.</p> <p>We also found that effective April 1, 2020, Tarion updated its website to publicly report on the number of times each year that approval is given by Tarion to exempt inspection results against each builder's record. Up until February 1, 2021, Tarion was responsible for licensing builders. The government designated the Home Construction Regulatory Authority (HCRA) to regulate homebuilders. Upon their designation on February 1, 2021, the Home Construction Regulatory Authority became responsible for licensing builders.</p>
<p><b>Recommendation 7</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation strengthen its procedures to consider all data about a builder's past building-quality and warranty performance when deciding whether to grant a future licence.</p> <p>Status: Fully implemented.</p>	<p>In our 2019 audit, we found that for years, Tarion had a policy in place to not factor into its licensing decisions any major structural defects caused by builders, and to not recover from builders the compensation it paid out for those defects. When Tarion licensed a builder, it did not take into consideration the homes with major structural defects that the builder constructed and sold, and the total cost Tarion incurred to resolve those issues. In July 2012, Tarion changed its policy to begin including such homes in builders' licensing decisions, but only if the house was sold after July 2012. Even with this policy change, Tarion still does not factor into its licensing decisions the fact that a home with major structural defects was constructed and sold if the builder resolves the defects.</p> <p>In our follow-up, we found that in April 2020, Tarion implemented a new policy to broaden its review of a builder's past performance for licensing decisions. The new policy requires Tarion to consider in its review the total number of defects caused by builders, the severity and the type of warranted defects.</p>
<p><b>Recommendation 8</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>identify the best available external evidence (e.g., financial statements, promissory notes) that builders should provide when applying for a licence to establish that they have the financial means to complete proposed projects and honour their warranty obligations;</li> </ul> <p>Status: Fully implemented.</p>	<p>In our 2019 audit, we found that Tarion licensed builders without obtaining evidence to confirm that they have access to the financial resources necessary to complete proposed projects and cover the potential costs of their warranty obligations. More specifically, licence applicants were not required to submit to Tarion any specific documents, for instance a letter from a financial institution, which would confirm they have access to financial resources.</p> <p>In our follow-up, we found that in February 2020, Tarion conducted an internal analysis to determine what evidence could be used to assess a builder's financial means. As a result of the review, Tarion revised its policy to require a letter of intent from a financial institution for most new condominium builders. A letter of intent is a declaration from the lending institution that a preliminary commitment has been made to provide funding for the proposed construction project. Tarion's revised policy states that if Tarion identifies risks with the builder, such as rapid expansion from the initial project proposed, a letter of intent may be requested from experienced condominium builders. We noted that a letter of intent is not being required for new or experienced builders of freehold homes; however, Tarion's revised policy states that if the construction project is found to be larger in scope than what was initially proposed, a letter of intent would be required.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>review all reasons leading to the cancellation of construction projects and factor these reasons into future licensing decisions;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>always collect and review the required external evidence from builders before making a licensing decision.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In our 2019 audit, we found that between 2009 and 2018, builders in Ontario cancelled 460 condominium projects accounting for about 33,850 units. We were unable to determine how many of these projects were cancelled for financial reasons because Tarion did not previously collect that information. Tarion began asking builders for reasons and supporting documents for cancelling condominium projects only in 2018, and as a result, it could not factor this information into licensing decisions when approving a builder for new construction projects.</p> <p>In our follow-up, we found that Tarion has continued to collect information from builders on reasons for cancelling condominium projects since 2018. Since January 2018, 51 condominium projects were cancelled. From collecting information from builders, Tarion found that about 45% were cancelled due to the inability to achieve satisfactory financing, 21% due to the inability to meet the required sale threshold, and 18% were cancelled due to zoning/municipal approval delays. With the tracking of this information in its information system, Tarion now plans to use this information when evaluating the risk of future projects proposed by these builders. As of February 2021, responsibility for assessing the conduct of home builders was transferred to the Home Construction Regulatory Authority, which is now responsible for licensing new home builders. Tarion retains the authority to approve construction projects.</p>
<p><b>Recommendation 9</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>establish and release publicly a builder code of conduct that clearly defines actions and behaviours by builders that would constitute dishonest conduct and/or lack of ethics and integrity;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>establish clear consequences for builders who breach the code of conduct;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>commit sufficient staff resources to initiate and complete investigations into all homeowners' complaints against builders on a timely basis;</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In our 2019 audit, we found that about 80% of investigations into complaints against builders resulted in no action taken against the builder. We found that Tarion did not consider the seriousness of these allegations when it renewed builders' licences; nor had it established a builders' code of conduct to define the actions and behaviours that would constitute dishonest conduct and lack of integrity. As a result, it was difficult for Tarion to verify whether the allegations were founded. Tarion staff who conducted these investigations told us that it was difficult to determine when builders acted dishonestly or without integrity because Tarion had no code of conduct to define these terms.</p> <p>In our follow-up, we found that this action item was assigned to the Home Construction Regulatory Authority (HCRA) for implementation. The Home Construction Regulatory Authority issued a guide called "Good Conduct for New Home Builders" and published the guide on its website. The guide was updated in July 2021 to reflect the introduction of an enforceable Code of Ethics regulation and expectations for good conduct along with potential actions that can be taken for any builder found not following the code of conduct. For example, the guide explains that if a builder is found to not have reasonably met the expectations of good conduct, HCRA may refer an issue to the discipline committee, or in severe cases, issue a Notice of Proposal to refuse, suspend or revoke a licence or impose conditions on a licence.</p> <p>In our 2019 audit, we found that as of June 30, 2019, there was a backlog of 41 complaints received in the five-year period from 2014 to 2018 that had not been investigated. All complaints were outstanding for more than six months, with some dating back to early 2017. Tarion told us that the backlog was due to limited staffing resources.</p> <p>In our follow-up, we found that the backlog of 41 complaints was cleared.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>take into account important, relevant information confirmed through investigations (e.g., criminal record, convictions, bankruptcy, history of illegal building, information from other jurisdictions) in re-licensing decisions for builder code-of-conduct violations.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In our 2019 audit, we found that when allegations of inappropriate behaviour by builders were not investigated on a timely basis, this information was not available to be considered in renewing a builder's licence to put up new homes.</p> <p>In our follow-up, we found that the responsibility of investigating complaints against builders was transferred to the Home Construction Regulatory Authority in February 2021. Using a newly established guide for builder conduct, the Home Construction Regulatory Authority told us that it ensures investigations into any complaints against builders are conducted on a timely basis in order to ensure that this information can be available for consideration in renewing a builder's licence.</p>
<p><b>Recommendation 10</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>establish clear and specific criteria to help determine when a builder's licence should be restricted or revoked for Code violations;</li> </ul> <p><b>Status: Fully implemented.</b></p> <ul style="list-style-type: none"> <li>implement a risk-based inspection process to inspect homes for compliance with the Code during construction.</li> </ul> <p><b>Status: Fully implemented.</b></p>	<p>In our 2019 audit, we found that Tarion had not established clear and specific criteria to determine how many Building Code violations have to occur before a builder's licence is revoked or restricted.</p> <p>In our follow-up, we found that in April 2020, Tarion revised its policy to include clear criteria that can be used to determine whether a builder's licence should be restricted or revoked for Code violations. For example, if Tarion finds that a builder had Code violations that do not pose a significant risk to health and safety, a warning letter will be issued. If Code violations are found to pose a minor risk to health and safety and a warning letter was issued in the past, a restriction on the builder's licence will be imposed. Lastly, if Code violations pose a significant risk to health and safety and the builder is unwilling or unable to correct them, the builder will face a licence revocation. The responsibility of applying this policy was transferred to the Home Construction Regulatory Authority in February 2021.</p> <p>In our 2019 audit, we found that under the <i>Ontario New Home Warranties Plan Act</i>, Tarion could inspect houses and townhouses at the time of construction to assess whether builders are following the Code. Tarion could therefore make compliance with the Code a licensing requirement for builders and conduct risk-based inspections of homes built by those who have had Code violations in the past. However, historically, Tarion did not do these types of risk-based inspections.</p> <p>In our follow-up, we found that Tarion took steps to implement a process to inspect houses and townhouses at the time of construction to assess whether builders are in compliance with the Code using a risk-based approach. In 2020, Tarion identified 30 builders with recent Code violations. Tarion found that 13 of the 30 builders had no new construction projects to inspect. Tarion staff conducted inspections of six builders and identified no significant risks during the inspection. Due to COVID restrictions in 2020, the remaining 11 builders were inspected in 2021.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 11</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation add the following information about each licensed builder, in clear and easy-to-understand language, to the Ontario Builder Directory:</p> <ul style="list-style-type: none"> <li>• all results of Tarion Warranty Corporation investigations that found the builder's behaviour lacked honesty and integrity; <b>Status: Fully Implemented.</b></li> <li>• past convictions for illegal building activities; <b>Status: Fully implemented.</b></li> <li>• the number and percentage of homes with major structural defects that a builder constructed each year; <b>Status: Fully implemented.</b></li> <li>• the amount of money a builder paid or owed to Tarion Warranty Corporation; <b>Status: Fully implemented.</b></li> <li>• the number of defects under warranty that a builder refused to repair; <b>Status: Fully implemented.</b></li> <li>• the number of defects the builder refused to repair that were due to the builder's noncompliance with the Ontario Building Code; <b>Status: Fully implemented.</b></li> <li>• cancellation of projects and reasons for the cancellation. <b>Status: Little or no progress.</b></li> </ul>	<p>In our 2019 audit, we found that the Ontario Builder Directory (Directory), compiled by Tarion for public use, was missing information that could help prospective homebuyers make a more informed choice when selecting a builder. Tarion did not include in the Directory the results of Tarion investigations that found the builder's behaviour lacked honesty and integrity.</p> <p>In our follow-up, we found that the Home Construction Regulatory Authority is in the process of updating the Directory to include investigation results related to lack of honesty and integrity.</p> <p>In our 2019 audit, we found that the Ontario Builder Directory, compiled by Tarion for public use, did not include past convictions for illegal building activities.</p> <p>In our follow-up, we found that the Directory had been updated to include charges and convictions related to illegal building activities.</p> <p>In our 2019 audit, we found that the Ontario Builder Directory, compiled by Tarion for public use, did not include the number and percentage of homes a builder constructed with major structural defects.</p> <p>In our follow-up, we found that the Directory had been updated to include information on major structural defects.</p> <p>In our 2019 audit, we found that the Ontario Builder Directory, compiled by Tarion for public use, did not include the amount of money a builder owes to Tarion that remains unpaid for costs that Tarion paid to homeowners when builders did not honour their warranty responsibilities.</p> <p>In our follow-up, we found that the Directory had been updated to include amounts remaining unpaid to Tarion by the builders.</p> <p>In our 2019 audit, we found that the Ontario Builder Directory, compiled by Tarion for public use, did not include the number of defects under warranty that a builder refused to repair.</p> <p>In our follow-up, we found that the Directory had been updated to include information on defects that a builder refused to repair.</p> <p>In our 2019 audit, we found that the Ontario Builder Directory, compiled by Tarion for public use, did not include the number of defects the builder refused to repair that were due to the builder's non-compliance with the Ontario Building Code.</p> <p>In our follow-up, we found that the Directory had been updated to include information on Ontario Building Code defects that the builder refused to repair.</p> <p>In our follow-up, the Ministry informed us that it will be working with the Home Construction Regulatory Authority to assess this recommendation and provide an update in 2022.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 12</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Government and Consumer Services:</p> <ul style="list-style-type: none"> <li>provide Tarion Warranty Corporation with the ability to directly fine any individuals and/or corporations found to have engaged in illegal home construction; <b>Status: In the process of being implemented by January 2023.</b></li> <li>establish an appeal process for individuals and/or corporations wishing to dispute the fines imposed by Tarion Warranty Corporation; <b>Status: In the process of being implemented by January 2023.</b></li> <li>establish a process by which Tarion Warranty Corporation can share information about illegal builders to governments (municipal, provincial, and federal) for investigation of potential tax evasion. <b>Status: Little or no progress.</b></li> </ul>	<p>In our 2019 audit, we found that in the past 10 years, Tarion has paid out \$19.8 million to homeowners to cover the cost of warranty repairs on 869 illegally built homes that builders refused to cover. We also found that it is very difficult and time-consuming for Tarion to successfully prosecute an illegal builder through the courts because it is a challenge to gather sufficient evidence to convict them. Even when Tarion does obtain a successful conviction, an illegal builder usually faces low fines that do not provide a strong deterrent.</p> <p>In our follow-up we found that sections 75 to 79 of the <i>New Home Construction Licensing Act, 2017</i> provide the Home Construction Regulatory Authority with the ability to implement administrative penalties. However, these sections of the <i>New Home Construction Licensing Act</i> have not been proclaimed. The Ministry of Government and Consumer Services is working with the Home Construction Regulatory Authority to develop a regulation to implement administrative penalties. Once the regulation has been drafted, the Ministry would publicly consult on the proposal to seek approval from the government to proclaim sections 75 to 79 of the <i>New Home Construction Licensing Act</i>.</p> <p>Implementation of this action item is dependent on the implementation of administrative penalties. The Home Construction Regulatory Authority has yet to develop a mechanism to fine any individuals and/or corporations found to have engaged in illegal home construction, along with an appeals process.</p> <p>In our audit in 2019, we found that there are significant financial incentives to build homes illegally. Builders avoid paying Tarion fees and, sometimes, a significant amount of tax, including HST and, under the principal residence capital gains tax exemption, income tax. All of these costs apply to the sales of new homes, built and sold by legal builders.</p> <p>In our follow-up, we noted that the Ministry of Government and Consumer Services is working with the Ministry of Finance to establish a process so that Tarion and the Home Construction Regulatory Authority can share illegal building information with the Ministry of Finance. The Ministry of Government and Consumer Services is in the process of reviewing privacy legislations to ensure information sharing is consistent with the <i>Freedom of Information and Protection of Privacy Act</i> and other privacy legislation.</p>
<p><b>Recommendation 13</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>procure a case-management system to increase staff efficiency on investigations into illegal building activities; <b>Status: Fully implemented.</b></li> </ul>	<p>In our 2019 audit, we found that there was no dedicated case-management system, which would help with the planning, prioritizing and tracking of investigations. Instead, staff must enter data into four different systems to document their work, which was time-consuming and inefficient.</p> <p>In our follow-up, we found that the Home Construction Regulatory Authority has implemented a new Customer Relations Management (CRM) System to facilitate compliance and investigations activities.</p>

Committee Recommendation	Status Details
<ul style="list-style-type: none"> <li>commit the necessary staff resources to eliminate the backlog of investigations by the end of the 2020/21 fiscal year. <b>Status: Fully implemented.</b></li> </ul>	<p>In our 2019 audit, we found that, as of June 30, 2019, Tarion had a backlog of 139 tips that it had not yet investigated, the majority of which (107) were received between 2018 and 2019. Of the remainder, four tips were from 2016 and 28 from 2017. Tarion had classified 24 of them as high priority, because they related to more than one illegally built home. Four more involved repeat offenders.</p> <p>In our follow-up, we noted that Tarion had eliminated the backlog.</p>
<p><b>Recommendation 14</b></p> <p>The Standing Committee on Public Accounts recommends that the Ministry of Government and Consumer Services:</p> <ul style="list-style-type: none"> <li>consider requiring, in statute, a binding agreement between Tarion and the Ministry that sets out Tarion Warranty Corporation's accountability; <b>Status: Fully implemented.</b></li> <li>establish a process to track and analyze information provided by Tarion Warranty Corporation; <b>Status: In the process of being implemented by December 2021.</b></li> <li>establish performance indicators and targets to measure Tarion Warranty Corporation's performance; <b>Status: Little or no progress.</b></li> <li>assess Tarion Warranty Corporation's performance against these targets on a regular basis and take corrective actions where necessary. <b>Status: Little or no progress.</b></li> </ul>	<p>In our 2019 audit, we found that there was no statutory requirement for an agreement between the Ministry of Government and Consumer Services and Tarion to set out the accountability relationship and the respective authorities and responsibilities of the two parties, as there was with most other administrative authorities and the Minister.</p> <p>In our follow-up, we noted that the government passed legislative changes that require Tarion to sign a binding administrative agreement with the Minister. Tarion and the Minister entered into a new Administrative Agreement on February 26, 2021.</p> <p>In our audit in 2019, we found that the Ministry of Government and Consumer Services could not effectively evaluate whether Tarion was fulfilling its mandate and could not make informed decisions to seek improvements because it did not have effective systems and processes to ensure it collected the right information from Tarion.</p> <p>In our follow-up, we noted that the Ministry of Government and Consumer Services developed preliminary recommendations for enhancing the key operating statistics that Tarion reports to the Ministry. Once the metrics are finalized, a formal business process and protocol is to be developed for the Ministry to track and analyze data provided by Tarion.</p> <p>As mentioned above, the Ministry of Government and Consumer Services is in the process of developing appropriate performance measures, targets and assessment approaches.</p> <p>This recommendation will be implemented once the Ministry of Government and Consumer Services has identified appropriate performance measures, targets and assessment approaches.</p>
<p><b>Recommendation 15</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation should require staff who perform home inspections to obtain the Ontario Building Code certification or a professional equivalent including the necessary training, background, and understanding to ensure that inspections involving possible violations of the Ontario Building Code are conducted appropriately. <b>Status: Fully implemented.</b></p>	<p>In our audit in 2019, we found that some Tarion staff assigned to assist homeowners in resolving their warranty disputes did not have the appropriate qualifications. At the time of our audit, we found that only 16 of Tarion's 51 inspection staff had the Code certification, and Tarion had no process to ensure that qualified staff always perform the more complex inspections, which are more likely to relate to non-compliance with the Code.</p> <p>In our follow-up, we found that Tarion implemented a policy and training that ensures all potential Ontario Building Code issues are reviewed by Ontario Building Code qualified persons before a final assessment is made. In addition, Tarion also hired two directors with an in-depth understanding of the Ontario Building Code to oversee the inspection program.</p>

Committee Recommendation	Status Details
<p><b>Recommendation 16</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion Warranty Corporation:</p> <ul style="list-style-type: none"> <li>review and revise the key performance indicators it uses in the corporate performance scorecard to reflect its mandate of regulating builders and assisting homeowners with warranty disputes; <b>Status: Fully implemented.</b></li> <li>undertake a review to assess the current bonus pay method to determine whether it is consistent with public-sector practices, and adjust it accordingly. <b>Status: Fully implemented.</b></li> </ul>	<p>In our 2019 audit, we found that five of the 11 key performance indicators used in the corporate performance scorecard incentivized Tarion to maximize profit and minimize expenses, which can have the unintended consequence of keeping claims payouts to a minimum. Tarion's compensation policies for senior executives appeared misaligned with the spirit and intent of the <i>Ontario New Home Warranties Plan Act</i>, which is to regulate builders and assist homeowners with warranty disputes.</p> <p>In our follow-up, we found that Tarion delinked all key performance indicators related to financial measures from its incentive plan. In addition, Tarion also included more performance indicators to measure Tarion's services to consumers, such as call response time in the Call Centre, timeliness of inspections, and issuance of Warranty Assessment Reports within established time frames.</p> <p>In our 2019 audit, we found that Vice Presidents and higher could earn bonuses worth 30% to 60% of their annual salaries, and that senior management accounted for one-third of the \$2 million paid in bonuses in 2018.</p> <p>In our follow-up, we found that Tarion adjusted the compensation of its executive team members following a compensation study undertaken by a consultant it retained in January 2020. According to the new compensation structure, the maximum amount of bonus a senior management team member can earn is 30% of their annual salary. The recent changes to the compensation are expected to yield a savings of about \$700,000 per year.</p>
<p><b>Recommendation 17</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion incorporate their financial statements in their public annual report, including an extensive quantitative and qualitative analysis that should include, but not be limited to, operations, compensation, legal expenses including and delineating those incurred with respect to homebuyer appeals, discussion of the reserve fund and claims, rationale and a trend analysis on this information.</p> <p><b>Status: In the process of being implemented by December 2022.</b></p>	<p>Tarion accepts this recommendation and has taken steps to add full audited financial statements and more qualitative analysis on its operations to its 2020 public annual report. In its 2021 public annual report, Tarion plans to include more information on legal expenses. Tarion will take steps to ensure this information is incorporated into all future annual reports going forward.</p>
<p><b>Recommendation 18</b></p> <p>The Standing Committee on Public Accounts recommends that Tarion should base its executive compensation on a reasonable industry standard that is based on the compensation paid by comparable organizations.</p> <p><b>Status: Fully implemented.</b></p>	<p>In our follow-up, we found that Tarion evaluated the executive compensation structure and made changes to align it with comparable organizations, including public-sector organizations.</p> <p>Tarion also reduced the number of executives by three and reduced the compensation of the CEO and other executives. Executive bonus pay has also been lowered from the range of 30–60%, as identified in the audit report, to 15-30%.</p>

# Status on Audit Recommendations from 2014 to 2020

## 1.0 Summary

All of our value-for-money audit reports include recommended actions that aim to promote accountability, transparency, increased efficiency and cost-effectiveness and better service delivery for Ontarians. An important part of our Office's work is to assess the progress made by ministries, Crown agencies and broader-public-sector organizations (collectively referred to as organizations) in implementing these recommended actions.

Two years after we table our audit reports, we assess the status of the recommendations that organizations agreed to implement when the initial audit was completed (**Chapter 1** of this volume contains the status on recommendations from our *2019 Annual Report*). After the two-year assessment is completed, we continue to track the status of our unimplemented recommendations for an additional three to five years.

In **Section 4.0**, we also report on the implementation status of recommendations made by the Standing Committee on Public Accounts (Committee).

Between 2014 and 2018, we reviewed a total of 74 ministries, Crown agencies and broader-public-sector organizations, issued 71 value-for-money audit reports and recommended 1,756 (1,496 from 2013 to 2017) actions overall in value-for-money audit reports.

From this year's work, we noted the following:

- **Organizations are not accurately assessing their implementation statuses for recommended actions.** We found that of the 289 value-for-money and Committee-recommended actions that organizations self-assessed as “fully implemented” this year, we accepted only 48% (or 138) as fully implemented. Last year, of a total of 186 actions that organizations self-assessed as “fully implemented,” we accepted only 24% (or 44), as in fact, fully implemented. Although organizations made efforts in 2021 to more appropriately self-assess the status of their recommended actions, work in this area is still required.
- **Overall, the implementation rates of recommended actions have increased from the time of our two-year follow-up to when we reviewed their implementation this year, as shown in Figure 1.** The rate increased from 41% to 76% for recommended actions issued in 2014; from 36% to 61% for recommended actions issued in 2015; from 34% to 50% for recommended actions issued in 2016; from 31% to 39% for recommended actions issued in 2017; and from 42% to 48% for recommended actions issued in 2018.
- **Although the implementation rates are generally increasing, this year the rates have increased only minimally, by 4% to 6%, between 2020 to 2021.** As seen in **Figure 1**, the implementation rate of recommended actions from our *2014 to 2018 Annual Reports* increased

**Figure 1: Overview of Follow-Up of Our 2014 to 2018 Annual Reports Recommended Actions**

Prepared by the Office of the Auditor General of Ontario

Continuous Follow-Up Year	% Fully Implemented	# of Recommended Actions Still Outstanding
<b>2014 Recommended Actions</b>		
At two-year follow-up (2016)	41	172
2017	49	144
2018	66	95
2019	70	83
2020	72	78
2021*	76	66
<b>2015 Recommended Actions</b>		
At two-year follow-up (2017)	36	176
2018	52	133
2019	54	126
2020	56	120
2021*	61	107
<b>2016 Recommended Actions</b>		
At two-year follow-up (2018)	34	259
2019	41	229
2020	45	211
2021	50	192
<b>2017 Recommended Actions</b>		
At two-year follow-up (2019)	31	245
2020	34	235
2021	39	216
<b>2018 Recommended Actions</b>		
At two-year follow-up (2020)	42	240
2021	48	214

\* The statuses of implementation were based on organizations' self-assessed statuses.

by only 4% to 6%, between 2020 and 2021, for each Annual Report year. However, in some cases, this was due to potential program changes and long-term strategies, or to the creation of new organizations. Some organizations also attributed the slower implementation of our recommended actions this year to the COVID-19 pandemic and its ongoing impact on their regular operations.

- **Implementation continues to lag for short-term recommendations.** We consider recommended actions as short-term if they could reasonably be implemented within two years. We continue to note a lower-than-expected implementation rate for these recommended actions. The following short-term recommended actions remain outstanding: 17% from 2014 (seven years ago); 33% from 2015 (six years ago); 43% from 2016 (five

years ago); 56% from 2017 (four years ago); and 48% from 2018 (three years ago). By now, we would have expected all of these recommended actions to have been implemented.

- **Recommended actions addressing public reporting, access to care or services, effectiveness and funding allocation have the lowest implementation rates.** From a review of all recommended actions issued from 2014 to 2018, we noted that those addressing public reporting, access to care or services, effectiveness and funding have the lowest implementation rates. The following are some examples of recommended actions that are still outstanding related to these categories:
  - In our 2015 report on Long-Term-Care Home Quality Inspection Program, we recommended that the Ministry of Long-Term Care summarize and report the number of instances identified of non-compliance, for individual homes and on a provincial basis, and when they were rectified so that the public gets better information for decision-making on long-term-care homes.
  - In our 2017 report on Community Health Centres, we recommended that the Local Health Integration Networks review overall operating funding provided to each Community Health Centre to ensure that the funding is commensurate with patient complexity, number of people served, geography and other relevant factors.
  - In our 2018 report on Ontario Works, we recommended that to hold municipal service managers accountable for delivering the Ontario Works program in compliance with the program's requirements, and to improve program outcomes, the Ministry of Children, Community and Social Services should update its contracts with service managers to include additional performance indicators and meaningful targets to measure service managers' progress in assisting Ontario

Works recipients find employment and become self-sufficient.

- **Some organizations are better at implementing our recommendations.** Eighteen organizations, with the majority being Crown agencies and broader-public-sector organizations, had fully implemented 75% or more of our recommended actions from our *2014 to 2018 Annual Reports*. These organizations included community hospitals, psychiatric hospitals, the Financial Services Regulatory Authority of Ontario, the Independent Electricity System Operator, Waterfront Toronto, the Ontario Energy Board, Treasury Board Secretariat, and some universities.
- **Some organizations are slow to implement our recommended actions.** We noted that several of the organizations we audited were slow in implementing our recommended actions, and that many of the same recommended actions we noted as outstanding last year are still outstanding in 2021. We urge these organizations to take the actions needed to implement our recommended actions that they committed to implementing when we conducted our original audits. Most notably, the following organizations had low implementation rates and a high number of outstanding recommended actions.
  - The Ministry of Health is responsible for implementing 366 recommended actions from 20 different audit reports included in our annual reports from 2014 to 2018. Currently, 65% or 237 of these recommended actions remain outstanding. An example of an outstanding recommendation can be found in our 2016 report on Housing and Supportive Services for People with Mental Health Issues, where we recommended that the Ministry work with housing agencies, to determine the profile of clients who are suitable to be transitioned to other forms of housing and develop a transition plan for these clients.
  - The Ministry of Children, Community and Social Services is responsible for

implementing 116 recommended actions from six different audits conducted between 2014 and 2018. Currently, 64% or 74 of these actions are still outstanding. The audits with the highest number of outstanding recommended actions are Ontario Works in our *2018 Annual Report*, which has 94%, or 32 of 34 still outstanding; and Settlement and Integration Services for Newcomers in our *2017 Annual Report*, which has 77% or 17 of 22 still outstanding. An example of an outstanding recommended action can be found in our 2018 report on Ontario Works. We recommended that where recipients are determined to be ineligible for Ontario Works, the Ministry should take appropriate action to terminate their payments and recover any overpayments so that only eligible individuals receive financial assistance from Ontario Works.

- The Ministry of the Environment, Conservation and Parks is responsible for implementing 78 recommended actions from four audit reports between 2014 and 2018. Currently 60%, or 47, remain outstanding from these reports. The majority of the outstanding actions are related to two reports from 2016, Environmental Approvals and Environmental Assessments. An example of an outstanding recommendation can be found in our 2016 report on Environmental Assessments where we recommended that the Ministry finalize its guideline for assessing the cumulative effects of projects as soon as possible. The guideline should apply to both comprehensive and streamlined environmental assessments in order to ensure that the cumulative effects of projects are assessed to prevent or minimize environmental damage.
- The Ministry of the Solicitor General is responsible for implementing 57 recommended actions from two audit reports, Emergency Management in Ontario (2017)

and Adult Community Corrections and Ontario Parole Board (2014). Currently, 68% or 39 of these recommended actions remain outstanding. An example of an outstanding recommendation can be found in our 2017 report on Emergency Management in Ontario where we recommended that the Ministry, through the Provincial Emergency Management Office, work with ministries to assess the effectiveness of its public education and awareness program to inform Ontarians on how to prepare for an emergency, such as weather events or power outages, and to inform them of the risks to be aware of. Another outstanding recommended action required that the Ministry through the Provincial Emergency Management Office work with ministries to implement a multi-year testing strategy based on high-risk and high-consequence events that periodically tests emergency response plans using a variety of testing methods.

- **Some organizations were also slow to implement the recommended actions issued by the Standing Committee on Public Accounts (Committee).** We noted that the following organizations made slow progress toward implementing the Committee's recommendations:
  - The Ministry of Children, Community and Social Services is responsible for implementing a total of 54 recommended actions from two Committee reports, of which 93% of these recommended actions remain outstanding.
  - The Ministry of Health is responsible for implementing a total of 142 recommended actions from seven Committee reports, of which two-thirds remain outstanding.
  - Infrastructure Ontario is responsible for implementing a total of 39 recommended actions from two Committee reports, of which 46% of these recommended actions remain outstanding.

## 2.0 How We Evaluated Implementation

We recommended a total of 1,756 actions in our 2014 to 2018 Annual Reports. Based on our review this year, we agreed with the organizations that 57 of the actions were “no longer applicable,” mainly because of changes in legislation or policies resulting in the organization no longer having responsibility to implement the recommended action. This left a total of 1,699 recommended actions.

We asked organizations to self-assess their progress in implementing their outstanding recommended actions, as of March 31, 2021, and to provide appropriate documentation to support their assessments.

Our review work consisted of inquiries and reviews of the supporting documentation for those recommended actions reported to be fully implemented to gain assurance that the recommended action was,

in fact, fully implemented. Where necessary, we also conducted sample testing to help determine the status.

We also reviewed information and documentation for recommended actions assessed as “no longer applicable” and “will not be implemented” to determine the reasonableness of the rationale for not completing them.

We conducted our work between April 1, 2021, and September 30, 2021, and obtained written representation from the organizations on October 15, 2021, that they provided us with a complete update of the status of the recommendations we made in the original audits. **Figure 2** provides a timeline of our continuing follow-up work on recommended actions that were issued in past reports.

As this follow-up work is not an audit, we cannot provide complete assurance that the recommended actions have been implemented effectively.

**Figure 2: Annual Timeline for Continuous Follow-Up Work**

Prepared by the Office of the Auditor General of Ontario

Time Period	Follow-Up Work
<b>Jan to beginning of Feb</b>	<ul style="list-style-type: none"> <li>Send commencement letters to Deputy Ministers, Assistant Deputy Ministers, Chief Executive Officers/ Presidents and Vice Presidents</li> <li>Send listing of outstanding recommended actions to ministries, Crown agencies, and broader-public-sector organizations (collectively referred to as organizations)</li> </ul>
<b>Beginning of Feb to end of Mar</b>	<ul style="list-style-type: none"> <li>Obtain implementation status and supporting documentation from organizations for outstanding recommended actions by March 31 of each year</li> </ul>
<b>Apr to Oct</b>	<ul style="list-style-type: none"> <li>Work with organizations to obtain sufficient appropriate evidence to support implementation statuses</li> <li>Review supporting documentation for each recommended action. In certain cases, also conduct further sample testing to determine the appropriate statuses of recommended actions.</li> <li>Upon completion of continuous follow-up work and discussions with management, where necessary, issue final summaries of implementation statuses for each report</li> <li>Obtain confirmations of the final summaries of implementation statuses from organizations</li> <li>Obtain signed Management Representation Letters from organizations</li> </ul>
<b>Nov to Dec</b>	<ul style="list-style-type: none"> <li>Prepare consolidated continuous follow-up report</li> <li>Consolidated continuous follow-up report is included into the Office of the Auditor General of Ontario's Annual Report which is tabled in the Legislature</li> </ul>

## 3.0 Detailed Observations for the Follow-Up on Value-for-Money Audit Recommendations

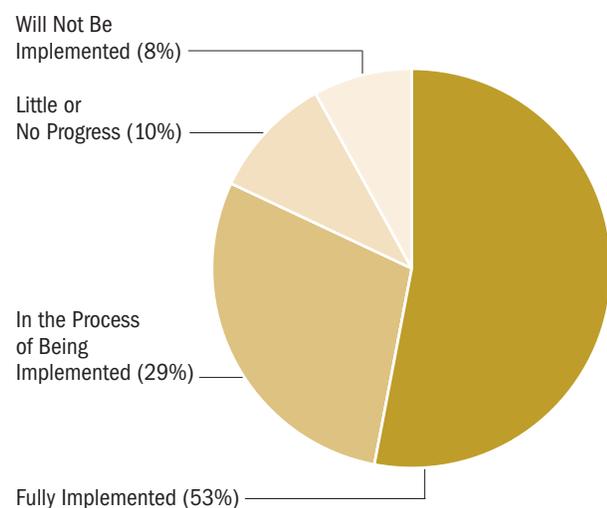
### 3.1 Some Improvement Noted in the Full Implementation Rate of Recommendations Followed Up on Last Year

Of the total 1,699 recommended actions that we expected to be implemented from our 2014 to 2018 Annual Reports, we found that 82% were either fully implemented or in the process of being implemented (83%—2020 for 2013 to 2017 Annual Reports); as shown in **Figure 3**, 53% had been fully implemented; 29% were still in the process of being implemented; a further 10% had little or no progress made on them; and for 8%, the organizations determined that the recommendations would not be implemented (as discussed in **Section 3.8**).

The full implementation rate of the total 1,338 recommended actions issued that we expected to be implemented from our 2014, 2015, 2016, and 2017 Annual Reports increased, from 50% in 2020 to 55% in 2021.

**Figure 3: Implementation Status of Recommended Actions Issued in Our 2014 to 2018 Annual Reports, as of March 31, 2021**

Prepared by the Office of the Auditor General of Ontario



For the first time this year, 418 recommended actions from our 2018 Annual Report were added to our continuing follow-up work. Currently 48% of these recommended actions have been fully implemented, an increase from the 42% that we reported in our 2020 Annual Report when we followed up on these recommended actions two years after issuing them.

**Figure 4** provides a detailed breakdown by year of the status of recommended actions issued in our 2014, 2015, 2016, 2017 and 2018 Annual Reports.

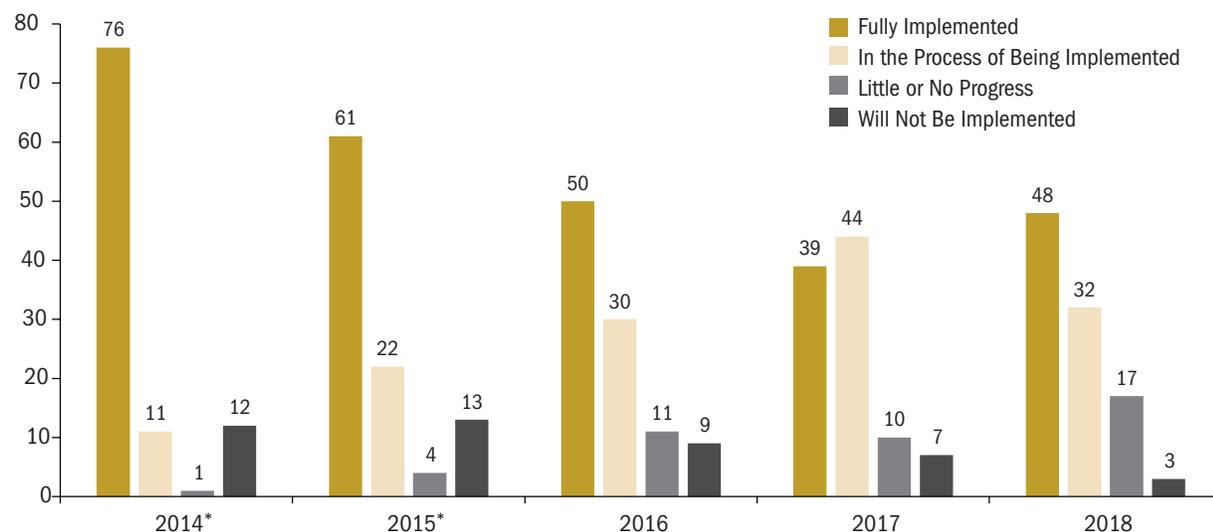
The progress of implementing the recommended actions in each of the 2014, 2015, 2016, 2017 and 2018 Annual Reports can be seen in **Figure 5**, beginning at the initial two-year follow-up and in 2017, 2018, 2019, 2020 and 2021 after we began tracking the implementation rates subsequent to the initial two-year follow-up. The full implementation rate of ministries, Crown agencies and broader-public-sector organizations from the time of our two-year follow-up has trended upwards: from 41% to 76% for recommended actions issued in 2014; from 36% to 61% for recommended actions issued in 2015; from 34% to 50% for recommended actions issued in 2016; from 31% to 39% for actions issued in 2017; and from 42% to 48% for actions issued in 2018.

As seen in **Figure 5**, the full implementation rate of recommended actions increased from 2020 to 2021. However, the increased implementation between these two years was minimal and ranged from 4% to 5%, for each Annual Report year. In some cases, recommended actions remained outstanding due to changes in programs and long-term strategies. Some organizations, such as the Ministry of Health, the Ministry of Long-Term Care and the Ministry of Education, attributed the slower implementation of our recommended actions this year to the ongoing impact of the COVID-19 pandemic on the organizations' regular operations.

As shown in **Appendix 1**, of the 57 organizations with recommended actions issued in our 2014 to 2017 Annual Reports, 17 organizations had fully implemented 75% or more of our recommended actions. These organizations include four psychiatric hospitals

**Figure 4: Implementation Status of Recommended Actions Issued in Our 2014 to 2018 Annual Reports, as of March 31, 2021**

Prepared by the Office of the Auditor General of Ontario



\* Statuses of implementation were based on organizations' self-assessed statuses.

**Figure 5: Progress Toward Full Implementation of Recommended Actions Issued in Our 2014 to 2018 Annual Reports**

Prepared by the Office of the Auditor General of Ontario

Annual Report Year	# Issued	Implementation Rate (%)					2021 Continuous Follow-Up
		At Two-Year Follow-Up	2017 Continuous Follow-Up	2018 Continuous Follow-Up	2019 Continuous Follow-Up	2020 Continuous Follow-Up	
2014	294	41	49	66	70	72	76 <sup>1</sup>
2015	276	36	n/a <sup>2</sup>	52	54	56	61 <sup>1</sup>
2016	408	34	n/a <sup>2</sup>	n/a <sup>2</sup>	41	45	50
2017	360	31	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	34	39
2018	418	42	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	n/a <sup>2</sup>	48

1. The statuses of implementation were based on organizations' self-assessed statuses.

2. The recommended actions issued in our 2015 to 2018 Annual Reports were not subject to the continuous follow-up work for the noted year(s).

(100%), Ontario Energy Board (91%), Financial Services Regulatory Authority of Ontario (88%), Treasury Board Secretariat (87%), three hospitals (87%), Ministry of Infrastructure (80%), two universities (77%), Metrolinx (76%), and the Independent Electricity Systems Operator (75%).

Organizations making the most improvements in implementing our recommended actions this year over last year include the Ministry of Agriculture, Food and Rural Affairs, Ministry of Infrastructure,

Ministry of Transportation, Agricorp and three universities.

Although the Ministry of Agriculture, Food and Rural Affairs has improved in implementing its recommended actions, it has still implemented less than 50% of the recommended actions issued in the 2014 to 2017 Annual Reports.

The following organizations have also implemented less than 50% of the recommended actions that we issued in our 2014 to 2017 Annual Reports: the

Ministry of Children, Community and Social Services, the Ministry of the Solicitor General, the Ministry of Health, the Ministry of the Environment, Conservation and Parks, the Ministry of Long-Term Care, the Ministry of Economic Development, Job Creation and Trade, Local Health Integration Networks, the Ministry of Municipal Affairs and Housing, the Ontario Land Tribunal as well as some school boards and Children's Aid Societies.

The Standing Committee on Public Accounts (Committee) could use this report to hold ministries, Crown agencies and broader-public-sector organizations, where applicable, accountable for recommended actions they committed to implementing. In **Appendix 2**, we have prepared possible questions that the Committee could consider using to hold organizations accountable for implementing some key recommended actions that we have issued in past reports that remain outstanding.

### 3.2 Positive Impacts of Implemented Recommendations on Ontarians

Many of the recommended actions in our value-for-money audit reports from 2014 to 2018 that have been fully implemented identified areas where services can be delivered more effectively to those who use them, or in ways that help ensure that taxpayer dollars are spent more economically and efficiently.

A few examples of recommended actions recently implemented include:

- Child and youth mental health agencies have reviewed and enhanced their processes to monitor the delivery of mental health services by assessing and implementing periodic quality assurance reviews of files at agencies to help ensure that children and youth receive appropriate and effective services.
- The Ministry of Labour, Training and Skills Development has employed enhanced monitoring efforts for all sites that fail to meet either the minimum provincial quality standard or their targeted service quality scores in effectiveness, customer service and efficiency. The Ministry has

also enhanced its monitoring efforts by ensuring that corrective action is taken within the timelines established so that Ontarians seeking employment and training services receive quality services.

- The Office of the Public Guardian and Trustee assessed the appropriateness of its current investment strategy, which consisted of three separate funds of varied risks, for its clients' investment needs and developed a plan to revise the strategy through other investment options in order to best serve the financial interests of guardianship clients and heirs of estates.
- The Ministry of Health has taken appropriate and timely action against vendors and authorizers who breach Assistive Devices Program policies (such as recovering overpayments from vendors and terminating vendors' and authorizers' registration status with the Ministry) to detect and deter potential misuse or abuse of funding from the Assistive Devices Program.
- The Ministry of Agriculture, Food and Rural Affairs provided farmers with the information and tools necessary to enable them to reasonably estimate their AgriStability payments.
- Large community hospitals have implemented adequate automatic logout functions for computers and information systems that contain patient information so that the safety of patients and their personal health information is safeguarded.

### 3.3 Recommendations Addressing Other Areas of Importance to Ontarians Have Not Been Implemented

We remain concerned about the recommended actions issued five or more years ago that have still not been implemented. Specifically, 24% of the 294 recommended actions issued in 2014 (seven years ago); 39% of the 276 recommended actions issued in 2015 (six years ago); and 50% of the 408 recommended actions issued in 2016 (five years ago) still remain outstanding, as shown in

**Figure 5.** By now, we would have expected all of these recommended actions to be implemented.

Many of the recommended actions not yet implemented from our *2014 to 2016 Annual Reports* address areas important to Ontarians such as mental health, housing, health and long-term-care. A few examples are:

- In our 2016 report on Child and Youth Mental Health, we recommended that the Ministry of Health expedite the creation of clear and co-ordinated pathways to core mental health services to help ensure that children and youth are connected with the right service regardless of where they seek service.
- In our 2016 report on Housing and Supportive Services for People with Mental Health Issues (Community-Based), we recommended that the Ministry of Health establish a goal for the number of mental health supportive housing units the province should have along with timelines to ensure the limited resources available are allocated across the province to meet the housing needs of those with mental illness.
- In our 2016 report on Specialty Psychiatric Hospital Services, we recommended that the Ministry of Health and Local Health Integration Networks determine the number of long-term psychiatric beds needed in each region of the province to meet the demand by Ontarians for these mental health services and to improve access to mental health services as close to their own communities as possible.
- In our 2015 report on Long-Term-Care Home Quality Inspection Program, we recommended that the Ministry of Long-Term Care hold long-term-care homes accountable by monitoring their performance using inspection results. This recommended action was also noted as still outstanding in our 2020 continuous follow-up report that was tabled in our *2020 Annual Report*; and it remains outstanding in this current year as well.
- In our 2014 report on Immunization, we recommended that the Ministry of Health establish targeted provincial immunization coverage rates for all vaccinations, and monitor whether they

are being achieved to promote higher vaccination coverage rates, including the achievement of herd immunity levels, and thereby protect Ontarians against the spread of vaccine-preventable diseases.

### 3.4 Implementation of Short-Term Recommendations Taking Longer than Expected

For the purposes of analysis, our Office classified outstanding recommended actions, at the time of the audit, into what would be reasonable time frames for ministries, Crown agencies and broader-public-sector organizations to implement recommended actions: either two years (short-term) or five years (long-term).

Of the total recommended actions from our *2014 to 2018 Annual Reports*, about 80% were considered to be short-term actions. **Figure 6** shows the short-term recommended actions from our *2014 to 2018 Annual Reports* and the percentages that were still outstanding in each of the follow-up years 2017, 2018, 2019, 2020 and 2021.

While the percentage of outstanding short-term recommended actions has decreased for each Annual Report year, 17% of the 220 issued in 2014, 33% of the 204 issued in 2015, 43% of the 303 issued in 2016, 56% of the 252 issued in 2017, and 48% of the 344 issued in 2018, were still outstanding. By now, we would have expected all of the short-term recommended actions from our *2014 to 2018 Annual Reports* to be implemented. Also, as seen in **Figure 6**, between 2020 and 2021, there were minimal decreases, ranging from 3% to 8%, in the percentage of outstanding short-term recommended actions.

### 3.5 Some Organizations Continue to Be Slow to Implement Our Recommended Actions

**Figure 7** shows the implementation rates for the 74 ministries, Crown agencies and broader-public-sector organizations that we audited and included in the

**Figure 6: Short-Term<sup>1</sup> Recommended Actions Outstanding**

Prepared by the Office of the Auditor General of Ontario

Annual Report Year	# Issued	% Outstanding in 2017	% Outstanding in 2018	% Outstanding in 2019	% Outstanding in 2020	% Outstanding in 2021
2014	220	39	25	22	20	17 <sup>2</sup>
2015	204	n/a <sup>3</sup>	44	41	39	33 <sup>2</sup>
2016	303	n/a <sup>3</sup>	n/a <sup>3</sup>	52	48	43
2017	252	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>	64	56
2018	344	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>	n/a <sup>3</sup>	48

1. Short-term recommended actions are those that can be reasonably implemented within two years.

2. The statuses of implementation were based on organizations' self-assessed statuses.

3. The recommended actions issued in our 2015, 2016, 2017 and 2018 Annual Reports were not subject to the continuous follow-up work for the noted year(s).

Annual Reports from 2014 to 2018. Of these organizations, 18 had fully implemented 75% or more of our recommended actions, 24 had fully implemented 50% to 74% of our recommended actions, 30 had implemented 25% to 49% of our recommended actions and two had implemented fewer than 25% of our recommended actions. Most notably, the following organizations had low implementation rates and a high number of outstanding recommended actions.

### Ministry of Health

The Ministry of Health accepted responsibility for implementing 366 recommended actions in 20 audits between the years 2014 and 2018. Currently, 65%, or 237, of these recommended actions remain outstanding, including, for example, the following:

- **MRI and CT Scanning Services**—Of the 26 recommended actions we issued in 2018, 100% were still outstanding. Many of these recommended actions relate to access to care or services, quality of care or services, and the need to collect or analyze data. For example, we recommended that the Ministry of Health work with Local Health Integration Networks (LHINs) and hospitals to analyze and identify the reasons why wait times vary significantly between LHINs for MRI and CT services, to help ensure patients have equitable access to MRI and CT services across the province.
- **Housing and Supportive Services for People with Mental Health Issues (Community-Based)**—Of the 33 recommended actions we

issued in 2016, 97%, or 32, remain outstanding; this is mostly unchanged from our 2020 review. Many of these recommended actions relate to effectiveness and efficiency of co-ordinating and delivering housing with supportive services to people with mental illness. For example, we recommended that the Ministry of Health work with housing agencies, to determine the profile of clients who are suitable to be transitioned to other forms of housing and develop a transition plan for these clients.

- **Physician Billing**—Of the 29 recommended actions we issued in 2016, 66%, or 19, were still outstanding. Many of these recommended actions relate to the economy and effectiveness of, and better monitoring and oversight of, the physician billing process in Ontario. For example, we recommended that the Ministry work with the Ontario Association of Cardiologists and the Cardiac Care Network of Ontario to assess the effectiveness of the Cardiac Care Network of Ontario's Echocardiography Quality Initiative program, which is intended to deter inappropriate use of cardiac ultrasound services.

### Ministry of Children, Community and Social Services

The Ministry of Children, Community and Social Services accepted responsibility for implementing 116 recommended actions in six audits between 2014 and 2018. At the time of our follow-up, 64%, or 74, of the actions remain outstanding. The audits with

**Figure 7: Percentage of Recommended Actions Issued in Our 2014 to 2018 Annual Reports Fully Implemented and in the Process of Being Implemented, as of March 2021**

Prepared by the Office of the Auditor General of Ontario

Figure 7a: Organizations with More than 30 Recommended Actions	Full Implementation Rate (%)	In the Process of Being Implemented Rate (%)	Combined Rate (%)
Psychiatric Hospitals (4) <sup>1</sup>	100	0	100
Treasury Board Secretariat	90	7	97
Hospitals (7) <sup>2</sup>	81	18	99
Universities (3) <sup>3</sup>	73	4	77
Ministry of Government and Consumer Services	71	29	100
Ministry of Energy, Northern Development and Mines <sup>4</sup>	71	21	92
Metrolinx	71	15	86
Technical Standards and Safety Authority	69	31	100
Ministry of Labour, Training and Skills Development	68	25	93
Ministry of the Attorney General	63	34	97
Ministry of Education	63	14	77
Infrastructure Ontario	63	35	98
Municipalities (4) <sup>5</sup>	54	46	100
Children's Aid Societies (7) <sup>6</sup>	47	53	100
Local Health Integration Networks <sup>7,8</sup>	44	19	63
Ontario Health <sup>9</sup>	43	28	71
School Boards (8) <sup>10</sup>	43	48	91
Ministry of the Environment, Conservation and Parks	40	42	82
Ministry of Children, Community and Social Services	36	34	70
Ministry of Health	35	37	72
Ministry of the Solicitor General	32	49	81

	Implementation rate of 75% or more
	Implementation rate between 50% and 74%
	Implementation rate between 25% and 49%
	Implementation rate of less than 25%

- In 2021, psychiatric hospitals have fully implemented all of their recommended actions. These hospitals are: Centre for Addiction and Mental Health, Ontario Shores Centre for Mental Health Sciences, The Royal Ottawa Health Group, and Waypoint Centre for Mental Health Care.
- Hospitals by report:
  - Large Community Hospital Operation: Rouge Valley Health System, 100%; Trillium Health Partners, 80%; Windsor Regional Hospital, 80%.
  - MRI and CT Scanning Services: Mackenzie Health, 100%; Health Sciences North, 33%; St. Joseph's Healthcare Hamilton, 33%; The Ottawa Hospital, 33%.
- Universities: University of Toronto, 78%; McMaster University, 76%; University of Waterloo, 63%.
- Subsequent to March 31, 2021, this ministry separated into Ministry of Energy and Ministry of Northern Development, Mines, Natural Resources and Forestry.
- Municipalities: City of Windsor, 80%; Regional Municipality of Peel, 56%; District of Thunder Bay, 55%; City of Toronto, 27%.
- Children's Aid Societies: Districts of Sudbury and Manitoulin, 57%; Family and Children's Services of the Waterloo Region, 57%; Toronto, 57%; Durham, 43%; Hamilton, 43%; Simcoe Muskoka Family Connexions, 43%; Family and Children's Services of Frontenac, Lennox and Addington, 29%.
- The implementation rate for Local Health Integration Networks (LHINs) includes recommendations that originated with Community Care Access Centres, which are now part of the LHINs. The recommendations to LHINs were from the following five audit reports, with the following implementation rates:
  - LHINs—Local Health Integration Networks: 69%
  - Community Care Access Centres – Home Care Program: 56%
  - LHINs—Community Health Centres: 20%
  - MRI and CT Scanning Services: 0%
  - Specialty Psychiatric Hospital Services: 0%
- As of March 31, 2021, the Local Health Integration Networks (LHINs) remained separate from Ontario Health. From April 1, 2021 onward, the LHINs transferred to Ontario Health, and Ontario Health assumed responsibility for implementing the outstanding recommendations for LHINs. This responsibility will be reflected commencing in the 2022 continuous follow-up year.

9. The implementation rate for Ontario Health includes report recommendations that originated with Cancer Care Ontario, eHealth Ontario, and Health Quality Ontario, all of which are now part of Ontario Health. The recommendations were from the following three audit reports, with the following implementation rates:
- Cancer Care Ontario – Cancer Treatment Services, 68%;
  - e-Health Ontario – Electronic Health Records' Implementation Status, 50%;
  - Health Quality Ontario – Health Quality Ontario, 17%.
10. School Boards by report:
- School Boards' Management of Financial and Human Resources: Hastings and Prince Edward, 57%; Toronto Catholic, 48%; Halton Catholic, 35%; Hamilton-Wentworth, 35%.
  - School Boards—IT Systems and Technology in the Classroom: Waterloo Catholic, 60%; Peel, 42%; Toronto, 42%; Algoma, 27%.

<b>Figure 7b: Organizations with 11–30 Recommended Actions</b>	<b>Full Implementation Rate (%)</b>	<b>In the Process of Being Implemented Rate (%)</b>	<b>Combined Rate (%)</b>
Ontario Energy Board	91	0	91
Waterfront Toronto	91	9	100
Financial Services Regulatory Authority of Ontario	88	8	96
Independent Electricity System Operator	75	20	95
Ministry of Transportation	72	7	79
Transportation Consortia (3) <sup>1</sup>	70	11	81
Child and Youth Mental Health Centres (4) <sup>2</sup>	68	32	100
Ministry of Infrastructure	59	41	100
Ministry of Long-Term Care	43	57	100
Ministry of Agriculture, Food and Rural Affairs	42	50	92
Ministry of Colleges and Universities <sup>3</sup>	38	31	69
Ministry of Economic Development, Job Creation and Trade	36	11	47
Ministry of Municipal Affairs and Housing	33	22	55
Legal Aid Ontario	33	43	76
Ontario Land Tribunal <sup>4</sup>	31	54	85
Ontario Power Generation <sup>5</sup>	11	89	100

	Implementation rate of 75% or more
	Implementation rate between 50% and 74%
	Implementation rate between 25% and 49%
	Implementation rate of less than 25%

1. Transportation Consortia: Sudbury Consortium, 100%; Peel Consortium, 67%; Toronto Consortium, 44%.
2. Child and Youth Mental Health Centres: Youthdale Treatment Centres, 86%; Children's Centre Thunder Bay, 71%; Kinark Child and Family Services, 71%; Vanier Children's Services, 43%.
3. In 2021, responsibility for four outstanding recommendations issued in our 2015 University Intellectual Property report was split between the Ministry of Economic Development, Job Creation and Trade and the Ministry of Colleges and Universities due to a transfer of responsibility between the ministries. For comparative purposes, the information presented as of 2020 has been adjusted to reflect this change.
4. In 2021, recommendations relating to the Ontario Municipal Board transferred from Tribunals Ontario to the Ontario Land Tribunals. Ten recommended actions remained outstanding to be addressed by Tribunals Ontario and 13 to be addressed by Ontario Land Tribunals. For comparative purposes, the information presented as of 2020 has been adjusted to reflect this change.
5. Ontario Power Generation includes the 2018 Darlington Nuclear Generation Station Refurbishment Project report.

Figure 7c: Organizations with 1–10 Recommended Actions	Full Implementation Rate (%)	In the Process of Being Implemented Rate (%)	Combined Rate (%)
Ontario Parole Board	67	0	67
Agricorp	63	13	76
Tribunals Ontario*	60	20	80
Ministry of Finance	33	67	100
Ontario Association of Children's Aid Societies	0	50	50

	Implementation rate of 75% or more
	Implementation rate between 50% and 74%
	Implementation rate between 25% and 49%
	Implementation rate of less than 25%

\* In 2021, recommendations relating to the Ontario Municipal Board transferred from Tribunals Ontario to the Ontario Land Tribunals. Ten recommended actions remained outstanding to be addressed by Tribunals Ontario and 13 to be addressed by Ontario Land Tribunals. For comparative purposes, the information presented as of 2020 has been adjusted to reflect this change.

the highest number of outstanding recommended actions are for Ontario Works from our *2018 Annual Report*, which has 94%, or 32 of 34, still outstanding; and Settlement and Integration Services for Newcomers from our *2017 Annual Report*, which has 77%, or 17 of 22, still outstanding.

Some of the outstanding recommended actions address effectiveness, and the need for better monitoring and oversight. For example, in our Ontario Works audit, we recommended that where recipients are determined to be ineligible for Ontario Works, the Ministry take appropriate action to terminate their payments and recover any overpayments so that only eligible individuals receive financial assistance from Ontario Works. In our Settlement and Integration Services for Newcomers audit, we recommended that the Ministry consistently monitor the performance of its settlement and integration services and service providers to identify and take corrective action where targets and expectations are not being met.

### Ministry of the Environment, Conservation and Parks

The Ministry of the Environment, Conservation and Parks accepted responsibility for implementing 78 recommended actions from four audit reports between 2014 and 2018, of which 60%, or 47, still remain outstanding. The majority of the outstanding actions relate to the following audit reports:

- **Environmental Approvals**—Of the 30 recommended actions we issued in 2016, 73%, or 22, are still outstanding. Many of these actions addressed areas such as effectiveness, and the need for better monitoring and oversight. For example, we recommended that the Ministry implement processes to require self-registered emitters to routinely report emissions data.
- **Environmental Assessments**—Of the 21 recommended actions we issued in 2016, 71%, or 15, are still outstanding. Many of these actions addressed areas such as effectiveness and governance. For example, we recommended that the Ministry finalize its guideline for assessing the cumulative effects of projects. The guideline should apply to both comprehensive and streamlined environmental assessments in order to ensure that the cumulative effects of projects are assessed to prevent or minimize environmental damage.

### Ministry of Education

The Ministry of Education accepted responsibility for implementing 86 recommended actions from four audit reports between 2014 and 2018, of which 37%, or 32, were still outstanding. Many of the outstanding actions are related to the following audit reports:

- **Ministry Funding and Oversight of School Boards**—Of the 21 recommended actions we

issued in 2017, 81%, or 17, remain outstanding. Many of these outstanding actions related to the Ministry's monitoring or oversight of school boards and funding allocations. For example, we recommended the Ministry complete its review of the process school boards use when considering school closures and work with school boards to address the issues uncovered in the review to work toward achieving the appropriate level of physical infrastructure required to meet current and future needs.

- **Student Transportation**—Of the 10 recommended actions we issued in 2015, 80%, or eight, remain outstanding. Some of these outstanding actions related to funding allocations, and quality of services. For example, we recommended that the Ministry revisit its current funding formula for student transportation. The formula needs to reflect school boards' local transportation needs based on the number of eligible riders and consortia utilization of buses, and take into consideration factors such as geography, availability of public transit and the number of students needing transportation services (due to distance, special needs, special programs or road hazards).

### Ministry of the Solicitor General

The Ministry of the Solicitor General accepted responsibility for implementing 57 recommended actions from two audits, Emergency Management in Ontario, conducted in 2017, and Adult Community Corrections and Ontario Parole Board, conducted in 2014. Currently, 68% or 39 of these recommended actions remain outstanding.

Many of these recommended actions addressed areas such as effectiveness, governance and the need for better monitoring or oversight. For example, our audit of Emergency Management in Ontario recommended the Ministry, through the Provincial Emergency Management Office, work with ministries to assess the effectiveness of its public education and awareness program to inform Ontarians on how to prepare for an emergency, such as weather events or power outages, and to know the risks to be aware of. In another example, we recommended

that the Ministry through the Provincial Emergency Management Office work with ministries to implement a multi-year testing strategy based on high-risk and high-consequence events that periodically tests emergency response plans using a variety of testing methods.

### Ministry of Labour, Training and Skills Development

The Ministry of Labour, Training and Skills Development accepted responsibility for implementing 99 recommended actions from three audit reports, Provincial Nominee Program, conducted in 2014; Employment Ontario, conducted in 2016; and Settlement and Integration Services for Newcomers, conducted in 2017. Currently, 32%, or 32, of these recommended actions remain outstanding.

The majority of these recommended actions addressed the effectiveness area. For example, our audit of Employment Ontario recommended that the Ministry develop strategies that would enable follow-up with more participants at three, six and 12 months after receiving services from all employment and training programs in order to improve the effectiveness of these programs.

### Ontario Health

Ontario Health accepted responsibility for implementing 58 recommended actions from three audit reports, Electronic Health Records' Implementation Status, conducted in 2016, Cancer Treatment Services, conducted in 2017 and Health Quality Ontario, conducted in 2018. Currently, 57%, or 33, of these recommended actions remain outstanding.

Many of these recommended actions addressed areas such as effectiveness, and the need for better monitoring or oversight. For example, our audit of Health Quality Ontario recommended that Health Quality Ontario (now Ontario Health), in collaboration with the Ministry of Health and the Local Health Integration Networks (LHINs) track whether health-care organizations are implementing the change ideas that the organizations included in their improvement plans to help them achieve their improvement goals, and to track whether the ideas have resulted in positive improvement.

### 3.6 Low Implementation Rates for Recommendations Relating to Public Reporting, Access to Care or Services, Effectiveness and Funding Allocations

We categorized the recommended actions we issued between 2014 and 2018 by the areas they addressed, as shown in **Figure 8**.

The categories with the highest implementation rates are those dealing with internal controls, compliance, information technology and governance.

The categories with the lowest implementation rates address public reporting, access to care or services, effectiveness and funding allocations. The following are some examples related to these categories with the lowest implementation rates:

- In our 2015 report on Long-Term-Care Home Quality Inspection Program, we recommended that the Ministry of Long-Term Care summarize and report the number of instances identified of non-compliance, for individual homes and on a provincial basis, and when they were rectified so that the public gets better information for decision-making on long-term-care homes.
- In our 2017 report on Social and Affordable Housing, we recommended that the Ministry of Municipal Affairs and Housing work with municipal service managers to develop a new needs-based eligibility and prioritization process that incorporates relevant information, such as assets owned by applicants, when deciding who should receive social housing subsidies, so that

**Figure 8: Full Implementation Rate by Category<sup>1</sup> of Actions Recommended in Our 2014 to 2018 Annual Reports, as of March 31, 2021**

Prepared by the Office of the Auditor General of Ontario

Category <sup>1</sup>	# of Recommended Actions (A)	# of Recommended Actions Fully Implemented (B) <sup>2</sup>	Full Implementation Rate (B/A) (%)
Internal Controls	44	37	84
Other <sup>3</sup>	7	5	71
Compliance	122	84	69
IT	71	47	66
Governance	170	110	65
Human Resources	33	20	61
Monitoring and/or Oversight	274	156	57
Efficiency	79	44	56
Quality of Care or Services	60	32	53
Education/Promotion	51	26	51
Collect/Analyze Data	137	69	50
Enforcement	53	26	49
Economy	173	83	48
Funding	63	27	43
Effectiveness	235	96	41
Access to Care/Services	75	27	36
Public Reporting	52	16	31

1. Recommended actions have been assigned to a primary category, but more than one category may apply.

2. The 2014 and 2015 statuses of implementation were based on each organization's self-assessed statuses.

3. "Other" category is composed of five recommended actions related to communications and two related to developing policies/strategies.

limited resources are used to help households with the highest needs.

- In our 2017 report on Community Health Centres, we recommended that the Local Health Integration Networks review overall operating funding provided to each Community Health Centre, to ensure that the funding is commensurate with patient complexity, number of people served, geography and other relevant factors.
- In our 2018 report on Ontario Works, we recommended that to hold service managers accountable for delivering the Ontario Works program in compliance with the program's requirements, and to improve program outcomes, the Ministry of Children, Community and Social Services should update its contracts with service managers to include additional performance indicators and meaningful targets to measure service managers' progress in assisting Ontario Works recipients to find employment and become self-sufficient.

There continue to be opportunities for improvements to public reporting, access to care or services, effectiveness and funding allocations to ensure that value for money is achieved.

### 3.7 Recommended Actions Still Relevant and Followed Up Even When Changes in Program Direction or Governance Occur

Changes to a program may occur from the time that the original value-for-money audit report was issued up to the time of our continuous follow-up work. For the audit reports issued in our *2014 to 2018 Annual Reports*, we identified a number of significant changes in the ministries or Crown agencies or broader-public-sector organizations that were the subject of our audits. These changes arose due to a change in government direction that impacted a program's direction, a program's mandate or its governance structure. In some cases, legislative changes resulted in a change in the program direction or mandate. Changes to the governance structure could

occur when new organizations are created to assume the responsibilities of already existing organizations.

When these types of changes occur, many organizations self-assess the statuses of the related recommended actions as "no longer applicable." However, we assess these recommended actions to determine whether they continue to be relevant. Where the recommended actions are still relevant because they transcend the changes that occurred, we continue to follow up on these outstanding recommended actions until they are fully addressed. Where the changes make the recommended actions no longer applicable, we do not conduct any further follow-up work.

An example of changes where we assessed the ongoing relevance of recommended actions can be found in the 2016 Climate Change report. Some recommended actions were directed toward the Cap and Trade program that existed prior to 2018. The passing of the *Cap and Trade Cancellation Act, 2018 (Act)* in 2018, resulted in many of the cap-and-trade program-related recommended actions being assessed as "no longer applicable." Therefore, these actions are no longer followed up by our Office. On the other hand, other recommended actions from this report remain relevant and we continue to follow up to ensure that they are addressed. Some of these recommended actions that remain relevant include recommending that the Ministry align Ontario's targets for reducing greenhouse gas emissions to those of the federal government; and to regularly inform Ontarians on the specific risks and possible responses to the effects of climate change in Ontario.

### 3.8 Some Recommendations Will Not Be Implemented

Of the 1,699 recommended actions that we issued between 2014 and 2018 and expected to be implemented by now, 139 (including 121 actions that were noted last year) will not be implemented by the relevant organizations.

The additional 18 recommended actions that organizations noted will not be implemented this

year are listed in **Appendix 3**, along with the organizations' rationale for not implementing them, and the impact on Ontarians of not implementing these recommended actions. We continue to believe that these recommended actions should be implemented. Fifty-five percent of these actions recommended improvements to economy, or addressed the effectiveness of programs or services, or the need for better monitoring or oversight.

### 3.9 Outstanding 2013 Recommended Actions Are No Longer Followed Up

At the completion of our continuous follow-up work in 2020, 11 ministries, Crown agencies and broader-public-sector organizations still had 63 (41%) of our recommended actions from our *2013 Annual Report* outstanding—more than seven years after they were issued. We expected that the majority of these would have been implemented by now. We are no longer following up on the 2013 recommended actions. Instead, we will factor the risks remaining from the related outstanding issues into our risk-based approach in selecting future audits.

The 2013 recommended actions that were not implemented addressed areas such as access to care or services, effectiveness and economy. Examples include:

- **Healthy Schools Strategy**—We recommended that the Ministry of Education and school boards develop consistent and effective strategies to monitor compliance with the Ministry's School Food and Beverage Policy, especially ensuring that all items sold in schools comply with the policy's nutrition standards.
- **Land Ambulance Services**—We recommended that the Ministry of Health assess the effectiveness of the two protocols used in Ontario to prioritize calls and dispatch ambulances, including comparing the dispatch priority determined by the protocols with the paramedics' evaluation upon reaching the patient, and to adjust the protocols where needed, to reduce excessive over-prioritization of patients.

- **Rehabilitation Services at Hospitals**—We recommended that the Ministry of Health work with the Local Health Integration Networks to establish a province-wide co-ordinated system for rehabilitation, including both regular (shorter-term) and restorative (longer-term) inpatient services and all community-based outpatient services.
- **ServiceOntario**—We recommended that ServiceOntario conduct a full costing and revenue analysis and develop a strategy including time frames for restructuring its registration-related fees to ensure that the fees are set at levels that are not excessive, as per the legal requirements, and that allow for cost recovery.

## 4.0 Detailed Observations for the Follow-Up on Recommendations Issued by the Standing Committee on Public Accounts from 2015 to Early 2020

Starting in 2015, our Office began assisting the Standing Committee on Public Accounts (Committee) in following up on the status of its recommended actions to organizations. The Committee issued 517 recommended actions from June 2015 to March 2020, which we initially followed up on in our *2016 to 2020 Annual Reports*. These recommended actions involved 28 ministries, Crown agencies and broader-public-sector organizations, which were the subject of the 32 Committee reports listed in **Appendix 4**.

Based on our review, we agreed with the organizations that 11 of the actions were “no longer applicable,” mainly due to changes in legislation or policies resulting in the organizations no longer having responsibility for the recommended actions. This left a total of 506 recommended actions that we followed up.

**Figure 9** provides the overall status of the recommended actions issued by the Committee from

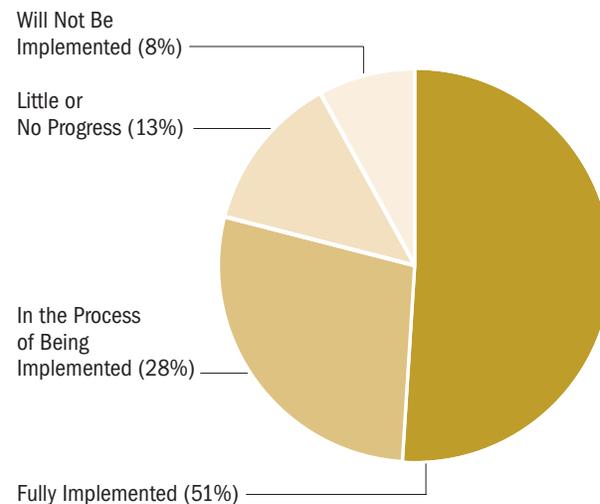
June 2015 to March 2020. The organizations have fully implemented 51% of these 506 recommended actions. Of the remaining actions, 28% are in the process of being implemented, a further 13% had little or no progress made on them and for 8% the organizations determined that the recommendations would not be implemented (as discussed in Section 4.4).

Figure 10 provides a breakdown of the status of the recommended actions issued from June 2015 to March 2020, by the year we initially followed up on the actions. We noted the following full implementation rates by Annual Report year: 88% for 2016; 62% for 2017; 49% for 2018; 66% for 2019; and 30% for 2020.

For the first time this year, 164 relevant recommended actions issued by the Committee from February 2019 to March 2020 were included in our continuous follow-up work. Currently, as noted above, 30% of these recommended actions have been fully implemented.

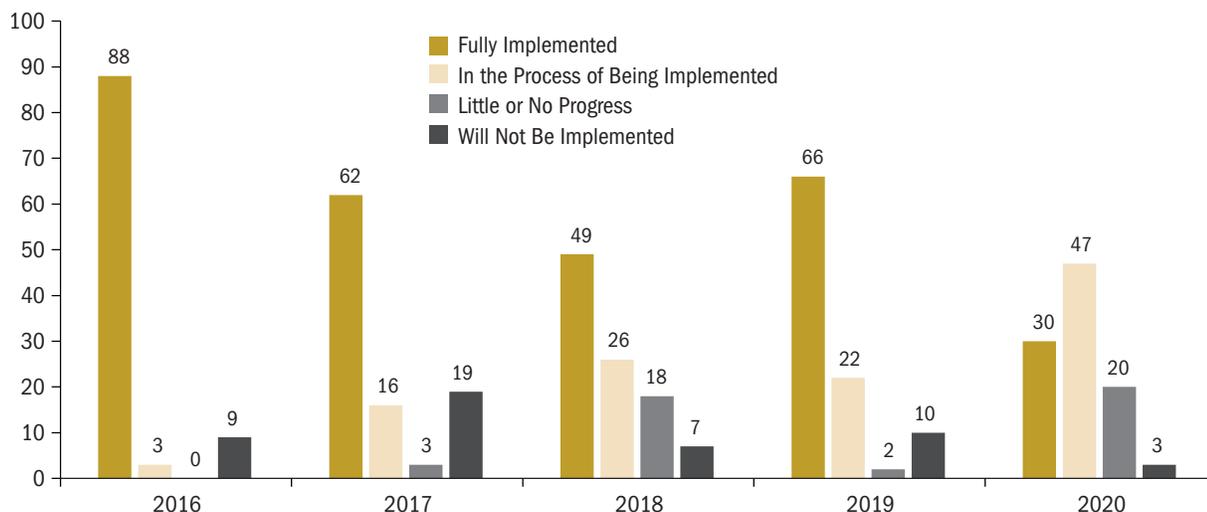
**Figure 9: Implementation Status of Recommended Actions Issued by the Standing Committee on Public Accounts between June 2015 and March 2020, as of March 31, 2021**

Prepared by the Office of the Auditor General of Ontario



**Figure 10: Implementation Status of Recommended Actions Issued by the Standing Committee on Public Accounts, by Annual Report Year**

Prepared by the Office of the Auditor General of Ontario



## 4.1 Slight Improvement in the Implementation Rate of Committee Recommendations Followed Up on Last Year

Last year, in our *2020 Annual Report*, we reported that the implementation rate of the total 387 recommended actions issued by the Committee from March 2015 to March 2019 was 61%. In 2021, 63% of these recommended actions have been fully implemented, only a 2% increase. Overall, in 2021, 79% of all recommended actions issued by the Committee from June 2015 to March 2020 that we followed up on, were either fully implemented or in the process of being implemented. Of these, 51% were fully

implemented, as mentioned in **Section 4.0** and seen in **Figure 9**.

We noted small improvements in the implementation rates for six of the organizations followed up on last year, as shown in **Figure 11**. For the majority of the organizations, there was no change in implementation rates from 2020 to 2021. As noted in **Section 3.1**, some organizations, such as the Ministry of Health, the Ministry of Long-Term Care and the Ministry of Education, attributed the slower implementation of the Committee's recommended actions this year to the ongoing impact of the COVID-19 pandemic on the organizations' regular operations.

**Figure 11: Increase in the Full Implementation Rate from 2020 to 2021 for the Recommended Actions Issued by the Standing Committee of Public Accounts between June 2015 and May 2018**

Prepared by the Office of the Auditor General of Ontario

Organization <sup>1</sup>	Full Implementation Rate, 2021 (%)	Full Implementation Rate, 2020 (%)	Increase Between 2020 and 2021 (%)
Ministry of Labour, Training and Skills Development	36	20	16
Universities (5) <sup>2</sup>	67	58	9
Hospitals (3) <sup>3</sup>	87	83	4
Ministry of Long-Term Care	52	48	4
Metrolinx	86	83	3
Ministry of Health	27	25	2
Ontario Health <sup>4</sup>	90	90	0
Treasury Board Secretariat	90	90	0
Ministry of Transportation	88	88	0
Financial Services Regulatory Authority of Ontario	87	87	0
Ministry of Energy, Northern Development and Mines <sup>5</sup>	72	72	0
Ministry of Government and Consumer Services	57	57	0
Ministry of Education	47	47	0
Local Health Integration Networks	40	40	0
Ministry of Colleges and Universities	33	33	0
Ministry of Economic Development, Job Creation and Trade	22	22	0

- Four organizations that had fully implemented all of the Committee's recommendations as of last year, are not included in the table: Independent Electricity System Operator, Infrastructure Ontario, Ministry of Infrastructure, and Ontario Energy Board.
- Implementation rates of individual universities by report:
  - University Undergraduate Teaching Quality: University of Ontario Institute of Technology, 50%; Brock University, 25%; University of Toronto, 25%.
  - University Intellectual Property: McMaster University, 100%; University of Toronto, 100%; University of Waterloo, 100%.
- Implementation rates of individual hospitals: Rouge Valley Health System, 100%; Trillium Health Partners, 81%; Windsor Regional Hospital, 81%.
- The implementation rate for Ontario Health includes recommendations that originated with Cancer Care Ontario, which is now part of Ontario Health. Also, as of March 31, 2021, the Local Health Integration Networks (LHINs) remained separate from Ontario Health. On April 1, 2021, the Local Health Integration Networks (LHINs) transferred to Ontario Health. From April 1, 2021 onward, Ontario Health assumed responsibility for implementing the outstanding recommendations for LHINs. This responsibility will be reflected commencing in the 2022 continuous follow-up year.
- Subsequent to March 31, 2021, this ministry separated into Ministry of Energy and Ministry of Northern Development, Mines, Natural Resources and Forestry.

## 4.2 Some Organizations Better than Others at Implementing Committee Recommendations

Figure 12 shows that of the 28 organizations that we followed up on this year that were the subject of the Committee's reports tabled between June 2015 and March 2020, 12 had fully implemented 75% or more of the Committee's recommended actions.

Six organizations had fully implemented all of the Committee's recommended actions: Independent Electricity System Operator, Ministry of Infrastructure, Ontario Energy Board, Rouge Valley Health Partners, McMaster University, and University of Waterloo.

## 4.3 Some Organizations Reported Low Implementation Rates

Some organizations have been slow to implement the recommended actions from the applicable audit reports. Figure 12 shows that, similarly to 2020, 16 organizations had implemented fewer than 75% of the Committee's recommended actions, including three organizations that implemented fewer than 25%. The following organizations had low implementation rates and a high number of outstanding recommended actions.

- The Ministry of Health is responsible for implementing a total of 142 recommended actions from seven Committee reports. Currently, 65% of the recommended actions remain outstanding. The Cancer Treatment Services report issued by the Committee in 2019 has the highest number of recommended actions at 31, of which 45% of the recommended actions remain outstanding.
- The Ministry of Children, Community and Social Services is responsible for implementing a total of 54 recommended actions from two Committee reports issued in 2019 on our audits of Ontario Works, and Settlement and Integration Services for Newcomers. Currently, 93% of the 54 recommended actions remain outstanding.

- Infrastructure Ontario is responsible for implementing a total of 39 recommended actions from two of the Committee's reports, of which 46% of the actions remain outstanding.

## 4.4 Some Committee Recommendations Will Not Be Implemented

Of the 506 recommended actions that the Committee issued, 40 (including 38 noted last year) will not be implemented. The additional two recommended actions that organizations noted will not be implemented this year are listed in Appendix 5, along with the organizations' rationale for not implementing them.

We continue to believe that these recommended actions should be implemented. The recommended actions require the organizations to improve governance and efficiency, and to enhance public reporting.

## 4.5 Outstanding Standing Committee on Public Accounts Recommendations Included in our 2015 Annual Report Are No Longer Followed Up

At the completion of our continuous follow-up work in 2020, two ministries still had outstanding nine, or 20% of the Committee's recommended actions. These actions were for two reports issued from March 2015 to May 2015 that we initially followed up and reported on in our *2015 Annual Report*. The Committee's recommended actions that were not implemented addressed areas such as the need to improve access to care or services, and the need to improve monitoring or oversight. Examples include:

- **Violence Against Women**—the Committee recommended that the Ministry of Children, Community and Social Services work with agencies to develop a process for tracking whether women experiencing violence who are referred elsewhere do receive the services and support to which they have been referred.

**Figure 12: Percentage of Full Implementation of Recommended Actions Issued by the Standing Committee on Public Accounts between June 2015 and March 2020, as of March 31, 2021**

Prepared by the Office of the Auditor General of Ontario

Organization	# of Recommended Actions (A)	# of Recommended Actions Fully Implemented (B)	Full Implementation Rate (B/A) (%)
Independent Electricity System Operator	11	11	100
Ministry of Infrastructure	2	2	100
Ontario Energy Board	1	1	100
Ministry of Transportation	17	15	88
Hospitals (3) <sup>1</sup>	63	55	87
Financial Services Regulatory Authority	15	13	87
Metrolinx	36	31	86
Treasury Board Secretariat	28	22	79
Ministry of Energy, Northern Development and Mines <sup>2</sup>	18	13	72
Ontario Health <sup>3</sup>	33	23	70
Universities (5) <sup>1</sup>	24	16	67
Infrastructure Ontario	39	21	54
Ministry of Long-Term Care	25	13	52
Ministry of Education	15	7	47
Local Health Integration Networks <sup>4</sup>	5	2	40
Ministry of Health	142	49	35
Ministry of Colleges and Universities	6	2	33
Ministry of Government and Consumer Services	14	4	29
Ministry of Labour, Training and Skills Development	40	11	28
Ministry of Economic Development, Job Creation and Trade	9	2	22
Ministry of Children, Community and Social Services	54	4	7
Ontario Power Generation	6	0	0

	Implementation rate of 75% or more
	Implementation rate between 50% and 74%
	Implementation rate between 25% and 49%
	Implementation rate of less than 25%

1. Implementation rates of individual broader-public-sector organizations:

- Hospitals: Rouge Valley Health Partners, 100%; Trillium Health Partners 81%; Windsor Regional Hospital, 81%
- Universities, by report:
  - University Undergraduate Teaching Quality: University of Ontario Institute of Technology, 50%; Brock University, 25%; University of Toronto, 25%
  - University Intellectual Property: McMaster University, 100%; University of Toronto, 100%; University of Waterloo, 100%

2. Subsequent to March 31, 2021, this ministry separated into Ministry of Energy and Ministry of Northern Development, Mines, Natural Resources and Forestry.

3. The implementation rate for Ontario Health includes recommendations that originated with Cancer Care Ontario, which is now part of Ontario Health.

4. As of March 31, 2021, the Local Health Integration Networks (LHINs) remained separate from Ontario Health. From April 1, 2021 onward, the LHINs transferred to Ontario Health, and Ontario Health assumed responsibility for implementing the outstanding recommendations for LHINs. This responsibility will be reflected commencing in the 2022 continuous follow-up year.

- **Health Human Resources**—the Committee recommended that the Ministry of Health monitor the nurse practitioner-led clinics more closely to ensure that they are meeting program requirements, targets, and objectives.

It is now more than six years after the recommended actions were issued. We expected that all of these actions would have been implemented by now. We are no longer following up on these recommended actions that were issued in early 2015. Instead, we will factor the risks remaining from the related outstanding issues into our risk-based approach in selecting future audits.

## 5.0 Organizations Making Progress in Appropriately Assessing the Status of Recommended Actions

Our continuous follow-up work is initially based on information provided by the organizations as a “self-assessment” of their progress in implementing the recommended actions from both the value-for-money reports and the Standing Committee on Public Accounts’ (Committee) reports, along with supporting documentation.

Organizations self-assess the most appropriate status of implementation for the outstanding

recommended actions, and choose one of the five implementation status categories noted below:

- fully implemented;
- in the process of being implemented;
- little or no progress;
- will not be implemented; or
- no longer applicable.

During our continuous follow-up work in 2021, organizations self-assessed a total of 289 value-for-money and Committee-recommended actions as “fully implemented.” However, based on our review of relevant documentation and, in certain cases, completing sample testing, we found that of the 289 value-for-money and Committee-recommended actions that organizations self-assessed as “fully implemented,” we accepted only 48% (or 138) as fully implemented. During our work in 2020, of a total of 186 actions that organizations self-assessed as “fully implemented,” we accepted 24% (or 44) as, in fact, fully implemented. Although organizations made efforts in 2021 to more appropriately self-assess the status of their recommended actions, significant work in this area is still required by our Office on recommended actions that are being incorrectly self-assessed as “fully implemented.”

This again highlights the need for organizations to complete a more objective self-assessment of the implementation statuses of their outstanding recommended actions.

## Appendix 1: Change in the Full Implementation Rate for Recommended Actions Issued in Our 2014 to 2017 Annual Reports, 2020 to 2021

Prepared by the Office of the Auditor General of Ontario

Ministry or Agency	As of 2021 (A) (%)	As of 2020 (B) (%)	Change (A-B) (%)
<b>Organizations with More than 30 Recommended Actions</b>			
Universities (3) <sup>1</sup>	73	61	12
Children's Aid Societies (7) <sup>1</sup>	47	37	10
Ministry of Labour, Training and Skills Development	68	60	8
Ministry of Children, Community and Social Services	49	42	7
Metrolinx	76	70	6
Hospitals (3) <sup>1</sup>	87	82	5
Ministry of Health	34	29	5
Psychiatric Hospitals (4) <sup>1</sup>	100	96	4
Local Health Integration Networks <sup>2,3</sup>	47	43	4
Ministry of the Environment, Conservation and Parks	40	36	4
Ministry of the Solicitor General	32	28	4
Treasury Board Secretariat	87	84	3
Ontario Health <sup>3</sup>	62	59	3
School Boards (4) <sup>1</sup>	43	40	3
Ministry of Government and Consumer Services	74	72	2
Infrastructure Ontario	63	61	2
Ministry of Education	62	61	1
Ministry of Energy, Northern Development and Mines <sup>4</sup>	71	71	0
<b>Organizations with 11–30 Recommended Actions</b>			
Ministry of Agriculture, Food and Rural Affairs	42	17	25
Ministry of Transportation	71	57	14
Transportation Consortia (3) <sup>1</sup>	70	59	11
Ontario Energy Board	91	82	9
Ontario Land Tribunal <sup>5</sup>	31	23	8
Child and Youth Mental Health Centres (4) <sup>1</sup>	68	64	4
Ministry of Economic Development, Job Creation and Trade <sup>6</sup>	36	32	4
Ministry of Municipal Affairs and Housing	33	30	3
Financial Services Regulatory Authority of Ontario	88	88	0
Independent Electricity System Operator	75	75	0
Ministry of Long-Term Care	43	43	0
<b>Organizations with 1–10 Recommended Actions</b>			
Ministry of Infrastructure	80	60	20
Agricorp	63	50	13
Tribunals Ontario <sup>5</sup>	60	50	10
Ontario Parole Board	67	67	0
Ministry of Finance <sup>7</sup>	0	0	0

Ontario Association of Children's Aid Societies <sup>7</sup>	0	0	0
Ministry of Colleges and Universities <sup>6,7</sup>	0	0	0

1. Implementation rates of individual broader-public-sector entities:

**Universities:**

- 2021 - University Intellectual Property - University of Toronto, 78%; McMaster University, 76%; University of Waterloo, 63%
- 2020 - University Intellectual Property - McMaster University, 71%; University of Toronto, 61%; University of Waterloo, 50%

**Children's Aid Societies:**

- 2021 - Districts of Sudbury and Manitoulin, 57%; Family and Children's Services of the Waterloo Region, 57%; Toronto, 57%; Durham, 43%; Hamilton, 43%; Simcoe Muskoka Family Connexions, 43%; Family and Children's Services of Frontenac, Lennox and Addington, 29%
- 2020 - Districts of Sudbury and Manitoulin, 57%; Family and Children's Services of the Waterloo Region, 57%; Simcoe Muskoka Family Connexions, 43%; Family and Children's Services of Frontenac, Lennox and Addington, 29%; Hamilton, 29%; Toronto, 29%; Durham, 14%

**Hospitals:**

- 2021 - Large Community Hospital Operations - Rouge Valley Health System, 100%; Trillium Health Partners, 80%; Windsor Regional Hospital, 80%;
- 2020 - Large Community Hospital Operations - Rouge Valley Health System, 100%; Trillium Health Partners, 75%; Windsor Regional Hospital, 70%;

**Psychiatric hospitals:**

- 2021 - Centre for Addiction and Mental Health, 100%; Ontario Shores Centre for Mental Health Sciences, 100%; The Royal Ottawa Health Group, 100%; Waypoint Centre for Mental Health Care, 100%
- 2020 - Centre for Addiction and Mental Health, 100%; Ontario Shores Centre for Mental Health Sciences, 100%; The Royal Ottawa Health Group, 100%; Waypoint Centre for Mental Health Care, 86%

**School Boards:**

- 2021 - School Boards' Management of Financial and Human Resources - Hastings and Prince Edward, 57%; Toronto Catholic, 48%; Halton Catholic, 35%; Hamilton-Wentworth, 35%
- 2020 - School Boards' Management of Financial and Human Resources - Hastings and Prince Edward, 52%; Toronto Catholic, 43%; Halton Catholic, 35%; Hamilton-Wentworth, 30%

**Transportation Consortia:**

- 2021 - Sudbury Consortium, 100%; Peel Consortium, 67%; Toronto Consortium, 44%
- 2020 - Sudbury Consortium, 100%; Peel Consortium, 44%; Toronto Consortium, 33%

**Mental Health Centres:**

- 2021 - Youthdale Treatment Centres, 86%; Children's Centre Thunder Bay, 71%; Kinark Child and Family Services, 71%; Vanier Children's Services, 43%
- 2020 - Children's Centre Thunder Bay, 71%; Kinark Child and Family Services, 71%; Youthdale Treatment Centres, 71%; Vanier Children's Services, 43%

2. The implementation rate for Local Health Integration Network (LHINs) includes recommendations that originated with Community Care Access Centres, which are now part of the LHINs. The overall rate for the LHINs is related to the following organizations, for four audit reports:

**2021:**

Ontario Health (Shared Services) co-ordinated responses for the following reports:

- LHINs - Local Health Integration Networks, 69%
- Community Care Access Centres - Home Care Program, 56%
- LHINs - Community Health Centres, 20%
- LHINs - Specialty Psychiatric Hospital Services, 0%

**2020:**

Ontario Health (Shared Services) co-ordinated responses for the following reports:

- LHINs - Local Health Integration Networks, 56%
- Community Care Access Centres - Home Care Program, 56%
- LHINs - Community Health Centres, 20%
- LHINs - Specialty Psychiatric Hospital Services, 0%

3. On April 1, 2021, the Local Health Integration Networks (LHINs) were transferred to Ontario Health. From April 1, 2021 onward, Ontario Health assumed responsibility for implementing the outstanding recommendations for LHINs. This responsibility will be reflected commencing in the 2022 continuous follow-up year.
4. Subsequent to March 31, 2021, this ministry separated into Ministry of Energy and Ministry of Northern Development, Mines, Natural Resources and Forestry.
5. In 2021, recommendations relating to the Ontario Municipal Board transferred from Tribunals Ontario to the Ontario Land Tribunals. Ten recommended actions remained outstanding to be addressed by Tribunals Ontario and 13 to be addressed by Ontario Land Tribunals. For comparative purposes, the information presented as of 2020 has been adjusted to reflect this change.
6. In 2021, responsibility for four outstanding recommendations issued in our 2015 University Intellectual Property Report was split between the Ministry of Economic Development, Job Creation and Trade and the Ministry of Colleges and Universities, due to a transfer of responsibility between the Ministries. For comparative purposes, the information presented as of 2020 has been adjusted to reflect this change.
7. The full implementation rate is zero in each of the 2021 and the 2020 years because the same outstanding recommended actions were not implemented within each of these years.

## Appendix 2: Questions the Standing Committee on Public Accounts Could Consider to Hold Organizations Accountable for Implementing Some Key Recommended Actions

Prepared by the Office of the Auditor General of Ontario

Report Section	Organization	Recommendation	Questions for Consideration
<b>2014</b>			
<b>3.01: Adult Community Corrections and Ontario Parole Board</b>	Ministry of the Solicitor General <sup>1</sup>	In order for the Ministry of Community Safety and Correctional Services to enhance community safety through effective supervision and by reducing reoffend rates of offenders serving their sentences in the community, it should strategically target its resources, programs and services to higher-risk offenders, with a long-term goal of reducing their high reoffend rates.	What is the Ministry of Community Safety and Correctional Services' progress in strategically targeting its resources, programs and services to higher-risk offenders to reduce the possibility of their high reoffend rates?
<b>3.01: Adult Community Corrections and Ontario Parole Board</b>	Ministry of the Solicitor General <sup>1</sup>	To ensure equitable access to effective rehabilitative programs for offenders, the Ministry of Community Safety and Correctional Services should ensure it has sufficient and timely information for evaluating its core rehabilitative programs and that it implements changes to help improve their effectiveness in reducing reoffend rates.	What is the Ministry of the Solicitor General doing to ensure that it has sufficient and timely information for evaluating its core rehabilitative programs? Has the Ministry of the Solicitor General implemented changes to the rehabilitative programs to help improve their effectiveness in reducing reoffend rates?
<b>3.08: Palliative Care</b>	Ministry of Health <sup>1</sup>	To reduce the overlap and duplication of efforts both within the Local Health Integration Networks <sup>2</sup> and across the province, the Ministry should implement a co-ordinated system for the delivery of palliative care that enables patients to move easily among health-care providers and receive needed palliative care services on a timely basis. This should include consideration of the cost-benefit of shorter-term information technology solutions (such as those currently used by some health-care providers to inform patient-care decisions and reduce unnecessary or duplicate tests) to increase the sharing of patient-related information, while longer-term initiatives are being pursued by eHealth Ontario.	What is the Ministry of Health's progress in implementing a co-ordinated system for the delivery of palliative care that enables patients to move easily among health-care providers and receive needed palliative care services on a timely basis? Has the Ministry of Health considered the cost benefit of shorter-term information technology solutions to increase the sharing of patient-related information to reduce the unnecessary or duplicated efforts/tests both within the Local Health Integration Networks <sup>2</sup> and across the province?
<b>3.08: Palliative Care</b>	Ministry of Health <sup>1</sup>	The Ministry, in conjunction with the Local Health Integration Networks, <sup>2</sup> should ensure that hospitals across the province consistently track and report the extent of time patients no longer requiring acute care must wait in this more expensive setting for care at home or in a hospice, and take action where necessary.	How will the Ministry and Local Health Integration Networks <sup>2</sup> ensure that hospitals across the province consistently track and report the extent of time patients no longer requiring acute care must wait in this more expensive setting for care at home or in a hospice, and take action where necessary?

Section	Organization	Recommendation	Questions for Consideration
<b>2015</b>			
<b>3.10: Management of Contaminated Sites</b>	Treasury Board Secretariat	To ensure that the government has a complete picture of its existing and potential contaminated sites liability, the stakeholder ministries should ensure that the public has access to information on contaminated sites for which the government has recorded a liability.	How are the stakeholder ministries ensuring that the public has access to information on contaminated sites for which the government has recorded a liability?
<b>3.11: Mines and Minerals Program</b>	Ministry of Northern Development Mines, Natural Resources and Forestry <sup>1</sup>	To attract more investment in the province's mining sector, the Ministry of Northern Development and Mines should ensure that the requirements surrounding its Aboriginal consultation process are clarified and can be easily understood by potential investors and Aboriginal communities with serious consideration of the province assuming more of a leadership role.	How will the Ministry of Northern Development, Mines, Natural Resources and Forestry <sup>1</sup> ensure that the requirements surrounding its Indigenous consultation process are clarified and easily understood by potential investors? Has the Ministry of Northern Development, Mines, Natural Resources and Forestry <sup>1</sup> considered the possibility of taking on more of a leadership role in the consultation process by addressing concerns directly with the Indigenous communities?
<b>3.11: Mines and Minerals Program</b>	Ministry of Northern Development Mines, Natural Resources and Forestry <sup>1</sup>	To protect public health and safety and the environment from the risks posed by abandoned mines, the Ministry of Northern Development and Mines should as soon as possible inspect all high-risk abandoned mines that have not been inspected in the last five years to determine if these sites pose risks to public safety.	What is the Ministry of Northern Development, Mines, Natural Resources and Forestry's <sup>1</sup> progress in inspecting all high-risk abandoned mines that have not been inspected in the last five years to determine if these sites pose risks to public safety?
<b>2016</b>			
<b>3.02: Climate Change</b>	Ministry of the Environment, Conservation and Parks <sup>1</sup>	To keep Ontarians updated on the status of its efforts to reduce greenhouse gases, the Ministry of the Environment and Climate Change should report at least annually to the public on its overall progress toward meeting its emissions targets.	When does the Ministry of the Environment, Conservation and Parks plan to start annual public reporting of its overall progress toward meeting emissions targets in order to keep Ontarians updated on the status of its efforts to reduce greenhouse gases?
<b>3.12: Specialty Psychiatric Hospital Services</b>	Ministry of Health <sup>1</sup> Local Health Integration Networks <sup>2</sup>	In order to deal with the growing wait times for specialty psychiatric hospital service, the Ministry of Health and Long-Term Care and Local Health Integration Networks should as soon as possible address those wait times that are long, as well as develop an overall strategy to reduce wait times, by setting wait time targets for specialty psychiatric hospital services.	How are the Ministry of Health and Local Health Integration Networks (LHINs) <sup>2</sup> addressing the long wait times for specialty psychiatric hospital services? What is the Ministry of Health and Local Health Integration Networks' (LHINs) <sup>2</sup> progress in developing an overall strategy to reduce wait times, and in setting wait time targets for specialty psychiatric hospital services?

Section	Organization	Recommendation	Questions for Consideration
<b>4.03: Information and Information Technology General Controls</b>	Ministry of Government and Consumer Services	The Justice Technology Services I&IT cluster should enable logging of all user access to information and transaction changes and monitor key activities on an ongoing basis. The extent of logging should be driven by the sensitivity and criticality of the data. The Ministry should define the data it considers sensitive and critical and that needs to be logged and proactively monitored.	<p>What is the Ministry of Government and Consumer Services' Justice Technology Services I&amp;T cluster's progress toward enabling logging of all user access to information and transaction change?</p> <p>How will the Ministry of Government and Consumer Services' Justice Technology Services I&amp;T cluster monitor the key activities on an ongoing basis?</p> <p>Has the Ministry of Government and Consumer Services defined the data it considers sensitive and critical that needs to be logged and proactively monitored?</p>
<b>2017</b>			
<b>3.03: Community Health Centres</b>	Local Health Integration Networks <sup>2</sup>	To ensure Community Health Centre (CHC) clients across Ontario have access to the full range of health services and interdisciplinary health professionals and to better direct workforce planning, we recommend that the Local Health Integration Networks, <sup>2</sup> in conjunction with the Ministry of Health and Long-Term Care assess whether all CHCs should offer a core set of services and update the accountability agreement between the CHCs and the LHINs accordingly.	What are the Local Health Integration Networks' (LHINs') <sup>2</sup> plans to assess whether all Community Health Centres (CHCs) should offer a core set of services; and its planned steps to update the accountability agreement between the CHCs and the LHINs accordingly?
<b>3.04: Emergency Management in Ontario</b>	Ministry of the Solicitor General <sup>1</sup>	To ensure that the emergency management programs in place at Ontario's ministries and municipalities include all delegated responsibilities and are sufficiently preparing them to respond to emergencies, we recommend that the Ministry of Community Safety and Correctional Services through the Provincial Emergency Management Office implement an oversight process that focuses on the quality and sufficiency of the emergency management programs in place.	What improvements in the oversight process were implemented by the Ministry of Community Safety and Correctional Services to improve the quality and sufficiency of emergency management programs?
<b>3.07: Laboratory Services in the Health Sector</b>	Ministry of Health <sup>1</sup>	To ensure that Ontarians have timely access to community laboratory services, we recommend that the Ministry of Health and Long-Term Care establish regional targets to monitor and assess the availability and accessibility of community specimen collection centres.	What is the Ministry of Health's progress in establishing regional targets to monitor and access the availability and accessibility of community specimen collection centres?
<b>3.09: Ontario Public Drug Programs</b>	Ministry of Health <sup>1</sup>	To help ensure that patients receive timely access to drugs that are considered for coverage under the Exceptional Access Program, we recommend that the Ministry of Health and Long-Term Care use the new system to collect the necessary data to inform the policies and administration of the programs, such as whether it should fund certain drugs through the Exceptional Access Program, with other specific criteria or as a general benefit through the Formulary.	Has the Ministry of Health started using the new system to collect the necessary data to inform the policies and administration of the Exceptional Access Program, such as whether it should fund certain drugs through the Exceptional Access Program, with other specific criteria, or as a general benefit through the Formulary?

Section	Organization	Recommendation	Questions for Consideration
<b>2018</b>			
<b>3.04: Interprovincial and International Health Services</b>	Ministry of Health <sup>1</sup>	To simplify the administration of the out-of-country travellers' program, we recommend that the Ministry of Health and Long-Term Care revisit opportunities to reduce administrative costs, for example, through adopting a single reimbursement rate (similar to other provinces) for all emergency in-patient health services obtained out of country.	Please explain the steps taken by the Ministry of Health to simplify the administration of the out-of-country travellers' program, such as through adopting a single reimbursement rate for all emergency in-patient health services obtained out-of-country.
<b>3.05: Legal Aid Ontario</b>	Ministry of the Attorney General	To help make better use of community legal clinics' resources, we recommend that the Ministry of the Attorney General, on behalf of Legal Aid Ontario and the Social Benefits Tribunal, continue to work with the Ministry of Children, Community and Social Services to further reduce the number of Ontario Disability Support Program cases that proceed to an appeal process.	What is the Ministry of the Attorney General's progress in its work with the Ministry of Children, Community and Social Services to further reduce the number of Ontario Disability Support Program cases that proceed to an appeal process?
<b>3.08: MRI and CT Scanning Services</b>	Ministry of Health <sup>1</sup>	To help ensure patients have equitable access to MRI and CT services across the province, we recommend that the Ministry of Health and Long-Term Care work with Local Health Integration Networks (LHINs) <sup>2</sup> and hospitals to take necessary actions to reduce the wait-time inequities across the province for MRI services and CT services	What actions has the Ministry of Health taken to reduce the wait-time inequities across the province for MRI and CT services?
<b>3.10: Ontario Student Assistance Program</b>	Ministry of Training, Colleges and Universities	To determine whether the objectives of changes to the Ontario Student Assistance Program (OSAP) are being met, we recommend that the Ministry of Training, Colleges and Universities track and publicly report measures such as graduation and employment rates for OSAP recipients in their field of study, and average student debt levels at completion of studies.	Provide details on whether the Ministry of Training, Colleges and Universities is tracking and publicly reporting measures such as graduation and employment rates for Ontario Student Assistance Program (OSAP) recipients in their field of study, and average student debt levels at completion of studies, to meet the objectives of changes to OSAP.
<b>3.12: School Boards—IT Systems and Technology in the Classroom</b>	Peel District School Board	In order to achieve more equitable access to classroom information technology (IT) resources for Ontario students across schools and school boards, we recommend that the school boards perform an assessment to evaluate students' needs with regard to classroom technology.	What is the Peel District School Board's progress in performing an assessment to evaluate students' needs with regard to classroom technology to achieve more equitable access to classroom information technology (IT) resources for its students across the school board?
<b>3.12: School Boards—IT Systems and Technology in the Classroom</b>	Algoma District School Board	To manage risks to key information technology (IT) processes and infrastructure at the school boards and in the schools, we recommend that the boards develop and test effective disaster recovery plans that put in place effective mitigation measures.	When does the Algoma District School Board plan to develop and test its disaster recovery plans, which will put in place effective mitigation measures, to manage risks to key information technology processes and infrastructure?

1. The Ministry name has changed since the original recommended action was issued.

2. As of April 1, 2021, Local Health Integration Networks (LHINs) were transferred into Ontario Health. Therefore, the reports directed to the LHINs are the responsibility of Ontario Health from April 1, 2021 onward.

## Appendix 3: Recommendations from 2014 to 2018 Assessed as “Will Not Be Implemented” in 2021 That the Auditor General Believes Should Be Implemented

Prepared by the Office of the Auditor General of Ontario

Section	Organization	Recommendations	Rationale	Impact
<b>2014</b>				
<b>3.08: Palliative Care</b>	Ministry of Health <sup>1</sup>	<p><b>Recommendation 1—Action 4</b></p> <p>The Ministry of Health and Long-Term Care, in conjunction with the Local Health Integration Networks, should create an overall policy framework on the provision of palliative-care services in Ontario. This framework should include a projection of the best mix of services (for example, hospital versus hospice versus home care) to meet current and future patient needs.</p>	<p>As per the Ministry, while it is leveraging resources from the Ontario Palliative Care Network (OPCN) and Institute of Clinical Evaluative Services (ICES) to inform new investments in sectors with significant service gaps (e.g., in-home and community care), there is no plan to predetermine for Ontario Health Teams how resources should be allocated. A framework will not be developed to determine the best mix of services (e.g., hospital versus hospice versus home care) to meet current and future patient needs.</p>	<p>The Ministry does not plan to create a framework to predetermine how resources should be allocated among hospital versus hospice versus home care. Therefore, the Ministry does not know whether the current mix of services is meeting Ontario’s current and future patient needs.</p>
		<p><b>Recommendation 4—Action 1</b></p> <p>To better ensure that patients requiring palliative care, including end-of-life care, have similar access to similar services across the province, the Ministry, in conjunction with stakeholders including the Hospice Palliative Care Provincial Steering Committee, should ensure that standardized patient eligibility practices for similar palliative-care services are developed and implemented.</p>	<p>According to the Ministry, it previously identified an initiative intended to define standardized levels of care for home and community care clients, including those seeking palliative and end-of-life care. As per the Ministry, this initiative is no longer being pursued. The Ministry will review other care delivery models that will include clinical decision-making at the local level through the Ontario Health Teams.</p>	<p>The Ministry will not develop and implement standardized patient eligibility practices for home and community care clients. As a result, patients eligible for palliative-care services in one area of the province might not be eligible for similar palliative-care services in another part of the province.</p>

Section	Organization	Recommendations	Rationale	Impact
2015				
<b>3.01: CCACs-Community Care Access Centres-Home Care Program</b>	Local Health Integration Networks (LHINs) <sup>2</sup>	<b>Recommendation 13—Action 1</b> To ensure that the funds provided to recruit and retain personal support workers are spent for the purposes intended, the Community Care Access Centres should conduct inspections of service provider records, on a random basis, and share the results with the Ministry of Health and Long-Term Care.	An audit report, <i>Audit of Personal Support Services Wage Enhancement</i> was completed by the Ontario Internal Audit Division in January 2019. This report noted that a review of a sample of providers showed that processes were in place to ensure only eligible individuals receive the appropriate wage increase. The Local Health Integration Networks (formerly Community Care Access Centres) and the Ministry of Health indicated they do not plan to conduct further reviews of this area.	The Ontario Internal Audit Division in 2019 conducted an audit to verify that some providers had processes to ensure that only eligible personal support workers receive the appropriate wage increase. As the Community Care Access Centres (now part of Local Health Integration Networks) and the Ministry of Health will not do any further work in this area, it will not be able to verify that funding meant for personal support worker wage increases is being spent as intended in the future.
		<b>Recommendation 14—Action 5</b> To ensure that critical operational and financial areas are consistently assessed and are transparent to the public, the Ministry of Health and Long-Term Care, in collaboration with the Local Health Integration Networks, the Community Care Access Centres, and Health Quality Ontario, where applicable, should make hospital readmission data available to Community Care Access Centres on a more timely basis.	Local Health Integration Networks (LHINs) stated that they can now directly access hospital readmission data through the Ministry of Health's SAS Visual Analytics portal, operated and managed by the Health Data Branch. However, the LHINs indicated that the issue of providing the hospital readmission data on a more timely basis needs to be addressed by the Ministry.	Not providing timely hospital readmission data to the Local Health Integration Networks (formerly Community Care Access Centres) means critical operational and financial areas are not being consistently assessed and transparent to the public.
<b>3.04: Economic Development and Employment Programs</b>	Ministry of Economic Development, Job Creation and Trade <sup>3</sup>	<b>Recommendation 3—Action 1</b> To ensure direct-to-business support funding is administered efficiently and cost effectively, the Ministry of Economic Development, Employment and Infrastructure should seek government approval to take on the responsibility to centralize the back-office administrative functions of all other ministries that provide direct-to-business support.	The Ministry stated that it will not seek to be the lead for government back-office administrative functions of all other ministries that provide direct-to-business support, as across-government centralized IT functionalities have been put in place by the Ministry of Finance and Treasury Board that allow for better co-ordination across ministries.	The Ministry will not take the lead to centralize government back-office administrative functions of all other ministries that provide direct-to-business support. Therefore, the Ministry cannot ensure that direct-to-business support funding will be administered efficiently and cost effectively.

Section	Organization	Recommendations	Rationale	Impact
<b>3.14: Intellectual Property</b>	Ministry of Economic Development, Job Creation and Trade <sup>3</sup>	<p><b>Recommendation 5—Action 2</b></p> <p>To ensure the Ministry of Research and Innovation (Ministry) is getting value for money for its investment in research and commercialization activities, the Ministry should collaborate with stakeholders to collectively develop useful performance measures that assess the socio-economic benefits to Ontarians.</p>	<p>In February 2020, research responsibilities were transferred to the Ministry of Colleges and Universities. Commercialization activities remain with the Ministry of Economic Development, Job Creation and Trade (Ministry). The Ministry stated that it will not collaborate with a key stakeholder, the Ontario Centre of Innovation (Centre) to work with universities to regularly and publicly report performance measures for commercialization efforts. The Ministry stated that the Centre has no authority or purview over universities.</p>	<p>The Ministry will not be developing useful performance measures that assesses the socio-economic benefits to Ontarians. Without these measures, the Ministry cannot ensure that it is getting value for money for its investment in research and commercialization activities.</p>
<b>Recommendation 5—Action 4</b>	To ensure the Ministry of Research and Innovation (Ministry) is getting value for money for its investment in research and commercialization activities, the Ministry should publicly report performance results on research funding and commercialization programs.	<p><b>Recommendation 5—Action 4</b></p> <p>To ensure the Ministry of Research and Innovation (Ministry) is getting value for money for its investment in research and commercialization activities, the Ministry should publicly report performance results on research funding and commercialization programs.</p>	<p>In February 2020, research responsibilities were transferred to the Ministry of Colleges and Universities. Commercialization activities remain with the Ministry of Economic Development, Job Creation and Trade (Ministry). According to the Ministry, it will not ask the Ontario Centre of Innovation (Centre), an organization it entered into an agreement with, to work with universities to regularly and publicly report performance measures for commercialization efforts. The Ministry stated that the Centre has no authority or purview over universities.</p>	<p>The Ministry will not be publicly reporting the performance results on commercialization programs. Without this reporting, the Ministry cannot ensure that it is getting value for money for its investment in commercialization activities.</p>

Section	Organization	Recommendations	Rationale	Impact
<b>2016</b>				
<b>3.09: Metrolinx— Public Transit Construction Contract Awarding and Oversight</b>	Metrolinx	<b>Recommendation 17—Action 1</b> To ensure that Metrolinx does not pay excessive construction costs to CN and CP, it should renegotiate its long-term master agreement with CN so that mark-up rates are more in line with industry benchmarks.	Metrolinx stated that there is no comparable industry benchmark to use for mark-up rates. Metrolinx also stated that the Canadian Transportation Agency rates applied as the industry benchmarks at the time of the 2016 VFM report are not indicative of costs in southern Ontario, which is where CN conducts the majority of its projects with Metrolinx. CN uses an internal methodology to allocate actual engineering indirect costs to its capital projects as standard percentages (mark-up rate) applied to direct labour and direct material costs. The mark-up rate is based on actual indirect costs and it is what CN uses for its internal projects. Metrolinx is unable to renegotiate its long-term master agreement with CN so that mark-up rates are more in line with industry benchmark and can only accept the mark-up rates CN calculated, which are based on actual costs.	Metrolinx is unable to renegotiate its long-term master agreement with CN so that mark-up rates are more in line with industry benchmarks. As a result, Metrolinx cannot assess whether CN's costs are reasonable and fair and in line with industry benchmarks.
<b>3.10: Ministry of Transportation — Road Infrastructure Construction Contract Awarding and Oversight</b>	Ministry of Transportation	<b>Recommendation 7—Action 1</b> To ensure that poor-performing contractors and contractors that do not follow safety standards and other requirements are appropriately penalized for their performance or behaviour, the Ministry of Transportation should establish appropriate penalties for contractors with unsatisfactory ratings.	The Ministry stated that the Qualification Committee determines appropriate action or administrative sanctions to be taken based on each specific situation that arises with a contractor and does not have the authority to issue penalties. The Ministry's goal is to improve contractors' behaviour. According to the Ministry, the Qualification Committee deliberates in deciding a response to each issue. It was noted that the uniqueness of each situation does not support application of predefined sanctions for unsatisfactory ratings.	The Ministry will not establish appropriate penalties for contractors with unsatisfactory ratings. Therefore it cannot ensure that poor-performing contractors are appropriately penalized for their performance or behaviour.

Section	Organization	Recommendations	Rationale	Impact
<b>Recommendation 7—Action 2</b>	To ensure that poor-performing contractors and contractors that do not follow safety standards and other requirements are appropriately penalized for their performance or behaviour, the Ministry of Transportation should incorporate stricter rules around excluding contractors from bidding if they breach safety regulations.	The Ministry stated that the Qualification Committee determines appropriate action or administrative sanctions to be taken based on each specific situation that arises with a contractor and does not have the authority to issue penalties. The Ministry's goal is to improve contractors' behaviour. According to the Ministry, the Qualification Committee deliberates in deciding a response to each issue. It was noted that the uniqueness of each situation does not support application of predefined sanctions for breach of safety regulations.	The Ministry will not incorporate stricter rules around excluding contractors from bidding if they breach safety regulations. Therefore it cannot ensure that poor-performing contractors and contractors that do not follow safety standards and other requirements are appropriately penalized for their performance or behaviour.	
<b>Recommendation 7—Action 3</b>	To ensure that poor-performing contractors and contractors that do not follow safety standards and other requirements are appropriately penalized for their performance or behaviour, the Ministry of Transportation should establish appropriate penalties for contractors that report inaccurate financial information to the Ministry.	The Ministry stated that the Qualification Committee determines appropriate action or administrative sanctions to be taken based on the nature of each specific situation that arises with a contractor and does not have the authority to issue penalties. The Ministry's goal is to improve contractor behaviour. According to the Ministry, the Qualification Committee deliberates in deciding a response to each issue. It was noted that the uniqueness of each situation does not support application of predefined sanctions for inaccurate financial information.	The Ministry will not be establishing appropriate penalties for contractors that report inaccurate financial information to the Ministry. Therefore it cannot ensure that poor-performing contractors and contractors that do not follow safety standards and other requirements are appropriately penalized for their performance or behaviour.	

Section	Organization	Recommendations	Rationale	Impact
2017				
<b>3.03: Community Health Centres</b>	Ministry of Health <sup>1</sup>	<b>Recommendation 5—Action 3</b> To ensure it has useful and complete information to measure the effectiveness of Community Health Centres (CHCs), we recommend that the Ministry of Health and Long-Term Care (Ministry), in conjunction with the Local Health Integration Networks (LHINs) establish timelines for collecting information for the remaining measures the Ministry has prioritized according to the Primary-Care Performance Measurement Framework.	In the current year, the Ministry stated that it is not pursuing further action on this recommendation. According to the Ministry, “the primary care landscape has evolved with the development of Ontario Health and Ontario Health Teams, and new care priorities.” Therefore, the Ministry noted that it must also evolve how it measures the impact of primary care. The Ministry stated that the Primary-Care Performance Measurement Framework did not include opioid indicators, which is now a reporting priority. It was also noted that this framework must be revisited to capture relevant performance measurement information that is reflective of the sector and delivery models.	The Ministry will not establish timelines for collecting information for the remaining measures prioritized according to the Primary-Care Performance Measurement Framework because the primary care landscape has evolved. Without establishing timelines for capturing relevant performance measurement information that is reflective of the sector and delivery models, the Ministry will not be able to determine whether it has useful and complete information to measure the effectiveness of Community Health Centres.
<b>3.05: Farm Support Programs</b>	Ministry of Agriculture, Food and Rural Affairs	<b>Recommendation 10—Action 1</b> To ensure that the Ministry of Agriculture, Food and Rural Affairs (Ministry) provides timely and appropriate support to farmers in a crisis, we recommend the Ministry develop a crisis-response plan that outlines roles and responsibilities for designing and delivering crisis programs, provides criteria for when support will be provided and to whom, and identifies potential sources of funding.	The Ministry stated that due to the wide diversity of the agricultural sector, and the wide scope and scale of potential disaster events, it is not feasible to develop a crisis plan that includes criteria for when support will be provided.	The Ministry will not be developing a crisis plan that proactively provides criteria for when support will be provided. Without these criteria, the Ministry cannot provide timely and appropriate support to farmers in a crisis.
<b>3.08: Ministry Funding and Oversight of School Boards</b>	Ministry of Education	<b>Recommendation 11—Action 1</b> In order to ensure that leading practices identified during the operational reviews of school boards have been adopted, we recommend that the Ministry follow up with school boards to identify the implementation status of key recommendations outlined in their operational reviews, and work with school boards to put best practices in place, where it has not been done.	According to the Ministry, while many of the leading practices established through the operational reviews remain relevant today, the broader framework in which school boards operate has evolved and expanded over time. In light of the changes and new initiatives that have shaped the landscape in which school boards operate over the past decade, the Ministry is not looking to relaunch or revisit the operational reviews at this time.	The Ministry is not looking to relaunch or revisit the operational reviews at this time. This may result in school boards not adopting some leading practices that were identified during the operational reviews.

Section	Organization	Recommendations	Rationale	Impact
<b>3.09: Ontario Public Drug Programs</b>	Ministry of Health <sup>1</sup>	<p><b>Recommendation 10—Action 2</b></p> <p>To help reduce the risk of inappropriate prescribing, dispensing and patient use of opioids, we recommend that the Ministry of Health and Long-Term Care consolidate, monitor and analyze data from its key initiatives to determine whether they are successful in reducing the number of individuals suffering from opioid addiction and overdoses, and the number of opioid-related deaths, and report publicly on how the initiatives are achieving their intended purposes.</p>	<p>According to the Ministry, it would be challenging to show causality between individual provincial programs and opioid-related harms. The Ministry stated that it internally tracks outputs and performance metrics for each opioid crisis response initiative and reports these quarterly to Treasury Board, but they are not reported publicly.</p> <p>The Ministry stated that it does not publicly report on information on opioid overdoses and opioid-related deaths as there are other partners, including Public Health Ontario and Ontario's Chief Coroner, who track and report on this data.</p> <p>The Ministry stated that there are no plans to further expand public reporting on opioid-related initiatives at this time and that the Ministry will continue to work with Ontario Health and other system partners to monitor and analyze trends related to the opioid crisis and use that information to inform policy and programs decision-making.</p>	<p>The Ministry has not evaluated and publicly reported on the success of its initiatives of reducing the number of individuals suffering from opioid addiction and overdoses, and the number of opioid-related deaths. As a result, there is a risk of inappropriate prescribing, dispensing and patient use of opioids.</p>
<b>3.12: School Boards' Management of Financial and Human Resources</b>	Hamilton-Wentworth District School Board	<p><b>Recommendation 5—Action 1</b></p> <p>To ensure funding for specific education priorities are used for their intended purposes, we recommend that school boards focus the use of the funding on evidence-based areas where the at-risk students and English-language learners are performing below provincial standards.</p>	<p>According to the Hamilton-Wentworth School Board, this recommended action is not a requirement of the Grants for Student Needs and the school board has the flexibility to use the allocation on priorities that it may decide.</p>	<p>Hamilton-Wentworth District School Board has determined that the use of the funding on evidence-based areas where learners are performing below provincial standards is not a requirement of the Grants for Student Needs and the school board has the flexibility to allocate funding on priorities it decides on. As a result, Ministry funding for specific education priorities may not be used for the intended purposes.</p>

Section	Organization	Recommendations	Rationale	Impact
Toronto Catholic District School Board	Toronto Catholic District School Board	<b>Recommendation 8—Action 1</b> To better ensure that the special-educational support services meet the needs of special-needs students, we recommend that school boards establish and publicly report on key academic and non-academic performance indicators to track student improvement for each type of exceptionality.	According to the Toronto Catholic District School Board, it will not be reporting by exceptionality because there is concern that the individual students may be readily identified through the data and there is a concern related to the stigma associated with data being broken down by exceptionality with lesser academic achievement potentially interpreted as lack of success for students with exceptionalities. The school board stated that it does not plan to publicly report on key academic and non-academic performance indicators to track student improvement for each type of exceptionality and will not be developing measures of effectiveness for transition plans due to privacy concerns.	The Toronto Catholic District School Board will not establish and publicly report on key academic and non-academic performance indicators by exceptionality. As a result, the school board cannot ensure that special educational support services meet the needs of special-needs students.
<b>Recommendation 9—Action 4</b>		To provide effective oversight of operations, we recommend that school boards, where possible, co-ordinate to have their regional internal audit teams examine issues common among the boards in the region to identify best practices, which should then be shared with boards province-wide.	The Toronto Catholic District School Board stated that it communicated the need to identify and share best practices to the Coordinating Steering Committee for the Toronto and Area Regional Internal Audit team. The school board noted that the Toronto and Area Regional Internal Audit team manager acknowledged and recognizes this direction. Beyond the act of communicating and direction, the school board stated that it is not in a position to mandate and direct the operations of the independent Toronto and Regional Internal Audit team. According to the school board, this is a provincial matter of concern and responsibility.	The Toronto Catholic District School Board cannot mandate and direct the operations of the independent Toronto and Regional Internal Audit team. A lack of co-ordination to have regional internal audit teams examine common issues among the boards and to share best practices province-wide may result in ineffective oversight of school board operations.

Section	Organization	Recommendations	Rationale	Impact
2018				
<b>3.07: Metrolinx—LRT Construction and Infrastructure Planning</b>	Metrolinx	<p><b>Recommendation 1—Action 1</b></p> <p>To effectively fulfill its mandate to implement the transportation plan for the Greater Toronto and Hamilton Area, we recommend that Metrolinx consider securing provincial and municipal approval for the Regional Transportation Plan and work with the provincial government to agree on long-term funding for the projects in the Plan in order to minimize the risk of project delays and cancellations.</p> <p><b>Recommendation 7—Action 2</b></p> <p>To rectify the design submission and content problems being experienced so that there are no undue delays in the future and to ensure that the Eglinton Crosstown Light Rail project is built according to agreed-upon requirements, we recommend that Metrolinx work with the AFP (Alternative Financing and Procurement) consortium to minimize the number of partial designs submitted to facilitate design review and approval by Metrolinx’s technical advisors and the TTC.</p>	<p>Metrolinx stated that as a Crown corporation, it is not able to secure long-term funding for the projects in the Regional Transportation Plan, to minimize the risk of project delays and cancellations. Metrolinx is governed by the provincial budget process to obtain funding on an annual basis.</p> <p>Metrolinx’s project agreement with the AFP consortium was not renegotiated to include provisions that would allow Metrolinx to restrict partial submissions. Metrolinx can encourage the AFP consortium to submit its designs in a size and sequence that optimizes the design process and conserves the resources of all parties. Under the project agreement, the consortium can and did choose to proceed “at risk.” That is, it proceeded knowing that it was assuming responsibility, if it is later assessed that the infrastructure was built in noncompliance with the design or with the requirements of the project agreement.</p> <p>Metrolinx is not allowed to restrict partial submissions as per Metrolinx’s project agreement with the AFP consortium. Not having restrictions on partial submissions could result in undue delays and a risk that the technical advisors would not be able to evaluate whether the station designs are safe and control the risk of hazards.</p>	<p>Without being able to secure long-term funding for projects in the transportation plan, there is a risk that Metrolinx may not be able to fulfill its mandate to effectively implement the transportation plan.</p>
<b>3.10: Ontario Student Assistance Program</b>	Ministry of Colleges and Universities <sup>4</sup>	<p><b>Recommendation 1—Action 1</b></p> <p>To determine whether the objectives of changes to the Ontario Student Assistance Program (OSAP) are being met, we recommend that the Ministry of Training, Colleges and Universities determine whether there has been an increase in the enrolment of students in post-secondary institutions from underrepresented groups.</p>	<p>The Ministry stated that this recommendation is not possible to implement due to the lack of available data.</p> <p>According to the Ministry, indicators to identify underrepresented groups do not exist in enrolment data collections, nor are there other sources that would provide this information for each enrolment record through data linkages in the Ontario Student Assistance Program.</p> <p>The Ministry stated that it will continue to measure OSAP uptake of the underrepresented groups (i.e., Indigenous learners, students with disabilities, mature learners and low-income students).</p>	<p>The Ministry cannot demonstrate whether the objectives of changes to OSAP are being met, and whether there has been an increase in the enrolment of students from underrepresented groups in post-secondary institutions.</p> <p>The Ministry also cannot ensure whether the composition of students enrolled in post-secondary schools had changed and in turn, if more underrepresented people were enrolled in post-secondary education in the past.</p>

Section	Organization	Recommendations	Rationale	Impact
			<p>The Ministry also stated that it will work toward continuous improvement in data collection, reporting, and analysis so that progress may be better tracked for all Ministry priorities and outcomes, including increases in enrolment among underrepresented groups.</p>	
<b>3.11: Ontario Works</b>	Ministry of Children, Community and Social Services	<p><b>Recommendation 9—Action 3</b></p> <p>We recommend that the Ministry of Children, Community and Social Services (Ministry) work with the College of Physicians and Surgeons of Ontario (College) and that the Ministry distribute to all service managers a list of doctors the Ministry suspects of approving questionable applications for a special diet allowance, including doctors the College is investigating or has previously sanctioned.</p>	<p>The Ministry stated that there is a risk that publicly disclosing a list of doctors' names who the Ministry suspects have improperly or falsely completed Special Diet Allowance applications, as well as disclosing doctors who the College is investigating or has previously sanctioned, may be considered a disclosure of personal information contrary to the <i>Freedom of Information and Privacy Act</i>.</p>	<p>The Ministry and the College cannot ensure that doctors suspected to have improperly or falsely completed Special Diet Allowance applications, or doctors who are under investigation or were previously sanctioned, are brought to the attention of service managers.</p>

Note: Actions directed at a group of entities are divided by the number of entities involved, and are counted in fractions. Therefore, the number of actions in this appendix will be higher than the 18 noted in Section 3.8.

1. Formerly the Ministry of Health and Long-Term Care.
2. Formerly Community Care Access Centres.
3. Formerly Ministry of Economic Development and Growth, and Ministry of Research and Innovation.
4. Formerly Ministry of Training, Colleges and Universities.

## Appendix 4: Reports Issued by the Standing Committee on Public Accounts from June 2015\* to March 2020

Prepared by the Office of the Auditor General of Ontario

Report Name	Date Issued
Financial Services Commission of Ontario—Pension Plan and Financial Services Regulatory Oversight	Jun 2015
Infrastructure Ontario—Alternative Financing and Procurement	Jun 2015
University Undergraduate Teaching Quality	Jun 2015
Cancer Screening Programs	Nov 2015
Smart Metering Initiative	Nov 2015
Education of Aboriginal Students	Mar 2016
Public Accounts of the Province	Apr 2016
Metrolinx—Regional Transportation Planning	Jun 2016
ServiceOntario	Jun 2016
Healthy Schools Strategy	Oct 2016
CCACs—Community Care Access Centres—Home Care Program	Dec 2016
Toward Better Accountability	Dec 2016
Electricity Power System Planning	Mar 2017
University Intellectual Property	Apr 2017
Long-Term-Care Home Quality Inspection Program	May 2017
Public Accounts of the Province	May 2017
Child and Youth Mental Health	Dec 2017
Employment Ontario	Dec 2017
Ministry of Transportation—Road Infrastructure Construction Contract Awarding and Oversight	Dec 2017
Large Community Hospital Operations	Feb 2018
Physician Billing	Feb 2018
Immunization	Apr 2018
Metrolinx—Public Transport Construction Contract Awarding and Oversight	May 2018
Independent Electricity System Operator—Market Oversight and Cybersecurity	May 2018
Public Accounts of the Province	May 2018
Settlement and Integration Services for Newcomers	Feb 2019
Cancer Treatment Services	Oct 2019
Real Estate Services	Oct 2019
Public Health: Chronic Disease Prevention	Nov 2019
Darlington Nuclear Generating Station Refurbishment Project	Dec 2019
Ontario Works	Dec 2019
Public Accounts of the Province	Feb 2020

\* Standing Committee on Public Accounts reports issued prior to June 2015 were not followed up in 2021.

## Appendix 5: Recommendations from 2015 to 2020<sup>1</sup> by the Standing Committee on Public Accounts Assessed as “Will Not Be Implemented” in 2021 That the Auditor General Believes Should Be Implemented

Prepared by the Office of the Auditor General of Ontario

Section	Organization	Recommendations	Rationale
<b>2016</b>			
<b>December: CCAC—Community Care Access Centres—Home Care Program</b>	Ministry of Health <sup>2</sup>	<b>Recommendation 6—Action 1</b> The Standing Committee on Public Accounts recommends that the Ministry of Health and Long-Term Care, in conjunction with the Local Health Integration Networks demonstrate that funding meant for Personal Support Worker wage increases was spent as intended.	The Ministry stated that an audit report, <i>Audit of Personal Support Services Wage Enhancement</i> , was completed by the Ontario Internal Audit Division in January 2019. This report noted that a review of a sample of providers showed that processes were in place to ensure only eligible individuals receive the appropriate wage increase.  The Ministry indicated that it does not plan to conduct further reviews of this area.
<b>2017</b>			
<b>April: University Intellectual Property</b>	Ministry of Economic Development, Job Creation and Trade <sup>3</sup>	<b>Recommendation 4—Action 1</b> The Ministry of Research, Innovation and Science work with universities to develop socio-economic performance measures to be used in publicly reporting the outcomes of university research and commercialization efforts.	In February 2020, research responsibilities were transferred to the Ministry of Colleges and Universities. Commercialization activities remain with the Ministry of Economic Development, Job Creation and Trade (Ministry). The Ministry stated that it will not ask a key stakeholder, the Ontario Centre of Innovation (Centre) to work with universities to regularly and publicly report performance measures for commercialization efforts the Centre has no authority or purview over universities.
		<b>Recommendation 7—Action 1</b> The Ministry of Research, Innovation and Science work with Ontario universities to regularly and publicly report performance results in research funding and commercialization programs.	In February 2020, research responsibilities were transferred to the Ministry of Colleges and Universities. Commercialization activities remain with the Ministry of Economic Development, Job Creation and Trade (Ministry). According to the Ministry, it will not ask the Ontario Centre of Innovation (Centre) to work with universities to regularly and publicly report performance measures for commercialization efforts. The Ministry stated that the Centre has no authority or purview over universities.  The Ministry stated that the Centre’s program activities, deliverables and responsibilities with respect to the Ministry are governed by the Transfer Payment Agreement that is in place with the Ministry. This Transfer Payment Agreement does not direct or require the Centre to work with universities to report commercialization-related outcomes that go beyond the requirements in the Agreement.

Note: Actions directed at a group of entities are divided by the number of entities involved and are counted in fractions. Therefore, the number of actions in this appendix will be higher than the two noted in Section 4.4.

1. We reviewed outstanding recommendations from 2015 to 2020 but did not assess any from 2015, 2018, 2019 or 2020 as “Will Not Be Implemented” in 2021.

2. Formerly Ministry of Health and Long-term Care.

3. Formerly Ministry of Research, Innovation and Science.



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