



Ontario's Costs for Services Provided to Irregular Border Crossers





Office of the Auditor General of Ontario

To the Honourable Speaker
of the Legislative Assembly

I am pleased to transmit my Special Report on Ontario's Costs for Services Provided to Irregular Border Crossers, as requested by the Standing Committee on Public Accounts under Section 17 of the *Auditor General Act*.

A handwritten signature in black ink, reading "Bonnie Lysyk".

Bonnie Lysyk
Auditor General

July 2020
Toronto, Ontario

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Ce document est également disponible en français.

ISBN 978-1-4868-3806-6 (Print)

ISBN 978-1-4868-3807-3 (PDF)

Cover photograph credit:

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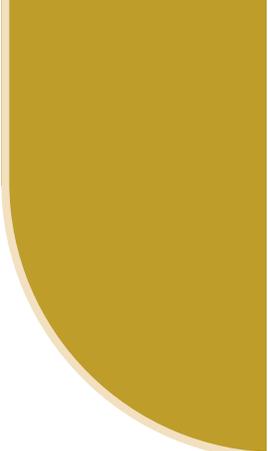


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Reflections

In August 2018, Ontario's Minister of Children, Community and Social Services announced that \$200 million of costs were being incurred by Ontario ministries and some municipalities due to a significant surge of irregular border crossers into Canada. This surge began in 2017. In October 2018, Ontario's Standing Committee on Public Accounts asked us to audit these costs.

We found that the total cost of \$200 million, and the components making it up, was not fully supportable. The costs were provided to the Minister by senior public servants at the Ministry of Children, Community and Social Services (Ministry), after which the Minister made the numbers public. Based on our work, \$80.7 million would have been a more reasonable estimate.

Most of the \$200 million of costs were for providing services to not just irregular border crossers but to all refugee claimants, including those who entered Canada at an official point of entry. The Ministry had not anticipated that tracking the costs for irregular border crossers would be necessary because in the past there were minimal irregular border crossers and they were counted as refugee claimants. However, this should not have precluded senior Ministry officials from confirming the accuracy of cost numbers it was planning to provide to the Minister or being clear about information

gaps. These actions should be taken as a matter of course to ensure that decision-making and public announcements are based on reliable information. Of further concern is that these costs are still not being adequately tracked.

The time taken to complete our work on a seemingly straightforward request from the Standing Committee on Public Accounts was complicated by the lack of reliable information supporting the \$200-million estimate. As such, we had to conduct extensive additional work to assess the reasonableness of this estimate.

Significant improvements are needed in determining the costs to Ontario ministries and municipalities for providing services to irregular border crossers. Ontario needs both better information on who is receiving services, and clearer provisions for federal compensation to the province for the costs of providing such services.

Immigration is one of three areas where, under Canada's Constitution, jurisdiction is shared between the federal and provincial/territorial governments. However, the existing immigration agreement between the federal government and provincial governments does not include a provision for the federal government to compensate provincial ministries and municipalities for costs incurred in a situation like the surge in irregular border crossers that continued until the border was closed due to the COVID-19 pandemic.

The federal government has a shared responsibility for supporting, financially and otherwise, the successful economic and social integration of all immigrants, however they arrived into Canada. Quebec pursued and obtained a separate cost-sharing agreement with the federal government in response to the surge. Under this agreement, at the time of our audit, Quebec had received compensation from the federal government of \$286 million for costs of \$300 million that it reported in December 2018. It is surprising that Ontario does not yet have a similar agreement for refugee claimants, including irregular border crossers.



Bonnie Lysyk
Auditor General of Ontario

1.0 Overall Summary

On October 24, 2018, the Legislature’s Standing Committee on Public Accounts (Committee) passed a motion requesting that the Auditor General of Ontario “conduct an audit of the costs associated with illegal border crossers as it relates to all services provided through the government of Ontario and its municipalities for the three years ending July 31, 2018” (in this report, we refer to the border crossers in the motion as irregular border crossers). Ten weeks earlier, on August 13, 2018, the Ontario Minister of Children, Community and Social Services announced that Ontario had incurred costs of \$200 million for irregular border crossers up to that point in time.

We understood that the time frame in the Committee’s motion was intended to capture the period when the majority of the costs occurred. However, as **Figure 2** illustrates, the surge in interceptions of irregular border crossers that triggered the discussion around irregular border crosser costs began in 2017. Also, April 1, 2017, was when the federal

government started tracking the arrival of irregular border crossers. For these reasons, our audit of costs was limited to the period between April 1, 2017, and July 31, 2018.

We also understood that the Committee expected our audit to include a total of the costs associated with irregular border crossers. We could not confirm a total cost because costs incurred just by irregular border crossers were not being separately tracked. The providers of services to irregular border crossers did not anticipate that tracking these costs would be necessary. In the absence of this information, our work was limited to assessing the reasonableness of the \$200 million in announced costs using an estimation methodology.

As seen in **Figure 3**, using data from the federal government, we estimated that 36% of the total number of people who filed refugee claims during our audit period and had settled in Ontario were irregular border crossers. Our best estimate (see **Figure 1**) is that Ontario ministries and municipalities and Legal Aid Ontario together spent \$80.7 million on services for irregular border crossers in the 16-month period between April 1, 2017, and July 31, 2018. As of March 31, 2020, the federal government had funded municipalities for \$15.6 million of these costs. As a result, for the remaining estimated \$65.1 million in costs, no federal compensation has been received.

We found that the Minister’s announcement of \$200 million in irregular border crosser costs was based on inaccurate data provided by the Ministry of Children, Community and Social Services (Ministry). Most of those costs were incurred by all refugee claimants (both regular and irregular border crossers) because, as mentioned, costs incurred just by irregular border crossers were not being separately tracked. As well, the time period when each type of cost was incurred varied among the ministries and municipalities that reported their costs to the Ministry. Finally, we found that some irregular border crosser costs were not included.

During the course of our work, we noted that there is no agreement between the province and

Figure 1: Estimated Costs for Ontario Ministries, Ontario Municipalities and Legal Aid Ontario to Provide Services for Irregular Border Crossers for the 16-Month Period April 1, 2017–July 31, 2018 (\$ million)

Prepared by the Office of the Auditor General of Ontario

Type of Cost	OAGO Estimated Costs	
	All Refugee Claimants	Irregular Border Crossers
Ontario Ministry Services		
Ministry of Children, Community and Social Services		
Social assistance	53.1	19.1 ¹
Adult language training	4.5	1.6 ¹
Accommodations in college dormitories	3.0	1.1 ¹
Newcomer settlement	0.6	0.2 ¹
Ministry of Education		
Elementary and secondary school education	33.3	33.3
Ontario Municipality Services²		
City of Toronto—temporary housing	39.4	14.2 ¹
City of Ottawa—temporary housing ³	12.0	4.3 ¹
Regional Municipality of Peel—emergency shelters	1.6	0.6 ¹
Legal Aid Ontario Services		
Immigration and refugee legal services	17.6	6.3 ¹
Subtotal—Estimated Costs of Services Provided Before Federal Funding Received	165.1	80.7
Less: Federal Funding Received		
City of Toronto	(11.0) ⁴	(11.0)
City of Ottawa	(4.3) ⁵	(4.3)
Regional Municipality of Peel	(0.8)	(0.3) ¹
Subtotal—Federal Funding Received	(16.1)	(15.6)
Total—Estimated Costs of Services Provided minus Federal Funding Received	149.0	65.1

1. These costs were estimated to be 36% of OAGO Estimated Costs for All Refugee Claimants (see Section 4.1).

2. In addition to the three listed costs, the Regional Municipality of Halton incurred emergency shelter costs for irregular border crossers of \$22,000.

3. These costs were not audited because the City of Ottawa confirmed it was fully funded by the federal government for its costs for irregular border crossers for the 16-month period April 1, 2017–July 31, 2018.

4. The City of Toronto received \$11 million in reimbursement from the federal government for irregular border crosser costs incurred in the 16-month period April 1, 2017–July 31, 2018.

5. The City of Ottawa received \$4.3 million in reimbursement from the federal government for irregular border crosser costs. Specifically, it received \$7 million in reimbursement for irregular border crosser costs for the 2017 and 2018 calendar years, of which \$4.3 million was for those costs incurred in the 16-month period April 1, 2017–July 31, 2018.

the federal government under which the province could recover its direct costs incurred for providing services to refugee claimants, including irregular border crossers. Based on our recommendation, the province plans to seek an agreement with the federal government to help compensate the province for the costs of services it provides to refugee claimants, including irregular border crossers.

OVERALL MINISTRY RESPONSE

The Ministry thanks the Office of the Auditor General of Ontario for its work in examining the costs of services provided to irregular border crossers in Ontario during the period when irregular border crossing from the United States increased significantly starting in spring 2017.

The Ministry acknowledges that data on service use and associated costs specifically for irregular border crossers have not been tracked separately. In the past, separate tracking has not been required because there were minimal irregular border crossers, and they were counted as simply refugee claimants. The Ministry will now work with the federal government to determine how best to capture data on irregular border crossers.

The Canada–Ontario Immigration Agreement provides a framework for joint planning on shared priorities, including information sharing, data collection, research and federal/provincial settlement and integration service co-ordination for immigrants.

The Ministry will work to determine the costs to provincial ministries and municipalities associated with refugee services, including services for irregular border crossers.

2.0 Background

2.1 Who Are Irregular Border Crossers?

Irregular border crossers enter Canada from the United States through unofficial points of entry. An unofficial point of entry is any unsecured section of the Canada–US border, including roads and forest paths. Official points of entry, through which regular border crossers enter Canada, are airports and secured borders staffed by Canada Border Services Agency personnel.

Most irregular border crossers are intercepted right away. Those who pass security and other checks can make a claim for refugee status. Once an irregular border crosser files a claim for refugee status, they are referred to as a “refugee claimant”: an individual who seeks legal protection in a new country as a refugee based on claims that they faced persecution in their home country.

Irregular border crossers to Canada from the US increased significantly beginning in the spring of 2017. This has been attributed to several factors. For instance, some attribute this to changes to US immigration policies and the fear of US immigrants being deported (arrests by US Immigration and Customs Enforcement have increased by 42% under the current US administration, which began in January 2017 along with the start of several travel bans). Others, such as the president of the United Nations High Commissioner for Refugees in Canada, cite a January 2017 tweet by the Canadian Prime Minister that was in response to the removal of protections for noncitizens living in the US. The tweet said Canadians will welcome “those fleeing persecution, terror & war.” **Appendix 1** presents the factors contributing to an increase in irregular border crossers starting in 2017 in more detail.

Appendix 2 provides details on federal, provincial and municipal responsibilities for irregular border crossers.

Section 2.3 provides details on the numbers of irregular border crossers who came into Canada in the last few years. Generally speaking, about 38% of total refugee claimants to Canada (and about 36% of total refugee claimants who filed claims in Ontario or filed in another province and then moved to Ontario) in recent years were irregular border crossers. The vast majority of irregular border crossers to Canada (90%) crossed into Quebec (most at a small section of unguarded border at Roxham Road, Lacolle, which borders New York State), while the remainder mainly crossed into British Columbia or Manitoba. Immigration, Refugees and Citizenship Canada (IRCC) has estimated that approximately 40% of these Quebec arrivals eventually relocated to Ontario.

2.2 The Refugee Claim Process

Regular asylum seekers claim refugee protection at official points of entry, where there are offices of the Canadian Border Services Agency (CBSA), and at inland offices of IRCC.

As stated in **Section 2.1**, irregular border crossers are usually intercepted by the RCMP or local law enforcement right away. Intercepted individuals are screened by both law enforcement and the CBSA to determine if they should remain in custody for potential criminal investigation, if they pose a security threat and if they pose a hazard to public health.

Irregular border crossers who pass this screening either are taken directly to an official point of entry to make a claim for refugee protection, or make their own way to an office of the CBSA or IRCC. They then go through the remaining steps of claiming refugee protection, in the same way that regular asylum seekers do.

Individuals who claim asylum (because they indicate they are in need of protection or they fear persecution—based on race, religion, political opinion, nationality or membership in a particular social group—if they are returned to their home country) are interviewed by the CBSA or IRCC to determine whether they are eligible to be referred to the Immigration and Refugee Board of Canada (Board), an independent federal administrative tribunal. After considering other factors (such as whether they have committed a crime, they have already made a refugee claim in Canada or elsewhere, or they have refugee status in another country), the CBSA or IRCC refer eligible claimants to the Board. Those found ineligible to be referred to the Board can apply to the Federal Court for judicial review of their eligibility decision, pursuant to section 72 of the *Immigration and Refugee Protection Act*. Individuals whose claims are found not to be eligible will be issued a removal order.

Eligible claimants file their documentation with the Board and wait to have a hearing. The Board is required by law to hold a hearing within 60 days; however, average wait times for hearings at the time of our audit were about 22 months. These time delays were due to the large influx of refugee claimants over the past few years.

While refugee claimants are in the claims process, they can settle in any community they wish to. The province they choose to live in is responsible

for providing support, such as temporary housing, newcomer settlement services, education and adult language training (the federal government covers the costs for health care directly). Refugee claimants can obtain a work permit to allow them to find employment, and if they cannot find work, they are eligible to receive financial assistance.

Once a refugee claimant has their case heard by the Board, their claim is either accepted or rejected. If their claim is accepted, they are accepted as a “protected person” in Canada (deemed to need asylum) and are eligible to apply for permanent residence. If their claim is rejected, they may appeal the decision to the Refugee Appeal Division of the Board. Individuals who have no right to appeal to the Division can ask the Federal Court to review the decision.

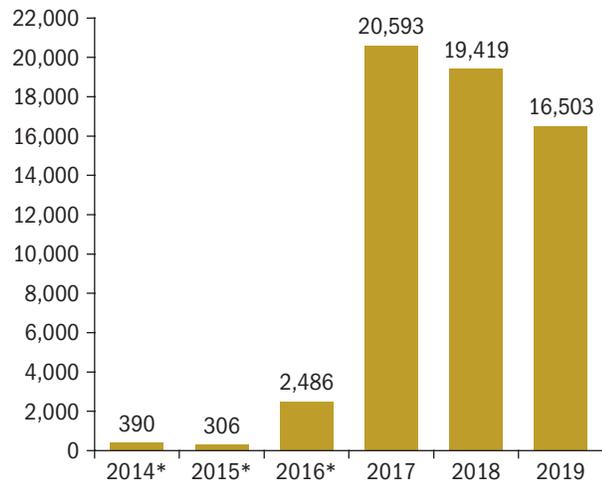
2.3 Numbers of Irregular Border Crossers Determined Using Refugee Claims and RCMP Interceptions

Our knowledge of the total numbers of irregular border crossers and other asylum seekers arriving in Canada each year is based on the numbers of refugee claims filed. Canada received about 50,400 refugee claimants in 2017, and another 55,000 in 2018. These numbers were the highest recorded since the Immigration and Refugee Board was created in 1989 and represent a significant increase from previous years: the number of refugee claimants was just over 16,000 in 2015 and just under 24,000 in 2016. According to United Nations High Commissioner for Refugees' 2019 report *Global Trends—Forced Displacement in 2018*, Canada was the ninth-largest recipient of new asylum claims in 2018.

Information on the numbers of irregular border crossers entering Canada came from the RCMP. **Figure 2** shows RCMP interceptions for just the six years from 2014 to 2019. It should be noted that before 2017, the number of interceptions reported comprised irregular border crossers seeking asylum as well as others who may have been caught

Figure 2: Royal Canadian Mounted Police Interceptions of Irregular Border Crossers into Canada, 2014–2019

Source of data: Ministry of Children, Community and Social Services



* Before 2017, interceptions comprised irregular border crossers seeking asylum and others who may have been caught crossing illegally. The RCMP noted that these numbers are potentially subject to change.

crossing the border illegally. Of the 105,400 refugee claimants in 2017 and 2018, **Figure 2** shows that about 40,000 were irregular border crossers (about 20,000 each year). This also represents a significant increase from previous years: only approximately 300 to 400 individuals were intercepted in each of 2014 and 2015, and fewer than 2,500 in 2016.

IRCC has determined that about 36,000 of these irregular border crossers (i.e., 90%) crossed from the United States into Quebec, while the remainder crossed mainly into British Columbia or Manitoba. An estimated 40% of the Quebec irregular border crossers later came to Ontario.

2.4 Increase in Irregular Border Crossers Leads to Cost Pressures on Provinces

On July 19, 2018, the Ontario, Quebec and Manitoba premiers issued a joint statement calling on the federal government “to fully compensate each of the provinces for impacts to services resulting

from the increase in non-point of entry border crossings.” Quebec had earlier asked the federal government for additional funds to cover \$146 million in unanticipated costs incurred in 2017. The Toronto and Ottawa mayors had also earlier requested federal funding to help cover the temporary housing and emergency shelter costs for the irregular border crossers in their cities.

The Ontario Minister of Children, Community and Social Services announced in a press release on August 13, 2018, that Ontario ministries and municipalities had incurred costs of \$200 million for irregular border crossers up to that point in time. The Ministry of Children, Community and Social Services provided this figure estimating that costs consisted of the following:

- social assistance: \$90 million;
- elementary and secondary education: \$20 million;
- temporary housing costs incurred by the City of Toronto: \$74 million;
- temporary housing costs incurred by the City of Ottawa: \$12 million; and
- funding to support refugee claimants in college dormitories over the summer: \$3 million.

These estimated costs added up to \$199 million; the Minister’s announcement rounded them up to \$200 million.

The time period when each type of cost was incurred varied among the ministries and municipalities that provided cost estimates to the Ministry, and none coincided with the time period in the Committee’s request of between August 1, 2015, and July 31, 2018. As well, most cost estimates included costs for all refugees as opposed to only costs incurred for irregular border crossers.

3.0 Audit Objective and Scope

3.1 Audit Objective

On October 24, 2018, the Legislature's Standing Committee on Public Accounts (Committee) passed a government motion requesting the Auditor General of Ontario to conduct an audit of the costs associated with "illegal border crossers" receiving services provided by Ontario ministries and municipalities for the previous three years ending July 31, 2018 (that is, from August 1, 2015, to July 31, 2018). In this report, the term "irregular border crossers" is used in place of "illegal border crossers."

We accepted this assignment under Section 17 of the *Auditor General Act*, which states that the Committee can request the Auditor General to perform special assignments.

3.2 Audit Scope

The Ontario Secretary of Cabinet designated the Ministry of Children, Community and Social Services (Ministry) to compile the back-up for the costs incurred by the province and municipalities that was provided by the Ministry to the Minister associated with irregular border crossers for us to audit.

Cost Estimation Period

Our estimate of costs is based on the period of April 1, 2017, to July 31, 2018. The period's start date differs from the start date of August 1, 2015, stipulated in the motion. This is because the federal government only started tracking the arrival of irregular border crossers on April 1, 2017. This is also when the surge in irregular border crossers was first noticed.

Audit Time Frame

We conducted our audit between May 2019 and June 2020. The Ministry of Children, Community and Social Services provided us with a letter of

representation dated July 2, 2020, confirming that it provided us with all information that it was aware of that could affect the findings and conclusions of this report. In addition, the Ministry of Education, Legal Aid Ontario, the City of Toronto, the City of Ottawa, the Regional Municipality of Peel and the Regional Municipality of Halton have confirmed that they provided us with all information that they were aware of that could affect the findings or conclusion of this report.

Scope Limitation

It was difficult to obtain the information we needed to be able to report to the Legislature because ministries, municipalities and Legal Aid Ontario did not specifically track the services and associated costs for irregular border crossers. Instead, other than the Ministry of Education, they tracked the costs associated with all refugee claimants. As a result, as outlined in **Figure 3**, we determined the best way to estimate these costs was to apply the estimate of 36% against all refugee claimant costs. That is, of the total number of people who filed refugee claims during our audit period and had settled in Ontario, we estimated that 36% were irregular border crossers.

Because neither the Ministry of Education nor school boards collected information on student immigration status needed to estimate costs for refugee claimants, we obtained information from Immigration, Refugees and Citizenship Canada on the number of school-aged children who arrived as irregular border crossers to calculate the education cost.

Because the federal government only started tracking irregular border crossers on April 1, 2017, we could only estimate costs from that date to July 31, 2018 (costs prior to April 1, 2017 would be minimal as that date is when the surge of irregular border crossers was first noticed). **Figure 1** represents the estimate of costs as noted for the period April 1, 2017, to July 31, 2018. However, there likely were costs incurred after July 31, 2018. The

Figure 3: Determination of Refugee Claimants Living in Ontario

Source of data: Immigration, Refugees and Citizenship Canada

Where Claim Filed ¹	Type of Claimant			Irregular Claimants as % of Total
	Regular ²	Irregular ³	Total	
(A) In Ontario	25,901	1,390	27,291	
(B) Outside of Ontario, but claimant now residing in Ontario ⁴	1,447	12,529	13,976	
(C) In Ontario, but claimant now residing outside of Ontario ⁴	(2,831)	(159)	(2,990)	
Total claimants living in Ontario (A) + (B) – (C)	24,517	13,760	38,277	36

1. Includes only claims filed between April 1, 2017, and July 31, 2018, that were referred to the Immigration and Refugee Board (i.e., excludes ineligible claims). The province in which the claim was filed may not necessarily be the same as the province where the claimant entered Canada.
2. Regular claimants made their claims at inland offices, land border offices and airports.
3. Irregular claimants made their claims at inland offices and land border offices. Prior to making their claims, they were intercepted by the RCMP or other enforcement organizations, or self-reported when making their claim that they crossed the border irregularly.
4. Current residence information is based on the most recent address for the claimant in the electronic case management system of the Immigration and Refugee Board of Canada as of July 31, 2019.

Ministry indicated that it would not be able to provide any updated information past July 31, 2018, because it does not yet have a tracking system in place to determine costs associated with irregular border crossers.

Work Conducted—Ministry of Children, Community and Social Services

We met with staff from the Ministry to discuss social assistance, newcomer settlement services and adult language training costs. We obtained and reviewed supporting documentation for the costs reported and the caseloads for these services. We also visited 13 social assistance offices to review select case files for individuals who were reported to be refugee claimants, with a specific focus on their immigration status and payments received.

We further conducted detailed testing on the funding provided by the Ministry to six school boards involved with providing adult language training and had discussions with four associated assessment centres that were involved with this training during the time period of our audit.

Work Conducted—Ministry of Education

We met with staff from the Ministry to review the calculation of costs and the supporting documentation for the Grant for Student Needs per-pupil cost.

This per-pupil cost was used to estimate the education costs associated with irregular border crossers. We also obtained information from Immigration, Refugees and Citizenship Canada on the number of school-aged children who arrived as irregular border crossers, as neither the Ministry of Education nor school boards collect information on students' immigration status.

Work Conducted—Municipalities

To identify the costs for temporary housing associated with irregular border crossers, we met with City of Toronto staff to discuss how it accumulated costs and we reviewed its supporting documentation. We performed detailed testing on contracts that the City had in place for temporary shelter space in hotels and motels.

The City of Ottawa told us that it had been fully reimbursed by the federal government for its costs associated with irregular border crossers for the period of April 1, 2017, to July 31, 2018. Specifically, it received \$7 million in federal funding for these costs for the 2017 and 2018 calendar years, of which \$4.3 million is estimated to relate to the period of April 1, 2017, to July 31, 2018.

We had discussions with other municipalities in the Greater Toronto Area, such as the regions of Peel, Halton and York, and the City of Hamilton, to

inquire if they incurred any costs due to irregular border crossers. We obtained supporting documentation from the regions of Peel and Halton, whose costs were included in our cost estimate.

Work Conducted—Legal Aid Ontario

We met with representatives from Legal Aid Ontario to review Legal Aid Ontario's legal costs associated with refugee claimants (including irregular border crossers) and the supporting documentation for these costs.

Work Conducted—Immigration, Refugees and Citizenship Canada

We had discussions with Immigration, Refugees and Citizenship Canada and obtained data on the immigration patterns of refugee claimants who entered Ontario via official points of entry or moved to Ontario after arriving elsewhere in Canada through an official point of entry. We also obtained data on irregular border crossers who moved to Ontario after first arriving elsewhere in Canada (usually Quebec) through non-official points of entry.

Examination Standards

We conducted our work and reported on the results of our examination 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. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standards of Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Profes-

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

4.0 Detailed Audit Observations

4.1 Irregular Border Crosser Service Costs Estimated To Be 36% of All Refugee Claimant Service Costs

While information is generally collected on services provided to refugee claimants as a whole, information on services provided just to irregular border crossers is limited to non-existent. Therefore, it is only possible to estimate the cost of providing services to irregular border crossers.

For the services where the only information available was the cost of providing the services for all refugee claimants (all services reported in **Figure 1** except elementary and secondary education, which is discussed in **Section 4.2.1**), we estimated irregular border crosser service costs to be 36% of refugee claimant service costs. We based this percentage on information provided by Immigration, Refugees and Citizenship Canada (IRCC).

IRCC started its own tracking of irregular border crossers in April 2017. To improve tracking, IRCC worked with the Immigration and Refugee Board of Canada to update information on the most recent address reported by both regular asylum seekers and irregular border crossers making a refugee claim from April 1, 2017, onwards. This enabled tracking of the migration patterns of refugee claimants. With this information, we calculated the number of refugee claimants living in Ontario regardless of where and how they first arrived in Canada. **Figure 3** shows that, of all the people living in Ontario who had filed refugee claims between April 1, 2017,

(the start of the surge), and July 31, 2018, 24,517 had entered Canada at an official point of entry (that is were “regular” claimants), and 13,760, or 36%, were irregular border crossers.

We therefore used the assumption that the cost of providing services for irregular border crossers is about 36% of the costs for all refugee claimants.

4.2 OAGO Estimated Cost of \$80.7 Million Is Lower Than Announced Cost of \$200 Million

The Minister of Children, Community and Social Services announced in a news release on August 13, 2018, that Ontario ministries and municipalities had incurred costs of \$200 million because of irregular border crossers up to that point in time. The estimate of \$200 million was provided by Ministry staff for the drafting of the news release. **Figure 4** shows the differences in the costs the Ministry provided to the Minister for the announcement and our estimated costs. The sections below provide explanations for the differences in costs shown in **Figure 4**.

It should be noted that the time period when each type of cost was incurred varied among the ministries and municipalities that reported their costs to the Ministry. The specific time period for each type of cost is noted in **Figure 4**.

4.2.1 Many Announced Costs Were for All Refugee Claimants, Not Just Irregular Border Crossers

The main reason for the difference in costs was that the Ministry of Children, Community and Social Services, the City of Toronto and the City of Ottawa based their initial costs on all refugee claimants and not just irregular border crossers. This was the case for social assistance, accommodations in college dormitories, City of Toronto—temporary housing and City of Ottawa—temporary housing. Only the Ministry of Education cost estimates for elementary and secondary education were based on irregular border crossers.

Social Assistance: Overstated by \$70.9 Million

The Ministry’s amount of \$90 million in social assistance costs was based on all refugee claimant cases. To arrive at it, the Ministry estimated how many more refugee claimants were receiving social assistance as of May 2018, compared to the 2015/16 fiscal year (this was the last complete fiscal year not affected by the surge in irregular border crossers beginning in 2017). Its estimate was 6,600. It multiplied this number by the average annual cost per case for social assistance of \$13,700.

We tested the reliability of the Ministry’s cost estimate by reviewing a sample of refugee claimant case files and found that 41% of the individuals were not actually refugee claimants during the period we reviewed. This was for one of two reasons: either documentation to support that the social assistance recipient was a refugee claimant was missing (for example, no immigration documents or expired documents) or the social assistance recipient’s case had already been heard by the Board. Once an individual’s case is heard, they are no longer a refugee claimant. They are either accepted as a “protected person” in Canada (deemed to need asylum) and are eligible to apply for permanent residence, or refused and are to be removed from Canada. Those that were accepted should have been reclassified in the Ministry’s IT system as convention refugees (the step before becoming a permanent resident) or permanent residents rather than remaining as refugee claimants. Those who were refused and required to leave the country should have been removed from the system or reclassified to another category while waiting to leave the country. Our work led us to reduce the Ministry’s estimate of the total refugee claimant costs by 41%. We then applied the percentage noted in **Section 4.1** to capture the costs of just irregular border crossers, resulting in an estimate of \$19.1 million.

Accommodations in College Dormitories: Overstated by \$1.9 Million

The Ministry’s amount of \$3 million for the cost of accommodations in college dormitories was based

Figure 4: Comparison Between Ministry's Initially Estimated Costs and OAGO Estimated Costs for the 16-Month Period April 1, 2017–July 31, 2018 (\$ million)

Prepared by the Office of the Auditor General of Ontario (OAGO)

Type of Cost	Costs Estimated by the Ministry (A) ¹	OAGO Estimated Costs for Irregular Border Crossers (B)	Difference in Costs (B–A)
Ministry of Children, Community and Social Services			
Social assistance	90.0 ²	19.1	(70.9)
Accommodations in college dormitories	3.0 ³	1.1	(1.9)
Ministry of Education			
Elementary and secondary school education	20.0 ⁴	33.3	13.3
Municipalities			
City of Toronto – temporary housing	74.0 ⁵	14.2	(59.8)
City of Ottawa – temporary housing	12.0 ⁶	4.3	(7.7)
Subtotal	199.0	72.0	(127.0)
Additional Costs			
Legal Aid Ontario			
Immigration and refugee legal services	–	6.3	6.3
Ministry of Children, Community and Social Services			
Newcomer settlement	–	0.2	0.2
Adult language training	–	1.6	1.6
Municipalities⁷			
Regional Municipality of Peel	–	0.6	0.6
Subtotal	–	8.7	8.7
Total	199.0⁸	80.7	(118.3)

1. With the exception of elementary and secondary school education costs (see footnote 4), the cost estimates were for all refugee claimants, not for just irregular border crossers.
2. These reported costs were for the period April 2017–March 2018.
3. These reported costs were for the rental of college residences for the period May 24–August 9, 2018.
4. These reported costs were for the period September 2017–June 2018 and were for the Ministry of Education's estimate of irregular border crossers of school age coming into Ontario (based on IRCC data for all refugee claimants coming into Ontario).
5. These reported costs were for actual costs for the period January 1, 2017–July 31, 2018, and for projected costs to December 31, 2018. City of Toronto costs were reduced to eliminate the costs incurred outside of the 16-month audit period of April 1, 2017–July 31, 2018.
6. These costs were not audited because the City of Ottawa confirmed it was fully funded by the federal government for its costs for irregular border crossers for the 16-month period April 1, 2017–July 31, 2018.
7. In addition, the Regional Municipality of Halton reported that it incurred additional costs of \$22,000 for irregular border crossers.
8. In the Minister's August 13, 2018, news release, the costs were rounded up to \$200 million.

on all refugee claimants. Specifically, the Ministry provided a transfer payment of \$3 million to the City of Toronto to pay for these accommodations during the summer of 2018. We applied the percentage noted in **Section 4.1** to estimate the costs of just irregular border crossers, resulting in a cost of \$1.1 million.

Elementary and Secondary School Education: Understated by \$13.3 Million

The Ministry of Education's amount of \$20 million for elementary and secondary education costs was arrived at as follows. Using IRCC data, the Ministry first estimated that 6,265 refugee claimants moved to Ontario from other provinces, primarily Quebec, between January 2017 and May 2018, assuming

they were all irregular border crossers. Of these claimants, it used IRCC data for all refugee claimants to estimate that 26%, or approximately 1,600, were of school age (between four and 20 years old). The Ministry then multiplied the number of school age cases by the average provincial per-pupil funding of \$12,065 in the 2017/18 Grant for Student Needs.

We obtained information from IRCC on the actual number of school-age children who were irregular border crossers during the 16-month period of our review. We used this information to estimate the number of students who immigrated to Ontario during the 2017/18 school year (between September 2017 and June 2018). This amounted to approximately 2,800 students. After multiplying this number by the per-pupil funding amount, we revised the estimate of total costs upward to \$33.3 million.

City of Toronto—Temporary Housing: Overstated by \$59.8 Million

The City of Toronto initially reported to the Ministry that it had incurred \$74 million in costs related to temporary housing. These costs consisted of shelter, food and support services for all refugee claimants, and included administration services costed at 10% of total spending. The City indicated to us that it had been in discussions with the federal government on the issue of incremental costs it had incurred since 2016 to support the influx of all refugee claimants, including irregular border crossers, and that the \$74 million represented the City's original request to the federal government.

In September 2019, the City provided us with an updated figure of \$43.9 million for all refugee claimant temporary housing costs. The reduced amount reflects the fact that the initial \$74 million included costs incurred before and after our audit period of April 1, 2017 to July 31, 2018, and eliminated some emergency shelter fixed costs (which would have been incurred even if the emergency shelters were not used by refugee claimants).

We adjusted the \$43.9 million down further to \$39.4 million to exclude approximately \$4 million in fixed administration and other costs, which would have been incurred regardless of there being irregular border crossers. We applied the 36% calculation as discussed in **Section 4.1** to determine the costs of just irregular border crossers. This resulted in our reduced estimate of \$14.2 million. The City of Toronto indicated to us that it considered that all of the \$43.9 million in costs, for both regular and irregular border crossers, should be recoverable from the federal government.

As per **Figure 1**, through a July 31, 2018, agreement between the City of Toronto and the federal government, the City of Toronto received a reimbursement of \$11 million directly from the federal government relating to the cost of temporary housing associated with irregular border crossers. According to the City, the agreement did not stipulate the period over which this funding is to be applied. However, we noted that the agreement indicated that the funding was for past incurred costs before July 2018, and stated that “this agreement does not require Toronto to incur further costs associated with managing temporary housing and related services provided to irregular migrants or to co-ordinate efforts to manage temporary housing and related services provided to irregular migrants in Ontario.”

City of Ottawa—Temporary Housing: Overstated by \$7.7 Million

The Ministry's estimate included \$12 million in shelter costs incurred by the City of Ottawa for temporary housing. These costs were for all refugee claimants. Applying the percentage of 36% as discussed in **Section 4.1** to calculate the cost estimate of irregular border crossers resulted in an estimated cost of \$4.3 million.

The City of Ottawa told us that it subsequently provided information to the federal government on its \$7 million in costs for irregular border crossers for the 2017 and 2018 calendar years. In 2019, the

City was fully reimbursed for these costs, of which \$4.3 million in costs are associated with irregular border crossers during our audit period.

4.2.2 Announced Costs Did Not Include \$8.7 Million in Irregular Border Crosser Costs

As shown in **Figure 4**, our estimate of \$80.7 million includes \$8.7 million in additional costs for services that were not included in the cost estimate reported by the Ministry in August 2018. We added \$8.7 million to our estimate as a result of work we did contacting other Ontario organizations that provide services to refugee claimants and asking if they incurred service costs between April 1, 2017, and July 31, 2018.

We calculated the following amounts of additional costs for irregular border crossers using the percentage of 36% as discussed in **Section 4.1**.

Legal Aid Ontario: Additional Cost of \$6.3 Million

Legal Aid Ontario incurred \$6.3 million in additional costs for new certificates issued for legal services. These services helped irregular border crossers to complete their refugee claims under the Immigration and Refugee Program of Legal Aid Ontario. They also helped irregular border crossers prepare for their refugee claimant hearings.

Our estimate of additional legal aid costs is over and above what would be covered by the regular annual funding for legal aid that the federal government is responsible for providing to Ontario (see **Appendix 2**).

Ministry of Children, Community and Social Services: Additional Cost of \$1.8 Million

The Ministry of Children, Community and Social Services incurred \$1.8 million in additional costs for newcomer settlement and adult language training.

The Ministry's newcomer settlement program funds non-profit community agencies to deliver services to newcomers. These include orientation ses-

sions and referrals to community and government services. The estimated cost of these additional services was based on the increase in the program costs for refugee claimants in the 16-month period of our audit from the previous 16-month period.

The Ministry's adult language training programs fund public and Catholic school boards to deliver English/French-as-a-second-language (ESL/FSL) training to adult immigrants so they can gain the language skills they need to live and work in Ontario. The estimated cost of these additional services was based on the increase in the program costs for refugee claimants in the 16-month period of our audit from the previous 16-month period.

Regional Municipalities of Peel and Halton: Additional Cost of \$0.6 Million

The Regional Municipality of Peel incurred \$586,000 in additional costs for emergency shelters to irregular border crossers. The Regional Municipality of Halton incurred \$22,000 in additional costs for providing temporary housing and housing benefits for irregular border crossers.

RECOMMENDATION 1

We recommend that the Ministry of Children, Community and Social Services verify the accuracy of financial information to be used for public communication prior to providing such information to the Minister's office.

MINISTRY RESPONSE

The Ministry recognizes the importance of having accurate information and verifying that information prior to public release.

The Ministry acknowledges that information on service use by irregular border crossers is not consistently tracked across government and that as a result, accurate and comprehensive information about the costs of those services is not available. However, until the surge in border crossers was experienced starting in

spring 2017, Ontario had not identified a need to separately identify irregular border crossers as a subset of refugee claimants, and associated service data has not been collected.

The Ministry will review its processes and procedures for verifying data related to the use of services and related costs, and identify and implement improvements to ensure that financial information is accurate and comprehensive prior to public release.

4.3 Only \$15.6 Million out of a Total of \$80.7 Million in Costs Incurred by the Province, Municipalities and Legal Aid Ontario for Irregular Border Crossers Was Compensated by the Federal Government

4.3.1 Canada–Ontario Immigration Agreement Lacks Funding Arrangements for Irregular Border Crossers

Ontario, like all provinces, has an immigration agreement with the federal government. The Canada–Ontario Immigration Agreement, signed in 2017 and amended in April 2018, sets out each party’s roles and responsibilities in order to further their collaboration in providing for immigrants. However, it does not include a funding mechanism or commitment for direct provincial government funding from the federal government for assistance with services provided to refugee claimants, including irregular border crossers. Each year, Ontario is informed of how much funding the federal government intends to provide to organizations providing settlement services to permanent residents in the province. The funding is based on a national formula used to allocate funds to provinces in Canada. For the 2020/21 fiscal year, the federal government committed to provide \$368 million to these organizations for settlement programs for permanent residents in Ontario. As such, except for the federal funding outlined in **Appendix 2**, the

federal government has not committed to provide Ontario with direct funding for provincial services relating to refugee claimants, including irregular border crossers.

As a result, Ontario has to cover the costs it incurs to provide services to refugee claimants, including the costs for irregular border crossers, without committed financial support from the federal government. As seen in **Figure 1**, federal reimbursements for costs incurred by municipalities between April 1, 2017, and July 31, 2018, for irregular border crossers totalled \$15.6 million. As of March 31, 2020, the federal government had not provided any compensation for the remaining estimated \$65.1 million in service costs.

We noted that the province of Quebec reported to the federal government in December 2018 that it had incurred \$300 million in costs relating to irregular border crossers over these two years, and at the time of our audit the federal government had provided \$286 million in funding to compensate Quebec for these costs through a separate cost-sharing agreement.

Given that the current agreement commits Canada and Ontario to support the successful economic and social integration of immigrants and refugees through fair and equitable funding, reviewing options to receive an appropriate level of compensation warrants pursuing by the provincial government.

RECOMMENDATION 2

We recommend that the Ministry of Children, Community and Social Services:

- work with the federal department of Immigration, Refugees and Citizenship Canada to seek an agreement with the federal government to help compensate the province of Ontario for the costs of services it provides to refugee claimants (including irregular border crossers); and
- develop a methodology for collecting relevant information on people immigrating to

Ontario (including irregular border crossers) and follow it to inform future requests for funding support from the federal government.

MINISTRY RESPONSE

The Ministry agrees with this recommendation. The Ministry will work with the federal government and other Ontario ministries to seek an agreement with Immigration, Refugees and Citizenship Canada (IRCC) to help compensate Ontario for the costs of services it provides to refugee claimants, including irregular border crossers.

In addition, the Ministry will work with IRCC using existing mechanisms, such as bilateral information-sharing agreements, or creating new mechanisms if needed, to collect information about people immigrating to Ontario (including irregular border crossers).

Appendix 1: Factors Contributing to the Increase in Irregular Border Crossers

The United States Communicates Limitations on Immigration and the Potential for Increased Deportation; Canada Welcomes Refugees

In January 2017, the United States (US) President began issuing executive orders removing protections for noncitizens living in the US—requiring their deportation—and banning refugees from certain countries from entering the US. Immigration experts, such as a spokesperson for Canada’s Immigration Minister, cite the fear of US immigrants of being deported as a factor contributing to the increase in irregular border crossers (arrests by US Immigration and Customs Enforcement have increased by 42% under the current US administration, which began in January 2017).

In response to the January US government executive orders, the Canadian Prime Minister tweeted on January 28, 2017, “To those fleeing persecution, terror & war, Canadians will welcome you.” Immigration experts, such as the president of the United Nations High Commissioner for Refugees in Canada, cite this tweet as a factor contributing to the increase in irregular border crossers. The Prime Minister added to this message seven months later, stating at an August 2017 press conference, “Canada is an open and welcoming society, but we are also a country of laws. Entering Canada irregularly is not an advantage. There are rigorous immigration and customs rules that will be followed.” However, this statement did not have a deterrent effect on irregular border crossing (see **Section 2.3**).

The top five countries of origin of Canada’s irregular border crossers during our audit period were Nigeria, Haiti, the US, Colombia and Turkey (the irregular border crossers counting the US as their country of origin were US-born children of foreign nationals). Regarding the top two countries, which account for almost one-half of all refugee

claims made by irregular border crossers in Canada in 2017 and 2018:

- The specific factors pushing Nigerians to come to Canada included the violence of Boko Haram (a group active in northern Nigeria seeking to impose Islamic law as the only law in Nigeria) and other systemic persecutions. In 2017 and 2018, an estimated 3,675 Nigerians sought asylum in Canada as regular border crossers, while an estimated 11,235 Nigerians crossed the border irregularly from the US. A Canadian immigration lawyer quoted in a 2018 news article noted that irregular border crossers find it easier to obtain travel visas to the US compared to Canada, so they begin by going to the US. After crossing the border irregularly, they are allowed to stay in Canada under the omission described in the following section. Many believed that crossing from the US was a shortcut to Canada after misinformation spread through social channels.
- The factors pushing Haitians to come to Canada included the lifting of Temporary Protection Status (TPS) for immigrants from Haiti living in the US as noncitizens. TPS protects recipients from being removed from the US and provides authorization for them to work. TPS is granted on a case-by-case basis to countries suffering the aftermath of war, natural disasters or other humanitarian crises. An earthquake in Haiti in 2010 killed as many as 316,000 people and displaced more than one million more. As a result, the US granted Haitians living in and coming to the US TPS and renewed it continually until May 2017. At that time, in a statement to reporters, the Department of Homeland Security “highly encouraged all [Haitian] TPS recipients to handle their affairs as appropriate, including obtaining travel documents.” In November 2017, it was officially announced that TPS for Haitians

would be terminated in summer 2019. In 2017 and 2018, an estimated 6,250 Haitians crossed the border irregularly into Canada. The lifting of TPS was successfully challenged in court, and as of March 31, 2020, TPS status for an estimated 46,000 Haitians in the US will not expire until January 4, 2021.

Omission in the Safe Third Country Agreement

The Safe Third Country Agreement was signed between Canada and the United States in 2002, in the wake of the 9/11 terrorist attacks on the United States. It came into effect in 2004. It governs how asylum claims are handled between Canada and the United States. It requires that any regular asylum seeker must make their refugee claim in the country where they first enter at an official entry point.

As such, any regular asylum seeker entering the United States at an official point of entry can apply for refugee status only in the United States. They cannot claim asylum at a regular Canadian point of entry if they landed first in the United States, and if they try, they will be sent back to the United States.

However, the agreement does not cover those who cross from one country to the other through unofficial points of entry, referred to as irregular border crossers. This omission has required Canada to allow irregular border crossers who first landed in the United States to enter into Canada. At that point, they undergo the security checks and screening and further processes outlined in **Section 2.2**.

Growing recognition about this omission contributed to the surge in irregular border crossers after information spread on social networks and in the media.

Appendix 2: Federal, Provincial and Municipal Responsibilities Toward Irregular Border Crossers and Other Asylum Seekers

The responsibility for immigration in Canada is shared between the federal and provincial governments under Section 95 of the *Constitution Act*. The *Immigration and Refugee Protection Act* and other legislation such as the *Ontario Immigration Act*, as well as inter-governmental agreements mentioned below, identify the specific responsibilities of each party regarding asylum seekers, including irregular border crossers.

Federal Responsibilities

Federal responsibilities regarding irregular border crossers and other asylum seekers are outlined in the *Immigration and Refugee Protection Act*. They include: administration of immigration laws; determining objectives and establishing selection criteria relating to immigration; undertaking admissibility checks; reviewing and processing refugee claims; and making decisions for refugee protection. The only class of immigration selection programs not exclusively administered by the federal government are provincial nominee programs. Under these programs, a province can select and recommend foreign nationals and their families for permanent residence based on the province's economic development needs, but the federal government still has final say on the nominee's acceptance and establishes nomination limits for each province's program.

The federal government is a party to the United Nations 1951 Convention Relating to the Status of Refugees, along with almost 150 other countries such as the United Kingdom, France, Australia and Germany. The Convention acknowledges Canada's legal obligation to provide protection for refugees on its territory. This Convention also states that Canada may not penalize refugees for how they enter the country as long as they present themselves without delay to authorities and show good cause for their presence.

A second international agreement signed by Canada that the federal government must abide by is the Canada–US Safe Third Country Agreement. We highlight this Agreement in **Appendix 1** as it impacted the numbers of irregular border crossers coming into Canada during our audit period.

The federal government completely covers the health-care costs of refugee claimants until they are eligible for provincial health insurance or, in the case of unsuccessful refugee claimants, leave Canada (so the provinces do not incur any refugee claimant health-care costs). Under the Interim Federal Health Program, once a refugee claim is made, claimants receive an eligibility document that confirms they are covered for certain health services and products. Presenting this document to a health-care provider when a refugee claimant needs a service or product ensures it will be paid for. The program is administered by Medavie Blue Cross (a not-for-profit insurance company) and paid for by Immigration, Refugees and Citizenship Canada.

The federal government also provides annual funding to provinces through the Canada Social Transfer (CST) for postsecondary education and social programs. Each province can decide how to specifically use these transfer payment funds. As such, this funding can be used by provinces for refugee claimants' postsecondary education, social assistance, child care and early learning costs. In the 2019/20 fiscal year, Ontario received about \$5.5 billion in payments under the CST. The amount each province receives follows a funding formula that includes an annual increase of at least 3%. However, the formula does not account for increases in program demands or shocks to the system, so it would not address the situation that was faced by the province from 2017 onward of the sudden and unexpected large influx of irregular border crossers.

Each province has an agreement with the federal government outlining the roles and responsibilities of each party regarding individuals immigrating to Canada and settling in each province. However, the agreements do not include a funding mechanism or commitment from the federal government for assistance with services provided to refugee claimants, including irregular border crossers (discussed in **Section 4.3.1**).

The federal government also has an agreement with six provinces for funding a portion of costs for immigration and refugee legal aid. There is a fixed amount of federal funding under this agreement, to be divided up among the participating provinces proportionately, based on each province's *previous year's* case volume. Thus, if unusual circumstances cause the *current year's* legal aid expenditures to increase significantly from the previous year, the funding allocation does not take this into account. Ontario's federal funding amounts have covered between 25% and 39% of total refugee and immigration legal aid expenditures from 2015/16 to 2017/18. As such, Ontario received between approximately \$8 million to \$16 million annually from 2015/16 to 2017/18.

Province of Ontario Responsibilities

In carrying out its shared role regarding immigration, the province of Ontario supports refugee claimants through a range of services, including social assistance, education, newcomer settlement services, adult language training and legal services.

Social assistance is provided by the Ministry of Children, Community and Social Services (Ministry) through Ontario Works and the Ontario Disability Support Program (ODSP). Ontario Works provides temporary assistance and employment support to help eligible individuals obtain employment and to become self-reliant. ODSP is designed to support eligible individuals with a disability who require financial assistance with their living expenses.

To be eligible for social assistance, applicants must meet the eligibility criteria set out in the *Ontario Works Act, 1997*, and the *Ontario Disability Support Program Act, 1997*. Under the regulations to those statutes, refugee claimants living in Ontario are eligible for social assistance in Ontario.

Newcomer settlement services, such as orientation sessions and referrals to community and government services, and adult language training (in English and French) are provided by the Ontario Citizenship and Immigration Division of the Ministry.

The Ministry of Education funds school boards' operating expenditures for elementary and secondary school education through the Grant for Student Needs. Refugee claimants of school age are eligible to attend public elementary and secondary schools in Ontario.

Legal services are provided by Legal Aid Ontario. The service of assisting irregular border crossers with preparing their initial claim for refugee status and their hearings is primarily provided through the Immigration and Refugee component of Legal Aid Ontario's Certificate program. The Immigration and Refugee program allows claimants to retain a private-sector lawyer from one of the Legal Aid Ontario rosters. The lawyer then bills Legal Aid Ontario for legal services provided to the claimant. Family income thresholds initially determine the claimant's eligibility for legal aid, and then other non-financial assessments, such as the merit of the case, are made.

Provinces can enact specific legislation regarding individuals immigrating to the province. Ontario has done so with the *Ontario Immigration Act*. This Act addresses the settlement and integration of immigrants; the province's establishment of selection programs if the province enters into an agreement with the federal government that authorizes it to do so; and the admission of temporary residents to Ontario. However, it has no specific requirements for refugee claimants, including irregular border crossers.

Municipal Responsibilities

Municipalities provide a variety of supports to assist vulnerable people in need, including irregular border crossers. These include emergency shelters that provide meals, a place to sleep, and referrals to social and health services. Municipalities also manage and fund temporary shelter space at places such as hotels and motels when there are overflows in their shelter systems.

Municipalities administer contracts with community housing providers to provide subsidized housing and are also responsible for administering social assistance through Ontario Works (which is funded by the province).



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www.auditor.on.ca

ISBN 978-1-4868-3806-6 (Print)
ISBN 978-1-4868-3807-3 (PDF)

