



News Release

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Slow Pace of Modernization Contributes to Growing Delays in Ontario Courts, More Transparency of Court Systems Needed: Auditor General

(TORONTO) Delays remain prevalent across Ontario's courts—but the Auditor General's Office was blocked from fully examining the reasons for those delays, Auditor General Bonnie Lysyk says in her *2019 Annual Report*, tabled in the Legislative Assembly today.

Lysyk said the chief justices of the Ontario and Superior Courts, and staff at the Ministry of the Attorney General refused to make certain information available to her auditors, which impeded their reviews of the province's overall courts system and the criminal and family courts in particular.

"We respect the confidentiality under which the courts must operate and the independence of the judiciary," Lysyk said after tabling her Report, "but the *Auditor General Act* does give us the statutory authority to review government spending."

"In addition, we routinely examine confidential data from a broad range of government operations, and we have never violated any confidentiality."

Lysyk said that despite the obstacles, auditors were able to conclude that "the overall pace of court-system modernization remains very slow since our previous audits of the courts in 2003 and 2008," and that the system is still heavily paper-based.

The Auditor General examined three aspects of Ontario's court system—**Court Operations**, the **Criminal Court System**, and **Family Court Services**—and reports separately on each in **Volume 3** of this year's Annual Report.

Some findings, including the rising case backlogs and the slow pace of modernization, were common to all three audits. However, there were also findings that were specific to each.

For example, the **Court Operations** audit found that, with the exception of a few courthouses with capacity issues, courtrooms were generally available when needed to hear cases. But the Report also noted that the Ministry could do more to manage several issues, including the increasing number of sick days taken by staff and the travel claims submitted by court interpreters.

The **Criminal Court System** audit found that the backlog of criminal cases noted in previous audits of Court Services in 2003 and 2008 continues to grow. Between 2014/15 and 2018/19, the number of criminal cases awaiting resolution increased by 27% to about 114,000 cases. However, the scope of the audit was limited because the Criminal Law Division (Division) of the Ministry refused auditors access to 175 case files they requested. Instead, they were provided with Division staff's summaries, including some of the details of cases and reasons for delays. As a result, auditors were unable to independently confirm the reasons for delays in the resolution of criminal cases.

Overall, the **Family Court Services** audit found that, as of July 2019, about one-quarter of the 5,249 child protection cases awaiting resolution had been pending for more than 18 months, and some for more than three years. However, because of the limitations placed on the audit, neither the Ministry nor the Auditor General was able to determine how many of these cases were subject to the statutory timelines required under the *Child, Youth and Family Services Act, 2017* (Act). The State of Minnesota court publicly reports on the length of time it takes for children who are removed from their custodial parents to find permanent homes.

The Report noted that more needs to be done to increase transparency and accountability to the public to determine whether taxpayer funding is used efficiently and cost effectively in the court system.

Some of the significant findings of the three court audits included:

- Ontario courtrooms operated only 2.8 hours on an average business day, well below the Ministry's optimal average of 4.5 hours. The audit found that the 55 courthouses (of a total 74) that reported above-average delays in resolving cases also operated fewer hours than the optimal 4.5 hours per day.
- Auditors observed some courtrooms not in use at any point during the day when they visited seven courthouses across the province in April and May. The auditors were unable to determine whether any of these courtrooms were previously scheduled for hearings as the courts limited auditors' access to administrative court-scheduling information. Auditors performed their own sample review of 252 court days during which certain courtrooms were not used, and concluded that no cases were heard on 218 of those 252 court days.
- The Integrated Court Offences Network (ICON), an information system established in 1989, tracks more than 98% of all criminal cases in the province. However, little progress had been made in replacing ICON to help modernize the court system despite the same issue reported in the Auditor's 2008 audit of Court Services and 2016 audit of Information and Information Technology General Controls.
- The number of sick days taken by staff of the Court Services Division rose by 19% over five years—from 27,610 in 2014 to 32,896 in 2018—even though the number of full-time staff declined by 10% over the same period. The average number of 14.5 sick days per employee in the Division in 2018 was higher than the comparable average of 11 for the entire Ontario Public Service.
- In July 2016, a landmark Supreme Court of Canada ruling said that if a case is not disposed within 18 months (for Ontario Court) or 30 months (for Superior Court), it is presumed that the delay is unreasonable unless Crown attorneys can prove otherwise. As a result of this ruling, 191 cases were stayed, or discontinued, between July 2016 and August 2019. These cases, the Report noted, denied justice to victims and may have had a significant impact on public confidence in the justice system.
- Legislation allows the court to make an order for interim care by a Children's Aid Society for up to 18 months for children under age six and 30 months for children between the ages of six and 17. Yet, 1,189 cases, or 23% of 5,249 child protection cases pending disposition, had been pending for longer than 18 months, and 762 of them had exceeded 30 months. For these cases, the Ministry was unable to identify how many children were in interim care, or for how long, because it did not monitor compliance with the statutory timelines. After the auditors' multiple requests to review the complete case files, only partial files were provided for the sampled cases. However, these documents were insufficient to determine whether the statutory timelines were applicable and/or reasons for the delays.

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Read the report at www.auditor.on.ca



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