

Justice and Attorney General

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Main points

To help ensure that all fines and charges comply with laws, the Ministry of Justice and Attorney General (Justice) needs to improve its processes to track, enforce, and collect fines. Also, Justice needs to work with the Ministry of Corrections, Public Safety and Policing to ensure the fine for the voluntary payment option on issued tickets complies with the law.

Justice needs better information technology (IT) processes. It must secure credit card information in accordance with the credit card industry security standards. It needs to sign an adequate agreement on disaster recovery and security with the Information Technology Office. Also, Justice should prepare adequate IT plans, and monitor the security and availability of its IT systems and data.

We also report that Justice should improve segregation of duties of its employees responsible for expenditure of public money, determine and record the long-term liability to disabled judges, and complete its business continuity plan.

Introduction

The mandate of the Ministry of Justice and Attorney General (Justice) is to uphold the rule of law, protect basic legal rights of citizens, and ensure proper administration of justice.¹

Justice provides legal services for the Government as well as justice services for the people of Saskatchewan. Justice also administers registry systems for corporations and local registrars (including trust accounts) and regulates pensions, credit unions, and businesses. In November 2007, the Government transferred the responsibility for most of the policing programs from Justice to the Ministry of Corrections, Public Safety and Policing.

For the year ended March 31, 2008, Justice spent \$129.2 million on its programs and earned revenues of \$48.8 million.

The following is a list of Justice’s major programs and spending:

	<u>Original Estimates</u> ²	<u>Actual</u>
	(in millions of dollars)	
Community Justice	\$ 129	\$ 9
Courts and civil justice	43	45
Boards and commissions	24	24
Legal and policy services	23	24
Central management and services	22	22
Marketplace regulation	5	5
	<u>\$ 246</u>	<u>\$ 129</u>

Information about Justice’s revenues and expenses and reasons for differences between planned and actual spending appear in its 2007-2008 annual report, (see www.justice.gov.sk.ca/JAG-07-08.pdf).

¹ Ministry of Justice and Attorney General, 07-08 Annual Report, pg. 5.

² Ministry of Finance, *2007-08 Saskatchewan Provincial Budget Estimates*. The Estimates’ total was changed to \$127 million. This revised total does not include the additional \$3 million authorized through the *2007-08 Saskatchewan Provincial Budget – Supplementary Estimates – December* or the additional \$1 million authorized through the *2007-08 Saskatchewan Provincial Budget – Supplementary Estimates – March* for Justice (Vote 3).

Justice is responsible for the following trust and special purpose funds, boards, and commissions (agencies).

	<u>Year-end</u>
Law Reform Commission of Saskatchewan	March 31
Office of Residential Tenancies – Director’s Trust Account	March 31
Provincial Mediation Board Trust Accounts	March 31
Public Guardian and Trustee of Saskatchewan	March 31
Queen’s Printer Revolving Fund	March 31
Saskatchewan Legal Aid Commission	March 31
Staff Pension Plan for Employees of the Saskatchewan Legal Aid Commission	December 31
Trust Accounts at Court Houses, Local Registrars, and Sheriff’s Offices	March 31
Victims’ Fund	March 31

Audit conclusion and findings

In our opinion, for the year ended on or before March 31, 2008:

- ◆ **Justice and its agencies had adequate rules and procedures to safeguard public resources except as described in this chapter**
- ◆ **Justice and its agencies complied with the authorities governing their activities relating to financial reporting, safeguarding public resources, revenue raising, spending, borrowing, and investing except as described in this chapter**
- ◆ **the financial statements for the agencies are reliable**

Later in this chapter, we also provide information relating to our advice on the Bills 31 and 32.

System to enforce and collect fines needs improvement

Justice is responsible to track, enforce, and collect fines for offences under various provincial and federal laws. Some laws allow law enforcement agencies to fine (i.e., issue tickets) offenders of these laws.

The purpose of a deterrent such as a fine or jail is to discourage the public from violating the law. If deterrents are not enforced, they will not be effective. Without effective deterrents, our communities will be less safe.

Justice's processes for administering fines include:

- ◆ controlling the distribution and receipt of tickets to and from law enforcement agencies
- ◆ ensuring the accurate and complete recording, tracking, and enforcement of tickets
- ◆ controlling the recording and receipt of fine payments
- ◆ collecting unpaid fines

Justice told us that Saskatchewan law enforcement agencies issue between 130,000 and 150,000 tickets each year.

We describe below weaknesses in Justice's processes to record issued tickets and collect unpaid fines.

Recording, tracking, and enforcement of tickets

Since 2001, we have recommended that Justice strengthen its procedures to ensure that it records the tickets issued by law enforcement agencies.

In February 2002, the Standing Committee on Public Accounts (PAC) considered this matter and agreed with our recommendation.

Justice must improve its processes for the receipt of tickets and informations. Informations are charges or complaints made under *The Criminal Code of Canada*. Improvements in processes are necessary so that Justice can properly enforce fines and criminal charges. Several provincial government agencies, as well as other levels of government (i.e., federal and municipal), rely on Justice to enforce fines and charges issued under various provincial and federal laws.

For purposes of this chapter, we refer to tickets and informations as tickets. Tickets may result in either fines or criminal charges. We

expected Justice to have processes to know the tickets law enforcement agencies issued and the unissued tickets.

We also expected Justice to have cost-effective processes to track tickets directly or require law enforcement agencies to provide it with periodic reports on their tracking of tickets.

Justice has a policy requiring law enforcement agencies to return all issued, spoiled, or voided tickets. Justice has not implemented a process to verify that law enforcement agencies return all tickets. As a result, Justice does not know if it has enforced all fines and criminal charges. This lack of processes could result in communities being less safe or the rule of law not being upheld.

We continue to recommend that Justice strengthen its procedures to ensure that Justice records the tickets issued by law enforcement agencies.

Fines not in accordance with legislation

Justice needs to work with other agencies to ensure that fines imposed are in accordance with applicable legislation. In particular, it needs to work with the Ministry of Corrections, Public Safety and Policing because policing programs have now been transferred to that Ministry.

The Summary Offences Procedure Act, 1990 allows peace officers to issue tickets with voluntary payment options (i.e., offenders can plead guilty and pay a fine without attending court). *The Summary Offences Procedure Regulations, 1991* (Regulations) sets out the amount of the fine for offenders who may choose the voluntary payment option. Offenders pay the voluntary fines to Justice.

We tested a sample of tickets where offenders chose the voluntary payment option. We found that 65% of the tickets we tested had the correct fine and the fines on the other 12% did not comply with the Regulations. For the remaining 23% of our sample, we could not determine the accuracy of the fine because Justice did not have sufficient information to determine the amount of the fine.

- 1. We recommend the Ministry of Justice and Attorney General work with the Ministry of Corrections, Public Safety and Policing to ensure the fine for the voluntary payment option on issued tickets complies with the law.**

Compliance with credit card security standards

Justice needs processes to comply with the credit card industry's security standards.

Justice accepts on-line credit card payments for some of its services. Its credit card service provider requires it to follow specific credit card industry security standards. Justice does not have processes to comply with these security standards.

Justice processes about 50 thousand credit card payments each year. Lack of compliance with the industry's security standards increases the risk of unauthorized access to private information without ready detection. This could lead to a significant loss of public money, reputation, and the ability to process payments by credit card.

- 2. We recommend the Ministry of Justice and Attorney General secure credit card information in accordance with the credit card industry's security standards.**

Management told us that Justice was aware of this matter and had begun to work with an external security contractor to implement the required changes to meet the industry standards.

Segregation of duties needed

Justice needs to properly segregate the duties of employees to ensure that the same employee cannot initiate payments and approve those payments.

Segregation of employees' duties is important to prevent the misuse of public money. Segregation of duties is not adequate when an employee or group of employees can commit and conceal errors or fraud. Inadequate segregation of duties increases the risk that public money may be misused without ready detection.

Justice uses the government's centralized payment system called Multi-informational Database Applications System (MIDAS). MIDAS does not adequately segregate functions for processing payments. MIDAS allows certain employees to enter vendor invoices in the system and then approve them for payment. Justice employees are approved vendors in the MIDAS system if they have received travel or medical expense reimbursements. This deficiency allows employees to authorize payments to themselves.

- 3. We recommend the Ministry of Justice and Attorney General properly segregate the duties of its employees to ensure they cannot authorize payments to themselves.**

Judges' disability program needs proper accounting

Justice created a Judges' disability benefit program under *The Provincial Court Act, 1998*. Justice records the payments to disabled judges in its accounting records as expenses. However, Justice does not determine and record the estimated long-term liability for disabled judges and the related expenses.

Without complete financial information, Justice does not know the total cost of the Judges' disability benefit program.

For further information on this issue, see Chapter 7 – Finance in this Report.

- 4. We recommend the Ministry of Justice and Attorney General determine and record in its accounting records the long-term disability benefit liability and the related expense for disabled judges.**

Better information technology processes needed

Since April 2007, the Information Technology Office (ITO) has delivered information technology services that Justice previously supplied itself. ITO and Justice signed a service level agreement on August 29, 2008. The agreement sets out roles and responsibilities of both ITO and Justice. The agreement also identifies some security and availability requirements. However, the agreement does not identify all of the security requirements.

For example, the agreement does not set out what security policies and procedures Justice's employees need to follow. Justice has identified disaster recovery times for significant applications. However, the agreement does not set out the timeframe for the recovery completion. As a result, Justice does not know if ITO's disaster recovery processes meet Justice's needs.

5. We recommend the Ministry of Justice and Attorney General sign an adequate agreement on disaster recovery and security with the Information Technology Office.

Justice has not prepared multi-year information technology (IT) plans that link to its strategic business objectives. Nor has it prepared an annual IT operational plan. An IT operational plan would identify priorities and set objectives and initiatives for each priority. Justice needs adequate IT plans to ensure its use of resources supports its strategic objectives.

6. We recommend the Ministry of Justice and Attorney General prepare strategic and operational information technology plans.

Justice did not have adequate processes to monitor the availability and security of its IT systems.

Justice has an Information Technology Management Council (ITMC) responsible for Justice's IT governance. Under its terms of reference, ITMC provides guidance on all IT investments, approves all IT standards, monitors IT performance, and ensures IT initiatives align with strategic business objectives.

The ITMC did not meet regularly from July 2007 to March 31, 2008. The ITMC needs to meet regularly to monitor IT performance, including services provided by ITO, and ensure IT initiatives align with strategic objectives.

To know that its computer systems and data are secure, Justice also needs to monitor whether the security ITO provides is adequate. Justice did not ask for or receive any information on the security or availability of its systems from ITO for the period April 2007 to March 31, 2008. Also, ITO did not adequately configure, monitor, and update firewalls at Justice.

Firewalls help to maintain security of Justice's systems and data. As a result of these weaknesses, Justice's systems and data were at risk of inappropriate access. In addition, because of the lack of adequate communication about security, Justice was not aware of the risk.

7. We recommend the Ministry of Justice and Attorney General adequately monitor the security and availability of its information technology systems and data.

Management told us that after the year-end Justice began to receive reports with availability information and some security information (e.g., stale account report).

Business continuity plan needed

In our 2005 Report – Volume 3, we recommended Justice complete and implement its business continuity plan (BCP)³. In February 2006, PAC considered this matter and agreed with our recommendation.

Justice needs to test its BCP to help ensure that it can continue to deliver its critical services in the event of a disaster.

Justice identified its critical services and developed plans for them. Justice has approved its BCP. Starting April 2007, Justice began to use ITO for its IT service delivery. Justice has not yet updated its plan to incorporate the delivery of IT services through ITO. As stated earlier, Justice does not know if ITO's disaster recovery processes meet Justice's needs. Justice also has not tested its plan.

Justice told us that it plans to test its BCP in November 2008.

We continue to recommend the Ministry of Justice and Attorney General complete and implement its business continuity plan.

³ **Business Continuity Plan (BCP)**-Plan by an organization to respond to unforeseen incidents, accidents, and disasters that could affect the normal operations of the organization's critical operations or functions.

Disaster Recovery Plan (DRP)-Plan by an organization to respond to unforeseen incidents, accidents and disasters that could affect the normal operation of a computerized system (also known as **Contingency Plan**) A DRP or contingency plan is only one component of the Business Continuity Plan.

Bills 31 and 32

On April 17, 2008, the Minister of Justice and Attorney General introduced in the Legislative Assembly Bill 31 (The Executive Government Administration Act) and Bill 32 (The Executive Government Administration Consequential Amendment Act). On May 8, 2008, the Minister sought our Office’s advice on spending thresholds and proper accountability and the Government postponed enacting those Bills until it received our advice. We accepted the Minister’s request.

On August 26, 2008, we completed our work and provided the Minister our Memorandum of Advice setting out our analysis, conclusions, and recommendations. A copy of that Memorandum of Advice is included in this Report at Appendix 4.

Status of other outstanding recommendations of the Standing Committee on Public Accounts

The following table provides an update on recommendations previously made by the Standing Committee on Public Accounts (PAC) that are not yet implemented and are not discussed earlier in this chapter.⁴

PAC REPORT YEAR ⁵	OUTSTANDING RECOMMENDATION	STATUS
Ministry of Justice and Attorney General (Superintendent of Pensions)		
2005	PAC concurs: 5-1 that the Superintendent of Pensions should expand its analysis of pension plan risks to include the key risks faced by all pension plans.	Partially implemented (as at March 31, 2007). We have a follow-up planned for 2009.

⁴ For the definitions of the key terms used in the table, see Chapter 21 – Standing Committee on Public Accounts.

⁵ PAC Report Year refers to the year that PAC first made the recommendation in its report to the Legislative Assembly.

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PAC REPORT YEAR ⁵	OUTSTANDING RECOMMENDATION	STATUS
2005	PAC concurs: 5-2 that the Superintendent of Pensions should prepare a risk-based work plan to supervise pension plans.	Partially implemented (as at March 31, 2007). We have a follow-up planned for 2009.