



## Volume 3, Chapter 4—Family Court Services 2019 Value-for-Money Audit

### Why We Did This Audit

- Family law issues such as child protection, child custody and access, support and divorce have significant societal impacts.
- In our 2008 Court Services audit, we reported that serious backlogs in the overall court system were growing and more successful solutions were needed for eliminating backlogs and improving access.

### Why It Matters

- Child safety is the primary issue in child protection cases. While courts can help to keep children from physical harm, court delays can result in extended temporary placements, which have the potential to cause psychological and developmental issues, or put children's wellbeing at risk.
- Ineffective and untimely family court processes and services can heighten the distress and financial impacts for individuals involved in family courts.

### What We Found

#### Child Protection Cases (7,410, or 12%, of 62,970 new family law cases filed in court in 2018/19)

- As of July 31, 2019, there were 5,249 child protection cases pending resolution. Of these, 1,189 cases (or 23%) had been pending for longer than the statutory timelines stipulated under the *Child, Youth and Family Services Act, 2017 (Act)*—18 months for children under six years old, and 30 months for children ages six and older. Some have been pending disposition for more than three years.
- We were denied full access to a sample of 85 child protection files requested to determine and confirm the reason for the delays regarding statutory timelines. The redacted documents provided by the Ministry of the Attorney General (Ministry) were not sufficient for us to examine details of the cases to determine initially whether the cases were subject to the statutory timelines under the Act and if so confirm the reasons for delays.

#### Domestic Family Law Cases (55,560, or 88%, of 62,970 new family law cases filed in court in 2018/19)

- While there are no statutory timelines for domestic family law cases (such as divorce, child access and custody, and support), we noted there are best practice guidelines for these cases.
- The Offices of the Chief Justices of the Ontario Court of Justice and Superior Court of Justice indicated most of their court locations could provide court hearing dates within their best practice timelines, or had minimal waits. However, we were unable to substantiate these claims because we were not given access to administrative court scheduling information.

#### FRANK – Case-file Tracking System

- Case statistics reported by the Ministry for both child protection and other family law cases contained significant errors; therefore, we could not rely on system data to perform accurate trend analyses such as time taken to dispose of cases and the aging of cases pending disposition.
- Our review of a sample of 70 domestic family law cases pending disposition older than one year found that 56% had been resolved or inactive for over a year. Therefore, the number of domestic family law pending cases reported by the Ministry in this situation was overstated, a key workload measure of the courts.

#### Third-party Service Providers Providing Mediation Services

- Between 2014/15 and 2018/19, third-party service providers billed the Ministry a yearly average of about \$2.8 million for 34,450 hours of onsite mediation services “availability.” We estimated that onsite mediators engaged in mediation work for only about 7,200 hours, or just over 20% of the total hours billed. The invoices submitted by the service providers did not indicate the type of work the mediators performed for the remaining time spent onsite—which represents almost 80% of the total hours billed.

## **Conclusions**

- Based on the limited information made available to us, we found that effective and efficient court service processes are not in place for protecting children in accordance with legislated statutory timelines, but the extent of this issue is unknown.
- Because the Ministry did not have accurate and complete information captured in its information system and the restriction placed in our access to individual child protection case files, we were unable to determine how many of the outstanding child protection cases were subject to the statutory timelines and/or the reasons why cases exceeded the timelines.
- The Ministry did not have effective oversight of its contracts with the service providers in delivery of family mediation and other services across the province.

Read the audit report at [www.auditor.on.ca](http://www.auditor.on.ca)