

Court Services

Follow-up to VFM Section 3.01, *2003 Annual Report*

Background

The Court Services Division (Division) of the Ministry of the Attorney General supports the operations of the court system through a network of court facilities located in 181 communities across the province and approximately 3,500 court support staff. Its functions include providing administrative and support services to the Judiciary, preparing enforcement documentation, maintaining court records, and collecting fines.

The Division's expenditures for the 2004/05 fiscal year were \$340 million (\$302 million in 2002/03): \$130 million (\$107 million in 2002/03) was spent on operating the offices of the Judiciary and on salaries and benefits for approximately 690 full- and part-time provincially appointed judges, and \$210 million (\$195 million in 2002/03) was spent on administrative and court staffing costs and other expenses required to support the operations of courts. In addition, the Ministry spent \$4 million (\$35 million in 2002/03) on capital projects to modernize and improve court buildings.

In our 1997 audit of what was then the Courts Administration Program, we noted that the successful implementation of a number of ongoing initiatives was needed to address the serious backlog of cases and deficiencies in the management of program resources. However, we concluded in our

2003 audit that little progress had been made since that time. For example:

- The effective administration of the courts was hampered by the lack of a clear division of authority and responsibility between the Ministry and the Judiciary in the management of court services.
- Efforts to reduce backlogs had not been effective.
- There had been little improvement to the courts' antiquated computer and information systems.
- The lack of ministry effort to collect millions of dollars in outstanding fines weakened the credibility of the justice system.

Other concerns noted during our 2003 audit included:

- Controls over the planning, contractor selection, and project management for capital projects were inadequate.
- Numerous significant deficiencies and inconsistencies in the level of security at courthouses across the province were noted.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

Current Status of Recommendations

While the Ministry has made progress in implementing some of our recommendations, on several others, such as reducing the backlog in the court system, only limited progress has been made. The current status of action taken on each of our recommendations is as follows.

ADMINISTRATIVE STRUCTURE OF THE COURTS

Recommendation

To help ensure that the justice system functions effectively and to improve the stewardship of funds provided to the courts, the Ministry and Judiciary should improve their administrative and management procedures by establishing:

- a process of greater co-operation in decision-making that addresses long-standing concerns;
- a better structure of courts administration with greater accountability for achieving desired results such as reducing case backlogs.

Current Status

The Ministry indicated that it has continued to work with the Judiciary to build good relationships at all levels and to encourage joint management of, and decision-making about, existing institutional challenges and ongoing operational issues. For example, the Ministry informed us that representatives of each Chief Justice participate on senior management committees within the Division and on divisional planning and policy meetings.

Co-operation between the Division and the Judiciary also occurred in establishing the Division's five-year plan on business goals and service standards, which will support greater accountability for the Division's delivery of court administrative services. The plan has been updated for the 2004/05 fiscal year, and the Ministry expects that perform-

ance measures for all key service standards will be established by the end of 2005/06.

In December 2004, a Memorandum of Understanding (MOU) was signed between the Minister and the Chief Justice of the Ontario Court of Justice that renewed the financial and administrative authorities and responsibilities of both parties. No similar MOUs have been established with the chief justices of the Ontario Court of Appeal and the Superior Court of Justice.

However, the Ministry has not made any significant changes to the structure of courts administration to achieve greater accountability for desired results.

CASE BACKLOGS

Recommendation

The Ministry should work with the Judiciary and other stakeholders to develop more successful solutions for eliminating backlogs, including:

- creating better tools to identify the sources and specific reasons for delays so that action can be taken to address potential problems in a more timely manner;
- assessing the resource implications of actions taken and decisions reached by the different parties to a trial so that resources allocated to courts can handle the increased caseloads; and
- establishing realistic targets and timetables for eliminating backlogs.

Current Status

The Ministry has put in place or continues to use a number of measures to address delays and backlogs, particularly in criminal cases and child protection proceedings. These measures include the implementation of the Justice Delay Reduction Initiative (JDRI) to make additional judicial, Crown, and court service resources available to 10 target sites with more significant criminal court delays. Administrative best practices designed to minimize administrative delay and increase operational

efficiencies are also being piloted in the 10 JDRI sites. The Ministry is currently in the process of monitoring the effectiveness and the success of the JDRI sites. In addition, blitz courts—which involve mobile court resources, including judges, Crown attorneys, and support staff—also continued to be used to help courts with more serious backlogs.

The Ministry indicated that it has taken steps to improve the scope and accuracy of its reports and data on the various court activities that will allow for better assessing the reasons for court delays and how court resources are used. For example, changes to its Integrated Courts Offences Network (ICON) were made to capture information on the reasons for case postponements.

In June 2004, the Division implemented a new daily data extraction process for the Ontario Court of Justice criminal data to ensure that charges are not double-counted. Also, the Ministry has restated the data for the last five fiscal years to eliminate double-counted charges. As a result, the Ministry reports that the number of criminal charges pending greater than eight months in the Ontario Court of Justice in February 2002 was 89,000 (compared to 99,000 as previously reported).

The Ministry also advised us that it is committed to developing statistical tools for diagnosing the trends and systemic causes of delays and that its priority is reducing the backlog of cases that are at risk of being stayed due solely to systemic administrative delay. However, aside from this commitment of resources towards reducing backlogs relating to administrative issues, the Ministry was unable to provide us with any assessments it had made of the resource implications of actions taken and decisions reached by the different parties to a trial.

Despite the Ministry's continuing efforts to reduce backlogs of cases in the courts, the backlogs have remained constant over the last five years. While the Ministry has added resources to the court system, it continues to be unable to dispose of cases at a rate equal to or greater than the rate at which

cases are received. Figure 1 illustrates the backlogs of pending charges in the Ontario Court of Justice, which handles the majority of criminal cases.

The Ministry could not estimate a timetable for eliminating backlogs, because many of the factors that contribute to delays (for example, the number and complexity of cases) are beyond its control.

INFORMATION SYSTEMS AND THE USE OF NEW TECHNOLOGIES

Recommendation

To help ensure the timely disposition of cases and improve efficiencies, the Ministry should take the necessary steps to upgrade the information technologies used in courts. In addition, the Ministry should establish a comprehensive plan for the timely implementation of new information technologies.

Current Status

The Ministry indicated that it is in the process of upgrading its Integrated Court Offences Network (ICON) system to improve workflow for support staff through enhanced access to and display of data. The Ministry is also in the process of implementing a new case management system for civil and family courts.

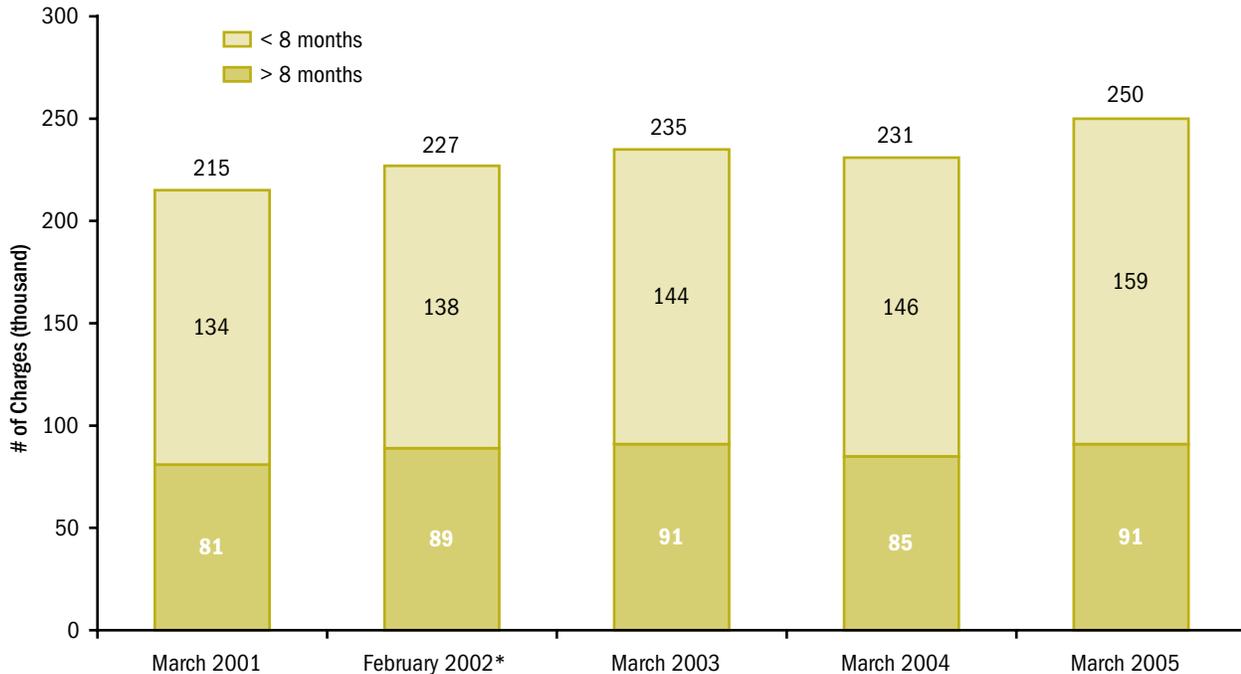
However, so far limited progress has been made by the Ministry in developing a comprehensive plan for the information system requirements for the courts' systems and in implementing additional information technologies in courts.

The Ministry's strategic long-term information technology plan had not been updated in recent years. The Ministry indicated that it would be in a better position to update the plan once operational, policy, legal, and technology priorities have been set out and agreed to for the remainder of this fiscal year and for future years.

According to the Ministry, the use of video technology, which allows an accused person who is in custody to appear in a criminal courtroom by video conferencing from a correctional institution or

Figure 1: Five-year Summary of Average Age of Criminal Charges Pending, Ontario Court of Justice

Source of data: Ministry of the Attorney General



*March 2002 data unavailable due to labour disruption.

police station, has grown approximately 50% since 2002 and is now being used in 30% of the appearances in adult and youth courts.

However, the Ministry has since discontinued two projects it assumed from the terminated Integrated Justice Project: digital audio recording to replace manually prepared courtroom transcripts; and accepting certain electronic forms filings from lawyers, primarily for civil and small claims court documents. The Ministry indicated that decisions to terminate these projects were made after long trials with both technologies determined that neither was considered cost effective or compatible with courts' future information technology needs.

FINANCIAL INFORMATION

Recommendation

To manage the cost of court operations effectively, the Ministry should:

- *identify and collect the information needed to assess whether court services are being provided economically and efficiently; and*
- *determine how information technology can best be utilized to facilitate this process.*

Current Status

The Ministry implemented the Integrated Financial Information System (IFIS) in October 2004. Standard monthly reports are generated to track monthly expenditures by region and branch for forecasting and reporting purposes. Cost codes in IFIS have been established to capture costs by practice areas, including by court types and judicial support costs. It is anticipated that full reporting of costs by practice areas will be available in the 2006/07 fiscal year. Any further analysis and comparisons of court services costs using IFIS is being considered for future years.

EXPENDITURE CONTROLS

Recommendation

The Ministry should ensure that adequate controls are in place over expenditures so that goods and services, including consultants, are acquired competitively and in compliance with Management Board of Cabinet directives.

Current Status

The Ministry indicated that it has provided training on financial management, procurement, reporting, and controllership topics to senior management to ensure that required procedures and controls are adequately communicated and to reinforce adherence to proper practices. We were advised that this training would be offered on an annual basis. According to the Ministry, the implementation of IFIS has also further enhanced controls over procurement and expenditure management, including requiring on-line requisitioning and approval based on delegations of authority.

CAPITAL PROJECTS

Recommendation

To ensure that courthouse construction and renovation projects are acquired competitively, on budget, and in accordance with Management Board of Cabinet policies, the Ministry, in conjunction with the Ontario Realty Corporation, should adequately plan and manage its capital projects. In addition, the Ministry should ensure that appropriate controls are in place so that contractors are only paid for completed work.

Current Status

The Ministry has made a number of improvements in controls over planning and project management for capital projects, including detailed project inventory data, new project control sheets, and more comprehensive financial tracking sheets. New reports provide current and multi-year information on major and minor capital projects, on lease infor-

mation, and on identifying potential issues that require further direction.

The Ministry also indicated that it has established a closer working relationship with its mandatory service provider, the Ontario Realty Corporation (ORC), to ensure that courthouse projects are adequately planned and managed. An updated service-level agreement has been established between the Ministry and ORC. To improve communication, ORC has dedicated a small team of individuals to deal exclusively with the Ministry's facility requirements, and monthly meetings are held between the Ministry and ORC to discuss the status of projects and financial matters.

To further enhance the Ministry's strategic capital planning process, the Ministry, in partnership with ORC and the Ministry of Public Infrastructure Renewal, is developing a comprehensive asset management plan with data on base building conditions for all facilities within the Ministry's portfolio. The asset management plan, which is currently in the early stage of development, will be used as a planning tool to track facilities' current conditions and to plan for future capital investment needs, including both capital repair and facilities renewal requirements.

Training has been provided to all facility management staff on project tracking and controllership within the Ministry to help ensure that all required procedures, approvals, and policies related to capital expenditures are being adhered to.

COURT SECURITY

Recommendation

To ensure the safety of judges and persons involved in court proceedings, the Ministry should act quickly in co-operation with stakeholders to establish and maintain an appropriate level of security in all courthouses.

Current Status

We reported in our *2003 Annual Report* that the Division had initiated a court security project and that its January 2003 report indicated numerous gaps in security measures at courthouses surveyed. The Ministry informed us that attempts have been made on an ongoing basis to address security deficiencies identified in the January 2003 report. In February 2005, the Division also initiated an annual review of 23 key court security elements identified in the January 2003 report. Managers of Court Operations at each courthouse were to survey the current status of all elements of the court security checklist to attempt to ensure that due diligence was being exercised in relation to these key elements and report back to the Division's senior management.

In addition, court security is being assessed in developing the previously mentioned comprehensive asset management plan for all facilities in the Ministry's portfolio. Information gathered so far during this review continues to identify that security-related enhancements are needed for courthouses across the province. We were informed that the Ministry will set priorities for security-related enhancements as part of its multi-year capital plans for court facilities.

COLLECTION OF FINES

Recommendation

To better ensure that offenders pay their fines, the Ministry should:

- *forward all outstanding fines to the Collection Management Unit for collection on a timely basis;*
- *authorize more vigorous enforcement measures to pursue outstanding fines; and*
- *improve its system for tracking fines.*

Current Status

According to the Ministry, transfer of new outstanding fines to the Ministry of Government Services' Collection Management Unit (CMU) has occurred

every three to four months since March 2003. The Ministry plans to increase the frequency of transfers to weekly on a pilot basis commencing in fall 2005. As of January 31, 2005, the Ministry prepared a reconciliation to identify the reasons for any outstanding fines that were not transferred to the CMU.

While no new enforcement measures have been implemented, the Ministry informed us that more aggressive efforts have been made to use existing enforcement options for collections. In addition, the Ministry now produces management reports every six months to monitor the collection rates for outstanding fines.

PERFORMANCE REPORTING

Recommendation

The Ministry should measure and report on its cost-effectiveness, efficiency, and outcomes in providing court services by:

- *working with the Judiciary to develop appropriate performance indicators and targets against which it can measure the achievement of its business goals and operational standards;*
- *ensuring its information systems gather and report the information needed for management to monitor performance on an ongoing basis; and*
- *reporting regularly to the public on its performance.*

Current Status

The Division has developed a five-year operational plan that sets out five business goals for the Division and 44 measurable service standards for the provision of court services. For example, business goals have been established for timely and efficient case processing and for efficient resource management. According to the Ministry, performance measures for all key service standards and commitments in its five-year plan are under development and are expected to be completed during the 2005/06 fiscal year. The five-year plan, including service standards, will be reviewed and updated annually in

consultation with the Judiciary and court users. The goals, standards, and initiatives established in the five-year plan have been published in the Division's annual report, which is available to the public.

To better measure performance, new standard statistical reports have been developed to track the effectiveness and efficiency of criminal case processing using data from the ICON system. The Ministry also expects that its new case management system for civil and family courts will produce more enhanced performance reporting later in the 2005/06 fiscal year.

In addition, the Ministry has drafted a report providing highlights on court activity trends for all practice areas (small claims court, court of appeal, criminal, family, and civil proceedings). The report, which will be posted on the Ministry's Internet website during the current fiscal year once it has been approved, provides a trend analysis over the past five years and over the past 12-month period.