

## Chapter 1

### Section 1.15

Ministry of the Attorney General

# Court Operations

Follow-Up on VFM Volume 3 Chapter 2,  
*2019 Annual Report*

#### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3		3			
Recommendation 2	2				2	
Recommendation 3	1			1		
Recommendation 4	1	1				
Recommendation 5	1	1				
Recommendation 6	1		1			
Recommendation 7	1		1			
Recommendation 8	2	2				
Recommendation 9	2	1	1			
Recommendation 10	3	1	1	1		
Recommendation 11	1	1				
Recommendation 12	1			1		
Recommendation 13	3		3			
Recommendation 14	2		2			
Recommendation 15	3			1	2	
<b>Total</b>	<b>27</b>	<b>7</b>	<b>12</b>	<b>4</b>	<b>4</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>26</b>	<b>44</b>	<b>15</b>	<b>15</b>	<b>0</b>

### Overall Conclusion

The Ministry of the Attorney General (Ministry), as of August 31, 2021, has fully implemented 26% of the actions we recommended in our *2019 Annual Report*. The Ministry has made progress in implementing an additional 44% of the recommendations.

Fully implemented recommendations included that the Ministry has worked with the Ministry of the Solicitor General to meet the targeted 90% utilization of videoconferencing technology for criminal court matters. We noted that the use of videoconferencing in all in-custody court appearances had increased significantly from 52% in 2018/19 to 88% in 2020/21 and 97% as of early May 2021, mainly due to the

rapid uptake of remote appearances since the COVID-19 pandemic. At the time of our follow-up, the Ministry of the Solicitor General was installing the videoconferencing technology in an additional 20 courtrooms and nine correctional institutions. The Ministry of the Solicitor General expects that all of the planned installations will be completed by September 2022, which will help it to maintain the 90% utilization rate until at least 2022/23 as part of the Criminal Justice Sector Video Strategy.

Progress had been made in implementing recommendations such as the Office of the Chief Justices of the Ontario Court and the Superior Court plan to conduct their own reviews of court scheduling. At the time of our follow-up, we noted that case backlogs have continued to grow, from 10% increase in family and civil cases to as high as 43% increase in criminal cases between March 2019 and March 2021. Both Courts expressed the view that the pandemic has placed very significant pressures on the Courts due to the restricted number of proceedings that were able to be scheduled and conducted. They indicated that while court scheduling is under the authority of the judiciary, as a practical day-to-day exercise, scheduling is also a matter of regular dialogue between the Courts and the Ministry. Both the Courts and the Ministry are considering the future state of court case management, including modernizing case or trial scheduling. Because the Courts were dealing with a significant number of growing backlogs, they expect their own reviews of court scheduling would not be completed until June 2023.

The Ministry had made little or no progress on 15% of the recommendations, including providing training to its court staff to enable them to follow the Ministry's time-reporting policy consistently across the province. At the time of the follow-up, the Ministry indicated that discussions will need to take place with respect to the standardization of the reporting requirements for the tracking of courtroom operating hours before any training can be provided to court staff across the province. The standardization of the reporting requirements has yet to be established.

Further, the Ministry indicated it will not implement 15% of the recommendations, such as work with the judiciary to regularly review courtroom use and determine the reasons behind courtrooms being left unused; and create a plan to address the specific reasons why some courthouses appear not to be optimizing the use of their courtrooms. During our follow-up, the Ministry indicated that it will not implement this recommendation, other than providing appropriate technology, staffing and technology supports for the judiciary. The Ministry further stated that court scheduling, which in turn drives courtroom utilization, is under the exclusive purview of the independent judiciary. Thus, the Ministry took the position that they could not unilaterally review courtroom use and determine the reasons for any apparent unused courtrooms, or develop a plan to address the reasons even though taxpayers' dollars pay for courtroom capital and operating costs.

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

## Background

Ontario's court system has two trial courts—the Ontario Court of Justice (Ontario Court) and the Ontario Superior Court of Justice (Superior Court)—as well as a Court of Appeal. Both the Ontario Court and the Superior Court deal with criminal law and family law cases. But the Superior Court deals with fewer (usually the most serious) criminal offences, as well as civil cases, including small claims. The Ontario government appoints and compensates Ontario Court judges, while the federal government appoints and compensates Superior Court judges. Under the *Courts of Justice Act*, the regional senior judges and their delegates, under the direction and supervision of the Chief Justices, are responsible for preparing trial lists, assigning cases and other judicial duties to individual judges, determining workloads for judges and sitting schedules and locations, and assigning courtrooms.

The Court Services Division (Division) of the Ministry of the Attorney General (Ministry) is responsible for all matters relating to the administration of the courts, such as providing facilities, court staff, information technology and other services such as court reporting. For 2020/21, the Division's expenditures were about \$256 million (\$258 million in 2018/19). In addition, the Ontario government paid about \$146 million (\$145 million in 2018/19) in judicial salaries and benefits to the Ontario Court in the same fiscal year.

As of March 2021, there were 74 base courthouses in Ontario, with a total of 673 courtrooms, as well as 54 satellite and 29 fly-in courts (unchanged from March 2019), where the judiciary hear cases.

During our 2019 audit, we experienced several significant scope limitations with respect to access to information such as court scheduling, and delays in receiving other key information, including staffing statistics. The courts are public assets, supported and financed by the people of Ontario, and the administration of justice is an important public good. Therefore, while we respect the independence of the judiciary and the confidentiality due to participants in legal matters, we nevertheless believe that it is within our mandate to review information that would be needed to assess the cost-effectiveness of court operations and the efficient use of resources, given that taxpayers' monies support court operations.

Some of our significant findings were as follows:

- Ontario courtrooms were in operation only 2.8 hours on an average business day, well below the Ministry's optimal average of 4.5 hours. We found that the 55 courthouses, out of a total 74, that reported above-average delays in resolving cases also operated fewer hours than the Ministry's optimal average. Without full access to scheduling information, we were unable to examine and substantiate the efficiency and effectiveness of court scheduling and to confirm reasons for the underutilization of courtrooms.
- In 2018/19, almost 2.5 million documents—over 96% of them paper documents—were filed in Ontario's court system, ranging from cases' initiating documents to evidence and court orders made by a judge. Little progress had been made in replacing the Integrated Court Offences Network (ICON). ICON tracks criminal cases handled by the Ontario Court, which accounted for more than 98% of all criminal cases in the province. Our audits in 2003 and 2008 identified the need for the court system to modernize and become more efficient. The Ministry had made limited progress in this area since our audit in 2008. In January 2019, the Ministry submitted a project plan to the Treasury Board for replacing the system, as part of an overall Criminal Justice Digital Design initiative, estimated to cost \$56.1 million between 2019/20 and 2023/24. The plan was pending approval as of August 2019.
- The implementation of Criminal E-Intake had time delays and cost overruns despite a reduced project scope. Criminal E-Intake is an online system that allows police to electronically submit to the Criminal Court criminal Information packages containing documents such as the offence(s) that the accused person is charged with, copies of police officers' notes and witness statements. The Ministry approved the business case for this system in July 2016, at an estimated cost of \$1.7 million, and expected to complete the project by November 2017. However, at the time of our audit the Ministry's completion date was November 2019, and the estimated cost had increased to \$1.9 million for a reduced scope, covering only one of the two police record management systems.
- In 2018, the Division's employee survey reported that 60% of employees were dissatisfied with their Ministry. The number of sick days taken by staff working in the Ministry Court Services Division rose by 19%, from 27,610 days in 2014 to 32,896 days in 2018, even though the number of regular full-time staff who were eligible to take sick days declined by 10% over the same period. The Ministry reported that the total cost of lost time due to absenteeism was \$7 million in 2017 and \$8.6 million in 2018.

We made 15 recommendations, consisting of 27 action items, to address our audit findings.

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

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2021 and August 2021. We obtained written representation from the Ministry of the Attorney General that effective November 15, 2021, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### Existing Courtrooms Have the Capacity to Hear and Dispose More Cases

#### Recommendation 1

*To help maximize the efficient and effective usage of available courtrooms and improve the overall court system paid for by taxpayers, we recommend that the Office of the Chief Justice of the Ontario Court of Justice and the Office of the Chief Justice of the Superior Court of Justice:*

- *conduct their own reviews of court scheduling;*  
**Status: In the process of being implemented by June 2023.**

#### Details

Our 2019 audit noted that the Ministry expected a typical courtroom to be used optimally to hear cases an average of 4.5 hours each business day. Our audit found that, in Ontario, the actual use of courtrooms by individual courthouses averaged only 2.8 hours per business day in 2018/19. Of the 74 courthouses, 68 (or 92%) reported less than the expected 4.5 hours use per day. We compared these 68 courthouses' caseload statistics and trends for all practice

areas, including criminal, family, civil and small claim cases.

We found that 55 of them had experienced delays above the provincial average.

At the time of our 2019 audit, representatives from the Offices of the Chief Justices of the Ontario Court and the Ontario Superior Court indicated that judicial administration of the courts is constitutionally and legislatively independent of the government. In order to maximize courtroom utilization, trial co-ordinators who work under the direction of the judiciary often overbook cases in their court schedules. However, due to the significant scope limitation we experienced during our 2019 audit, without being given full access to the scheduling of cases and courtrooms, we were unable to verify the extent of overbooking and the extent to which each possible reason contributed to the lower-than-optimal utilization of courtrooms.

The Offices of the Chief Justices of both courts reiterated that courtroom utilization data does not reflect daily judicial working hours, nor actual demand for a courtroom. A very significant amount of judicial work is done outside courtroom operating hours.

During our follow-up, we noted that case backlogs have continued to grow in all practice areas, based on the statistics reported by the Ministry in relation to both Courts:

- The number of criminal cases pending disposition increased by 43% from 117,518 in March 2019 to 168,225 in March 2021.
- The number of family cases pending disposition increased by 10% from 186,201 in March 2019 to 204,650 in March 2021.
- The number of civil cases pending disposition increased by 10% from 752,918 in March 2019 to 828,569 in March 2021.
- The number of small claim cases pending disposition increased by 12% from 364,601 in March 2019 to 408,716 in March 2021.

The increase was mainly due to court operations that were extremely curtailed since the COVID-19 pandemic started in early 2020. Both Courts advised that the pandemic has placed very significant

pressures on the Courts due to the restricted numbers of proceedings that were able to be scheduled and conducted. Significant interruption of court operations during the pandemic include, for example:

- No in-person matters were held from March 17, 2020 to July 6, 2020 in both Courts.
- Some in-person matters were recommenced on July 6, 2020 in a limited number of courtrooms in certain courthouses with physical distancing protocols that necessarily limited to a great extent the type and number of proceedings that could be held.
- The onset of the second and third waves of the pandemic necessitated the introduction of additional restrictions on proceedings in the fall, winter and spring of 2020/21. During the third wave in spring 2021, both courts restricted in-person proceedings to matters that necessitated in-person appearances.
- In the Ontario Superior Court, due to constitutional and statutory time limits for hearing criminal and family matters (especially child protection cases), civil cases are generally the lower in priority for resuming in-person trials. Other steps in civil cases are proceeding virtually, wherever possible.

Both Courts further stated that public health guidelines urging people to stay at home and avoid travel or social contact, insufficient court staffing and support for virtual hearings, as well as inadequate access to video technology in the correctional institutions have presented significant challenges, that have persisted well into 2021. The Courts indicated that they will be reviewing their practices and considering how to make the most effective use of judicial, courtroom resources and technology to support virtual hearings, where appropriate, during 2021 and 2022 as increased numbers of matters are scheduled into the post-pandemic era. In doing so, the courts have been and will continue to work closely with the Ministry and other stakeholders. As well, the Courts anticipated that virtual hearings will continue after the pandemic for some procedural steps in cases and

hybrid hearings (i.e., part in-person and part virtual) will continue to take place.

The Chief Justices of the Ontario Court and Ontario Superior Court indicated that while court scheduling is under the authority of the judiciary, as a practical day-to-day exercise, scheduling is also a matter of regular dialogue between the Ministry and the Courts. The Ministry and the Courts are considering the future state of court case management, including modernizing case or trial scheduling.

Other work done by the Courts and the Ministry since our 2019 audit are, for example:

- Both Courts continue to meet regularly with the Ministry and other justice stakeholders to discuss options to maximize courtroom use in a way that provides timely access to justice while respecting each Court's judicial independence.
- Their discussions have been focusing on the number of courtrooms that have in-court technology available to be used for a mixed list of in-person and hybrid hearings, as well as technology suites where court staff can perform their functions in virtual hearings.
- A change request was implemented in FRANK in November 2020 to capture remote hearing details so that the Courts can better track the method used to conduct hearings. The FRANK system tracks family cases heard in both the Ontario Court and the Ontario Superior Court, as well as criminal, civil and small claims cases received by the Superior Court.
- In the Ontario Court, the Electronic Scheduling Program (ESP) was completed and implemented across the province in February 2021. ESP is an online application that provides trial co-ordinators with a province-wide scheduling tool to manage the criminal cases received by the Ontario Court. It allows, for example, electronic scheduling of judges, court appearances and courtrooms, monitoring of pending cases, and determining resources (such as security and technology) needed for court hearings. The Ontario Superior Court did not have a robust electronic scheduling tool at the time of our follow-up.

At the time of our follow-up, the Courts were dealing with a significant number of growing backlogs. The Ontario Court indicated that it had taken additional measures to ensure the parties were better prepared and more ready before trials. The Ontario Court acknowledged that aggressive case management and trial scheduling are important to manage the backlogs developed as a result of the pandemic. The Chief Justice of the Ontario Court announced full scheduling would resume in early October 2021.

Both Courts expect to complete their own reviews of court scheduling by June 2023, after the operations of courts are more stabilized.

- *share the results with the Ministry of the Attorney General (Ministry), which has responsibility for the operating and capital expenditure of the court system; and*
- *report the results to the public and the Ministry.*

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

As referenced in the first action under **Recommendation 1**, both Courts have regular and on-going dialogue with the Ministry about scheduling, and are considering the future state of court case management, including modernizing case or trial scheduling. Both Courts indicated that while court scheduling is under the purview of the Chief Justices, the Courts will engage with the Ministry in discussions and modernization of Court scheduling. The Courts expect that once their reviews of court scheduling are completed in June 2023, they plan to share the results with the Ministry, and provide information about their review to the public in appropriate forums such as the Opening of Courts and/or their annual reports by December 2023.

### Recommendation 2

*To help maximize the efficient usage of available courtrooms, we recommend that the Ministry of the Attorney General work with the judiciary to:*

- *regularly review courtroom use, by courthouse, across the province and determine the reasons behind courtrooms being left unused; and*

- *create a plan to address the specific reasons why some courthouses appear not to be optimizing the use of their courtrooms.*

**Status: Will not be implemented. The Office of the Auditor General continues to believe that the Ministry should work with the judiciary to regularly review courtroom use, determine the reasons behind courtrooms being left unused and create a plan to optimize the use of courtrooms given that the Ministry provides taxpayers' dollars to cover the operating and capital costs of courtrooms.**

### Details

In our 2019 audit, we had observed that some courtrooms were not being used at any point during the day during our visits in April and May to courthouses located in all seven regions of the province. To further determine the extent to which such courtrooms were not in use, we examined the Ministry's ISCUS (ICON Scheduling Courtroom Utilization Screen) time reports for the whole province (over 670 courtrooms in 74 courthouses) for one week in April. We found that out of the 3,820 weekdays reviewed, there were about 1,100 days when a courtroom was left empty for the entire day (or 29% of the time). We could not determine whether any of these courtrooms had been scheduled for hearings, because the Offices of the Chief Justices limited our access to the scheduling information kept by trial co-ordinators.

During our follow-up, the Ministry indicated that it will not implement this recommendation, other than providing appropriate technology, staffing and technology supports for the judiciary. The Ministry further stated that court scheduling, which in turn drives courtroom utilization, is under the exclusive purview of the independent judiciary. Thus, the Ministry took the position that they could not unilaterally review courtroom use and determine the reasons for any apparent unused courtrooms, or to develop a plan to address the reasons.

### Recommendation 3

*To enhance the quality of data available on courtroom operating hours in order to help inform decision-making in areas such as resource allocation, we recommend that the Ministry of the Attorney General provide training*

to its court staff to enable them to follow the Ministry's time-reporting policy consistently across the province.

**Status:** Little or no progress.

### Details

During our 2019 audit, we noted that according to Ministry policy, Ministry court staff are required to record the start and end time of a court session when the presiding official enters and leaves the courtroom. Typically, the morning session begins when the presiding official enters the courtroom and ends at the start of lunch break, and the afternoon session begins at the end of lunch break and ends when the presiding official leaves the courtroom. However, from our sample review, court staff had entered the time into the Ministry's time report (ISCUS) inconsistently, resulting in misstatements of the times reported.

Our sample review of ISCUS time reports at the time of 2019 audit found that in 68 of the 74 courthouses, Ministry court staff also rounded off the start and end times, often to the nearest quarter. We found that in only six courthouses staff adhered to Ministry policy and entered the start and end times as indicated in the audio recording of the presiding officials' arrival and departure. Further, as part of our review of the 125 full notes of digital audio recordings, we also found that 58 (or 46%) of them incorrectly reported their start and end time in ISCUS, with differences ranging from 15 minutes to as long as 1.5 hours per court day.

Our follow-up found that the Ministry has made little or no progress to provide training to court staff to enable them to follow the Ministry's time-reporting policy consistently across the province. At the time of the follow-up, the Ministry indicated that discussions will need to take place with respect to the standardization of the reporting requirements for the tracking of courtroom operating hours before any training can be provided to court staff across the province.

The Ministry is planning to continue discussions and establish a working group to identify the standardization of the reporting requirements for the tracking of courtroom hours. Once the standards

are established, the Ministry will revise existing mandatory employee training materials to ensure a consistent approach to court time reporting by August 2022. However, the Ministry indicated that this timeline is also dependent on when the COVID-19 pandemic will end.

## Overall Pace of Court System Modernization Remains Slow

### Recommendation 4

*To support the court system with more robust case file-tracking systems, we recommend that the Ministry of the Attorney General closely monitor the Criminal Justice Digital Design initiative, if it is approved, to ensure that it meets agreed-upon timelines, comes in within budgeted costs, and that any issues regarding implementation are addressed on a timely basis.*

**Status:** Fully implemented.

### Details

Our past audits of the court system have repeatedly identified the need for greater modernization to improve system efficiencies. In 2019, our audit reported that the Ministry, while taking cautious and incremental steps toward modernization, had made limited progress in its efforts to introduce and use more and more effective technologies in the court system since our previous audit in 2008. We found that, for example, in November 2009, Treasury Board approved almost \$10 million in funding for the Court Information Management System (CIMS) project scheduled for completion in March 2012. CIMS was proposed as a single case management system to integrate both ICON and FRANK. Subsequently, our 2016 audit report on Information and Information Technology General Controls reported that CIMS had not proceeded as planned, resulting in a net loss to the Ministry of about \$4.5 million. The Province's Internal Audit Division and a third-party consultant conducted separate reviews of the project. They attributed the failure to

lack of proper governance and oversight, project management and reporting processes.

In January 2019, the Ministry submitted another project plan to the Treasury Board for replacing ICON, which was pending approval as of August 2019.

After our audit, in fall 2019, the Ministry received approval from the Treasury Board to implement the Criminal Justice Digital Design initiative at a total estimated cost of \$85.5 million over five years, from 2019/20 to 2023/24. The initiative contains four main components:

- **Criminal E-Intake**—an online application that allows police to send and receive documents and data (for example, charge and warrant packages) for consideration by a justice of the peace. It then automatically creates or updates a criminal case file.
- **Digital Evidence Management System**—an online application for use by police and other justice sector partners and stakeholders to manage, store and share digital investigative or evidentiary files.
- **Digital Disclosure and Hearing Hub**—this online application is a “one-stop-shop” for crowns, defence, court staff, and judges to be able to access all materials related to scheduled court events and allows disclosure to be shared across sector partners.
- **Courts Criminal Case Management Solution**—a modern case management system to replace the existing system (Integrated Court Offences Network, ICON) that will enable court staff and other partners to better manage the flow of information through Ontario’s criminal courts.

In December 2020, the Ministry, together with the Ministry of the Solicitor General and Ontario Court of Justice, formed a governance structure to oversee the planning, monitoring and implementation of the Criminal Justice Digital Design initiative. The governance structure includes multiple committees, working groups, advisory groups and subject matter experts that meet regularly to discuss status updates, such as the progress made, actual spent versus approved budget, outstanding work and other issues. The executive steering committee is responsible for making

major decisions on a regular basis to address project risks and issues that arise from time to time.

The executive steering committee of the Criminal Justice Digital Design initiative reported that, as of April 2021, of the \$85.5 million budget, about 15% was spent, and that the overall schedule was generally on track except for certain areas where issues related to scope, timing and costs of the projects were identified. The executive steering committee had approved key actions to address the issues accordingly.

### Recommendation 5

*To help increase the utilization of videoconferencing technology for criminal court matters, we recommend that the Ministry of the Attorney General (Ministry) work with the Ministry of the Solicitor General to establish interim targets and monitor progression toward the 90% utilization rate the Ministry has targeted to achieve by 2020/21.*

**Status: Fully implemented.**

### Details

Our 2019 audit reported that, over the last 10 years, the Ministry had formalized a strategy for expanding the use of videoconferencing technology in the criminal justice sector. This strategy includes:

- adopting a “video first” approach so that the court system prioritizes videoconferencing as the first option for most in-custody court appearances and targets a 90% utilization rate in routine court appearances, such as bail hearings and first appearance hearings, by 2020/21; and
- installing more videoconferencing units in court locations and correctional institutions across the province to support increased video use.

In 2018/19, videoconferencing was used in 52% of all in-custody court appearances.

Following the audit, the Criminal Justice Sector Video Strategy received approval from Treasury Board with the targeted timeline revised from 2020/21 to 2022/23. The Ministry of the Solicitor General reported that the use of videoconferencing in all in-custody court appearances had slightly reduced to 48% in 2019/20 but increased significantly to 88%

in 2020/21 and 97% as of early May 2021, mainly due to the adoption of remote appearances since the pandemic. Given the rapid uptake of the use of video technology during COVID-19, the Ministry of the Solicitor General indicated that interim targets were no longer necessary.

In addition, since our 2019 audit, the Ministry of the Solicitor General has installed videoconferencing technology in seven courthouses and one correctional institution. At the time of our follow-up, the Ministry of the Solicitor General was installing the technology in an additional 20 courtrooms and nine correctional institutions. The Ministry of the Solicitor General expects that all of the planned installations will be completed by September 2022, which will help it to maintain the 90% utilization rate until at least 2022/23.

### Recommendation 6

*To improve access to the courts for justice system participants in a cost-effective manner by making video appearances in court more readily available, we recommend that the Ministry of the Attorney General establish a plan and timeline to re-evaluate the use of its videoconferencing service and then, if it confirms the service as cost-effective, further expand the use of the service, given its proven and confirmed success.*

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

### Details

In 2016, the Superior Court and the Court of Appeal approached the Ministry to locate a third-party service provider to supply moderated video appearance technology for designated matters in their courts. The judiciary recognized the convenience for lawyers and cost savings for clients that could result from letting lawyers videoconference from their own offices. The Ministry entered into an agreement with the service provider in February 2017. A pilot began at the Superior Court Toronto location (civil cases only) and the Court of Appeal in March and May 2017, respectively.

However, our 2019 audit found that despite the positive results of the pilot and the minimal cost to the Ministry, the Ministry postponed further expansion of the service because it has not given this pilot the same level of priority as other projects, such as videoconferencing for criminal matters and online filing for civil and family courts. At the time of our audit, the Ministry has also not set a plan or timeline to expand the service further despite knowing that it will bring additional benefits to justice system participants.

Since our 2019 audit, the Ministries of the Attorney General and Solicitor General have prepared a draft Performance Measurement Framework (Framework) for the use of videoconferencing for in-custody criminal matters. In late 2020, the Ministry of the Solicitor General submitted a funding request to Treasury Board to seek approval for retaining unspent funds from 2020/21 to future years. However, the funding approval was still pending as of June 2021.

In early 2021, the two Ministries revised the Framework in response to feedback from senior leaders in both Ministries as well as to ongoing and post-pandemic changes in both the courts and corrections operating models. The Framework was then further revised in May 2021, with a focus on determining what metrics are or can be collected, data quality and reporting frequency. The Framework is still under development and review, and has not yet been approved by both Ministries at the time of our follow-up.

In March 2021, the Ministry of the Attorney General announced its multi-year plan to speed up access to the justice system. It developed the Justice Accelerated strategy which includes a plan, among other things, to expand the use of remote hearing technology. In particular, the Ministry launched the Virtual and Hybrid Hearing initiative in April 2021 with an aim to expand and improve courtrooms' capabilities for holding remote hearings across the province.

Additionally, the Ministry procured CaseLines, a document sharing platform, on an emergency basis to facilitate the expanded use of virtual hearings.

Since the beginning of the COVID-19 pandemic, a significant number of hearings have taken place in both the Ontario Court and the Superior Court. The Ministry plans to fully implement this recommendation by rolling out the technology across the province to incrementally increase capacity and access by September 2022.

### Recommendation 7

*To improve the reliability and usability of the FRANK system to better support the efficiency of the court system, we recommend that the Ministry of the Attorney General address its shortcomings identified in areas such as case tracking, data entry and system navigation.*

**Status:** In the process of being implemented by 2026.

#### Details

The FRANK system tracks family law cases heard in both the Ontario Court and the Superior Court, as well as criminal, civil and small claims cases received by the Superior Court. For cases other than criminal law, it tracks information such as the names of litigants, type of case, date and location. FRANK is a more recent system than ICON, but our 2019 audit found that it had weaknesses that impede the courts' ability to operate efficiently. We reported that, overall, FRANK was not a robust information system capable of promoting accurate entry of data and generating user-friendly reports. Courthouse staff and judges could not rely on FRANK alone to ascertain the specifics of a case. As a result, they must continue to heavily rely on the physical case files. Some of the key weaknesses we noted were as follows:

- Case tracking—the system does not capture essential information to track the progress of cases.
- Data entry—selections and validations require updates to ensure accuracy of data.
- System navigation—the interface layout is not user-friendly and efficient.

After our 2019 audit, in June 2020, the Ministry and the Superior Court engaged a consulting firm to conduct a technology and operational review of all existing case tracking systems including FRANK for the Superior Court. The consultant completed the

review in January 2021 and recommended a digital transformation of the Superior Court to implement modern technologies to improve in-person and virtual court operations. The review identified 10 key initiatives that could be executed through three phases over the next five years. In the spring of 2021, the Ministry engaged a consulting firm to complete an operational and technology review of the Ontario Court. The findings were similar to those found in the review of the Superior Court.

In June 2021, Treasury Board approved the Courts Digital Transformation Project for procurement of a new digital justice platform. In September 2021, the Treasury Board also approved a single digital justice solution that could be used by both courts. The single digital justice solution is going to replace the existing FRANK and ICON systems. Because the Ministry is exploring the case tracking, data entry and system navigation functionalities in the Courts Digital Transformation project, it expects the new single digital justice solution should address the shortcomings of FRANK (which will be replaced) when the project is completed by 2026.

## Ontario Court System Remains Heavily Paper-Based

### Recommendation 8

*To minimize the risk of delays and cost overruns in completing its modernization initiatives for criminal courts, we recommend that the Ministry of the Attorney General:*

- *consult with key stakeholders on business requirements, risks, timelines and costs in preparing its information technology business cases; and*
- *require information technology vendors to deliver projects within agreed-upon timelines and key requirements.*

**Status:** Fully implemented.

### Details

With respect to criminal courts, our 2019 audit reviewed three major technology-based initiatives—Criminal E-Intake, Electronic Scheduling Program and Criminal Electronic Order Production—that were in place or in the process of being implemented to address the legacy paper-based processes. However, we found that the Ministry was not properly planning and overseeing the implementation of these initiatives, resulting in significant delays and cost overruns. As a result, the full benefits of these initiatives were not yet realized at the time of our audit.

As mentioned in **Recommendation 4**, the Ministry, together with the Ministry of the Solicitor General and Ontario Court of Justice, formed a governance structure to oversee the planning, monitoring and implementation of the Criminal Justice Digital Design initiative. In addition to the core committees established, several advisory groups involve participants from areas such as the legal sector, judiciary, police services, court services, crown attorneys, corrections and Indigenous justice groups. Since the beginning of 2021, the Criminal Justice Digital Design’s core committees have regularly consulted and engaged with the advisory groups and incorporated their business requirements and other feedback into the initiative’s implementation plan.

As part of the Criminal Justice Digital Design initiative, the Ministry of the Solicitor General has also partnered with two vendors in delivering two projects. These are the supply and delivery of integration of eJust Case Management System application with Criminal e-intake solution, effective June 2020, and the Digital Evidence Management System Cloud-based solution, effective September 2020. The contracts signed between the Ministry of the Solicitor General and the vendors stipulate that the vendors will not be paid unless deliverables are made on time. As of June 2021, both vendors were so far able to satisfy the agreed-upon timelines and key requirements.

### Recommendation 9

*To enhance the effectiveness and efficiency of court processes by reducing the extensive use of paper in criminal courts, we recommend that the Ministry of the Attorney General:*

- *work with the judiciary to explore options such as adding an electronic signature functionality to judicial e-orders;*

**Status: Fully implemented.**

### Details

Criminal Electronic Order Production is an initiative supporting the electronic in-court production of the most common criminal court orders such as judicial interim release orders, also called “bail papers.” According to the Ministry’s business case submitted to the Treasury Board prior to 2012, this initiative is expected to save a million sheets of paper a year. However, our 2019 audit found that the amount of paper saved was uncertain because, in part, the system was not designed to allow for an electronic sign-off. As a result, although court staff can create orders on a computer using an electronic form, they still have to print the forms for judges to sign.

Subsequent to our audit, and in responding to the COVID-19 pandemic, the Ministry has worked with the judiciary to introduce a number of new processes, including the ability of the judiciary to sign orders electronically and court staff being able to email signed orders to relevant justice partners. For example, in April 2020, the Ministry provided a document to instruct the judiciary signing court documents digitally using PDF through Public Key Infrastructure (PKI). (PKI is used to protect sensitive data such as by providing unique digital identifiers for users to help secure end-to-end communications between parties.) In May 2020, the Ontario Court of Justice issued “COVID-19: Ontario Court of Justice Protocol RE Bail Hearings” to clarify in what circumstances certain court hearings, court materials and court orders should be done electronically, where feasible, or as directed by a judicial official.

- require court locations to make the best use of the e-orders, for example, by sending e-orders to other justice partners electronically, rather than using hard copies, and monitor use of the e-orders.

**Status:** In the process of being implemented by 2026.

### Details

Our 2019 audit also found that the Ministry did not require court locations to make the best use of the e-orders by sending them to other justice partners (such as police, probation and victim services) electronically, rather than using hard copies, and does not monitor use of the e-orders.

During our follow-up, we found that although new processes were in place that allow the judiciary to digitally sign and send orders to other justice partners electronically, the new electronic processes (digital sign and send orders) have not been made mandatory, wherever possible, at all court locations. The Ministry explained that the use of e-orders depends on whether matters are proceeded in person, remotely, or both. Other factors that could affect the use of e-orders are local judicial direction, access to technology by the accused or surety, or requests from other judicial partners.

We also noted that the Ministry does not keep track of relevant statistics or monitor use of the e-orders to determine their uptake, or identify locations to expand their use wherever opportunities arise. The Ministry indicated that it is currently exploring the e-orders functionality as part of the Courts Digital Transformation project mentioned in **Recommendation 7**. The Ministry plans to complete the Courts Digital Transformation project by 2026.

In addition, the Criminal Justice Digital Initiative (mentioned in **Recommendation 4**), in partnership with the Ontario Court, is developing a digital court log and digital filing cabinet specifically for the New Toronto Courthouse with an aim to reduce the need for paper documents currently hand-delivered between courtrooms.

### Recommendation 10

*To improve the effectiveness of the electronic divorce filing system and reduce the use of paper files, we recommend that the Ministry of the Attorney General:*

- track and analyze challenges experienced by its court staff when processing applications submitted through the system;

**Status:** Little or no progress.

### Details

Our 2019 audit reported that while the implementation of the electronic divorce filing system is a step in the right direction for improving access to justice for parties involved in family court, we noted the following:

- The Ministry had not assessed the error rate of the electronically filed divorce applications so as to make system improvements.
- About 30% of the electronically filed divorce applications contained errors that could have been prevented or more easily resolved with further enhancements to the existing system.
- The electronic filing system has not reduced the need for paper files as Ministry court staff still print out the applications for the judges to review.

In our 2019 audit, we identified that about 30% of the applications we sampled contained errors that took court staff on average about 50 days to correct. Staff from two court locations could not process over 50% of the electronically filed divorce applications as filed. The majority of errors we found were incomplete or insufficient documentation such as missing marriage certificate, forms not signed, draft divorce order not properly prepared, Affidavit for Divorce not commissioned and name(s) on the application not matching name(s) on the marriage certificate (e.g., missing middle name).

Our follow-up found that, except for the two enhancements made since our 2019 audit (further discussed in the second action under **Recommendation 10**), the Ministry has made little or no progress to track and analyze challenges experienced by its court staff when processing applications submitted through the system. It could not provide us with data

or other information as to where it tracks or analyzes common errors so that system effectiveness and efficiency can be continuously monitored and improved.

The Ministry indicated that it will review whether the Courts Digital Transformation project (as mentioned in **Recommendation 7**) could address the issues we identified in the 2019 audit.

- *improve the system to minimize errors and promote ease of correction of errors;*

**Status: In the process of being implemented by September 2026.**

### Details

After our 2019 audit, the Ministry made two system enhancements to the existing simple and joint divorce filing process in November 2020. A court finder function was added to assist the online filers to select which court location to file their divorce application in based on the party's residence. The second enhancement was a back-end case look-up function intended to prevent users from filing duplicate actions within the same court location. When a user inputs the names of the parties involved in an action, this function will perform a name search at that specific court location and reject any duplication from being filed at that specific court location. However, we noted that it is not a province-wide search, meaning that a user can still file the same application in another court location.

These enhancements are aimed to reduce the number of rejections due to filing at the wrong court location, as well as to reduce the number of duplicate applications. However, these enhancements were not designed to reduce the number of errors occurring during the electronic divorce filing process as we identified in our 2019 audit (as discussed in the first action under **Recommendation 10**). The Ministry indicated that, as part of the Courts Digital Transformation Project, it will review any system enhancements needed to minimize errors and promote ease of correction of errors by September 2026.

- *work with the judiciary to modernize the internal court processes to enable judges to view*

*electronically filed divorce applications, where appropriate, in electronic format.*

**Status: Fully implemented.**

Our follow-up found the Ministry implemented shared computer drive processes so that judges can now access and view documents filed electronically during a hearing. These new processes were implemented, as a result of the pandemic, to support virtual courts and to reduce the need for people to attend a courthouse in person. In May and June 2020, the Ministry established directives requiring family court management teams at Ontario Court and Superior Court locations to create local shared drive folders to save requests and documents received by emails. The Ministry also provided resources to support this new process. Each court location began to save documents and requests for hearings, which are received by email, in an electronic shared drive which is accessible by the judiciary.

The Ministry is also considering its longer-term options to modernize internal court process, including the consultant's recommendations mentioned in **Recommendation 7**.

## Key Justice Partners Faulted the Ministry's Consultation Process in Planning New Courthouses

### Recommendation 11

*To receive all possible useful feedback and advice from its key justice system partners on infrastructure decisions, we recommend that the Ministry of the Attorney General proactively engage justice system partners such as the judiciary and police services, as appropriate, prior to making and recommending major infrastructure decisions to the government, and communicate the final decisions to the justice system partners on a more timely basis.*

**Status: Fully implemented.**

## Details

At the time of our 2019 audit, the Ministry was building a new courthouse for Toronto to consolidate criminal matters from six existing Ontario Court criminal courthouses located throughout the city (1911 Eglinton, Old City Hall, College Park, 1000 Finch, 2201 Finch and part of 311 Jarvis). The project's contract value was \$956 million and it was estimated to be completed by 2022. Although representatives from the Office of the Chief Justice of the Ontario Court stated that the consultation process was "transparent, collaborative, and responsive," we found that the Office of the Chief Justice of the Superior Court and the Toronto Police Service both reported their disappointment with the Ministry's level of consultation and communication on such a major infrastructure decision.

Subsequent to our 2019 audit, the Ministry continues to lead the Judicial Facilities Working Group which was established in late 2018. The group comprises representatives from the Ministry and all three courts. They meet regularly to discuss both short- and long-term court facility and capital issues. There is now an annual intake process that has been used between the three courts and the Ministry's Facility Management Branch and the Court Services Division. The Ministry's Facility Management Branch communicates with each court to confirm which priorities will proceed for the year once the internal vetting and scoring processes are completed.

Our follow-up noted that the Ministry has proactively engaged justice system partners regarding major facility issues. Representatives from the Office of the Chief Justice of the Superior Court expressed that, for example:

- The Ministry consulted them appropriately regarding COVID-19 retrofits to existing courthouses, Wi-Fi upgrades needed to support virtual hearings, and locating off-site jury assembly facilities.
- The Thunder Bay Courthouse fire remediation work was done with appropriate consultation with the judiciary.
- The Ministry collaborated with the judiciary when creating a plan for improving the existing

Milton Courthouse. On June 11, 2020, a proposal to retrofit the Milton Courthouse was presented to the Judicial Facilities Working Group in light of the cancellation of the Halton Region Consolidated Courthouse project. At the meeting and later by letter, the judiciary raised concerns about the absence of plans to build additional regular courtrooms, jury courtrooms, and jury deliberation rooms, as well as provide a solution for secure judicial circulation routes. The Attorney General issued a letter, dated August 13, 2020, which confirmed that the Ministry's report back to Treasury Board would include Stage 1 planning approval for a possible expansion or addition to the Milton courthouse, in addition to refurbishment projects such as security upgrades, a new front entrance, and video technology upgrades in courtrooms.

We also noted that the Ministry consulted with the Halton Region Police Service when it was re-designing the Milton and Burlington courthouses in 2020.

Our follow-up also found that although progress has been made since our last audit in 2019, there were a few areas where, in the view of the Office of the Superior Court, the Ministry consultation could be improved, for example:

- Although the Superior Court agreed that a study of the condition of the Newmarket Courthouse modular addition is beneficial, the judiciary was not advised about this study until it was already approved by the Ministry and a request for proposal (RFP) was underway. The Regional Senior Justice was advised about the RFP at a meeting on November 10, 2020. Part of the presentation included photos that had been taken during a visual inspection of the modular addition in August 2020, of which the judiciary was unaware.
- In Kingston, there was an absence of meaningful consultation about securing the vacant registry office to provide much needed space for a jury assembly room and a small court room or conference room.
- The Toronto Superior Court of Justice's Amalgamation Project Team met regularly with the judiciary and were generally responsive to

concerns raised. However, Infrastructure Ontario learned early in the project that the landlord of a downtown courthouse refused to provide a dedicated secure judicial elevator and the judiciary were not notified about this issue until the project was near completion, leaving little opportunity to negotiate with the landlord. Also, multiple issues concerning security in the Family Court were not disclosed until the eve of opening and it is not clear that they have been fully resolved. The Ministry indicated that its Facilities Management Branch will continue to work with Infrastructure Ontario to identify alternative options to address the issues raised by the Superior Court.

Representatives from the Superior Court also indicated that while they appreciate the Judicial Facilities Working Group is meeting on a regular basis, the Ministry staff also needs to provide regular facility updates to applicable regional senior judges and local administrative judges in addition to informing representatives from the Office of the Chief Justice of the Superior Court. Further, the Superior Court reiterated that consistent and proactive consultation with the judiciary is required to fulfil the 2008 memorandum of understanding signed between the Attorney General and the Chief Justice of the Superior Court. The memorandum stipulates that the “Attorney General and the Chief Justice [of the Superior Court of Justice] agree to develop a consultation process for identifying, prioritizing and implementing facilities initiatives that reflects a collaborative process between the Attorney General and Chief Justice.”

## Court Services Regular Staff Absenteeism Increased by 19% between 2014 and 2018, while Number of Staff Declined by 10%

### Recommendation 12

*To minimize lost time and costs due to staff absenteeism, we recommend that the Ministry of the Attorney General provide more training and support to courthouse managers in proactively working with employees who experience higher-than-average absenteeism from work.*

**Status: Little or no progress.**

### Details

Our 2019 audit reported that the number of sick days taken by regular full-time staff working in the Ministry Court Services Division (Division) rose by 19% from 27,610 in 2014 to 32,896 in 2018, even though the number of regular full-time staff who were eligible to take sick days declined by 10% over the same period. The average number of sick days per employee in this Division rose from 10 in 2014 to 14.5 in 2018; this compares to the Ministry average of 9.5 days in 2014 and 11.35 days in 2018, and the Ontario Public Service average of 11 days in 2018.

At the time of our 2019 audit, the Division did not maintain a central system to monitor staff with high absenteeism rates, instead leaving this responsibility to the local courthouse manager. The courthouse managers we visited indicated they have implemented their own local systems to monitor staff absenteeism. Absenteeism can have a significant impact on the courts’ ability to provide justice without undue delays or administrative errors, and can signal employee commitment problems.

Our follow-up found the Ministry has made little progress on our recommendation to provide more training and support to courthouse managers in proactively working with employees who experience higher-than-average absenteeism from work. The monitoring and management of staff absenteeism largely remained the same as we found in our 2019 audit as the Division still did not maintain a central

system to monitor staff with high absenteeism rates, and continues to leave this responsibility to the local courthouse manager.

In March 2021, the Division worked with the Ministry's Human Resources Strategic Business Unit and advised court managers and the Division's staff that the Centre for Employee Health, Safety and Wellness has resources available to assist them, if needed, through the Employee Attendance Support Program.

Staff from the Division indicated that it will continue to explore options with the Ministry's Human Resources Strategic Business Unit to provide attendance management tools and additional training for local court managers to address staff attendance issues. However, at the time of our follow-up, this plan has been put on hold due to the Ministry's focus on COVID recovery operations.

## Ministry Oversight of Court Interpreters Needs Improvement

### Recommendation 13

*To help ensure the use of Ministry-accredited court interpreters performing proper interpretation for people who need the services in court, we recommend that the Ministry of the Attorney General (Ministry):*

- *require courthouse staff to use Ministry-accredited interpreters and properly document each time the services of an interpreter are booked outside of the Ministry central registry (including specifying who on the registry was contacted and the reasons why they were not available);*

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

### Details

During our 2019 audit, we found that although there were 676 accredited interpreters on the Ministry's registry, the Ministry paid about 140 unaccredited interpreters and 37 third-party agencies (the number of interpreters supplied by these agencies was not readily available) a total of approximately \$898,290 in 2018/19 to provide courtroom

interpretation services even though they were not on the Ministry's registry.

The Ministry's policy allows courthouse staff to book the services of interpreters outside of the central registry only in situations of extreme urgency. Before booking an off-registry interpreter, Ministry policy requires that courthouse staff document all efforts taken to reach a Ministry-accredited interpreter, and to note the reasons why each Ministry-accredited interpreter who was contacted was not booked. However, the Ministry did not have a process in place to collect and review this information because it is kept locally at each courthouse. Therefore, the Ministry could not identify languages and court regions in need of additional Ministry-accredited interpreters.

During our follow-up, we found the Ministry had revised the Court Interpreter Coordinator's Manual on scheduling policies for interpreters in December 2020. Where an accredited interpreter cannot be booked or where services are booked outside of the registry, court staff must document in the existing SharePoint Interpreter Scheduling Tool who on the registry was contacted and the reasons why they were unavailable. This information will form part of the court files.

The Court Interpreter Coordinator's Manual also requires the local courthouse staff to document, using the Interpreter Assignment Form, their efforts in scheduling an accredited interpreter. The Manual states that the Interpreter Assignment Forms must always be printed out when using conditionally accredited, unaccredited and agency interpreters for trials to show the attempts made to schedule an accredited interpreter.

To educate the local courthouse staff on these policies and procedures and provide a forum for staff who are responsible to schedule interpreters to discuss their concerns on hiring accredited interpreters, the Ministry organized a virtual townhall session in December 2020. The next townhall session is planned for fall 2021.

Starting in March 2021, the Ministry began using the SharePoint Interpreter Scheduling Tool to track whether the local courthouse staff are consistently

using accredited interpreters, monitor whether non-accredited interpreters are being hired from external sources, such as another government agency, and whether staff are documenting the reasons why an interpreter is booked outside of the Ministry's central registry. In August 2021, the Ministry once again issued a memo to court staff reminding them of the importance of documenting all attempts to secure an interpreter and/or when an interpreter is booked outside of the Ministry's registry. The Ministry plans to monitor and confirm whether the Manual is being followed, and whether this Tool is being used as required, by December 2021.

- *establish a centralized process to collect information from the courthouses and identify the languages and regions that need additional accredited interpreters;*

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

Since our 2019 audit, the Ministry created a Court Interpretation Working Group with regional representatives from various courthouses across the province. The working group began to meet in November 2020 to discuss the challenges and solutions in scheduling accredited interpreters, including how to locate and book accredited interpreters for specific languages where there was a chronic shortage.

In February 2021, the working group identified specific languages (e.g., Tigrinya, Tagalog, Amharic, Punjabi, French and Ojibway dialects) for various court regions (e.g., Central West, East and Northeast) where additional accredited interpreters are needed. The Ministry's Court Interpretation Unit (Unit) also asked local courthouse staff to keep it apprised of the courthouse's interpreter needs so that the Unit can address specific courthouses' language requirements.

As mentioned in the first action under **Recommendation 13**, the Ministry began using the SharePoint Interpreter Scheduling Tool (Tool) for court locations across the province to schedule court

interpreters. The Tool was first implemented in 2014. The Ministry indicated that it will use the data and information collected from the Tool and identify the languages and regions that need additional accredited interpreters. The Ministry expects to identify specific languages and regions that need additional accredited interpreters by December 2021.

- *accredit additional interpreters where more are needed.*

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

After our 2019 audit, the Ministry has made some progress to hire interpreters who can speak languages, such as Amharic, Romanian, Swahili and Ukrainian, that had been identified anecdotally as being in high demand by local courthouses across the province. Since then, the Ministry conducted two rounds of the interpreter accreditation process.

- The first round was conducted between December 2020 and February 2021, and only one of the four candidates was successful and added to the Ministry's central registry of accredited interpreters.
- The second round was commenced in April 2021 when the Ministry invited 57 interpreter applicants to attend a test preparation session. Twenty-eight of the 57 applicants completed the interpreting test preparation session and are being scheduled by the Ministry to undertake the interpretation accreditation testing commencing in June 2021.

The Ministry indicated that, as the pandemic restrictions are lifted, the Ministry is planning to complete additional testing on more potential interpreters where more are needed. The recruitment decision will be based on the more systemic, provincial data collected from the SharePoint Interpreter Scheduling Tool as mentioned in the first and second actions under **Recommendation 13**. The Ministry plans to fully implement this recommendation by December 2021.

### Recommendation 14

To save costs on travel expenses paid to court interpreters, we recommend that the Ministry of the Attorney General (Ministry) require:

- Ministry court staff to book the services of interpreters who reside in or near the region where they are needed and document the justification for any exceptions to this requirement; and
- court interpreters to follow the government-wide employee travel policy that stipulates that the most economical means of travel be used.

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

### Details

In 2019, our review of a sample of 60 invoices claimed by court interpreters on the Ministry's central registry between March 2018 and February 2019 found that over one-third of the travel claims were uneconomical, and in some instances, a large portion of the expenses could have been avoided had interpreters been booked locally. Also, the justification for these travel claims was not always documented.

Our 2019 audit also reported that in contrast to the government-wide travel policy for government employees, the Ministry's travel policy for court interpreters does not require interpreters to use the most economical means of travel. Therefore, the designated court staff signed and approved the invoices without assessing whether or not they were economically justifiable.

Since our 2019 audit, the Ministry, in conjunction with the Managers of Business Support, developed targeted advertising tactics to provide additional support to regions in the provision of interpreters for high-demand languages. As mentioned in **Recommendation 13**, the Ministry had revised the Court Interpreter Coordinator's Manual (Manual) on scheduling policies for interpreters in December 2020. Specifically, the Ministry requires court staff to book the services of interpreters who reside in or near the region where they are needed and document the justification for any exceptions to this requirement. The

Ministry had communicated this policy in the revised Manual and during the winter townhall session held in December 2020 to staff responsible for interpreters across all courthouses. As well, in July 2021, the Ministry developed a targeted recruitment plan that focuses on interpreter needs by region.

With respect to the travel policy for interpreters, the Ministry, in August 2021, issued a memo to all accredited court interpreters to remind them of the Ontario Public Service (OPS) Travel Directive and the Ministry's fee schedule for court interpreters.

As stated in **Recommendation 13**, at the time of our follow-up, we found that the Ministry was in the process of recruiting additional interpreters for high-demand languages based on a targeted recruitment plan that focuses on interpreter needs by region to mitigate travel costs. By hiring more interpreters, the Ministry should be able to reduce the frequency of having to book the services of interpreters who do not reside near the courthouse, thereby reducing travel costs. The Ministry indicated it is also exploring the use of remote interpretation to reduce the need for travel and better use interpreter resources across the province.

The Ministry plans to monitor and confirm that the revised scheduling policy and the OPS Travel policy for interpreters are being followed by court staff by December 2021 and on an ongoing basis.

## Performance Targets Not Set to Aim for Timely Disposition of Cases

### Recommendation 15

To help measure the efficiency and effectiveness of court operations in contributing to a timely, fair and accessible justice system, we recommend that the Ministry of the Attorney General work with the judiciary to:

- review best practices from other jurisdictions and establish targets for key performance indicators such as timeliness in disposition of cases;

**Status:** Little or no progress.

### Details

Because responsibility for the courts is shared between the Court Services Division and the judiciary of both Courts, it is up to both parties to participate in establishing effective performance reporting. Our 2019 audit found that the Ontario Court and Superior Court published some case statistics and relevant court information; however, targets were lacking to measure against actual performance. Thus, Ontario was not as well placed as some other jurisdictions, such as British Columbia and Alberta, to assess the efficiency and effectiveness of its court operations, especially those related to the timely disposition of cases.

During our follow-up, we found that little or no progress was made to review best practices from other jurisdictions and establish targets for key performance indicators such as timeline in disposition of cases. The Ministry stated that it has raised the recommendation with the Offices of the Chief Justices of both Ontario Court and Superior Court to the extent possible while continuing to respect the independence of the judiciary. Review of best practices and targets for key performance indicators will need to be developed with the Courts after the end of the pandemic.

- *monitor and measure actual performance against targets; and*
- *report publicly on the results periodically.*

**Status: Will not be implemented.** The Office of the Auditor General continues to believe that the Ministry should work with the judiciary to monitor and measure actual performance against targets and report publicly on the results periodically.

At the time of our follow-up, the Ministry indicated that court activity reports and data constitute court information, and the Ministry's Court Services Division collects and maintains this information at the direction of the independent judiciary. This data can only be shared with the approval of both the Ontario

Court and the Superior Court. As a result, the Ministry cannot set key performance indicators targets or determine what to report publicly without judicial consent. Therefore, the Ministry will be not implementing these two recommended actions.