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Main points

The Ministry of Justice and Attorney General (Justice) must obtain proper approval for its federal-provincial agreements and submit timely claims.

Justice needs to continue to work to address our past recommendations relating to compliance with credit card security standards, adequacy of information technology (IT) processes, and completion of business continuity planning. Justice has made progress but more work remains.

The Saskatchewan Financial Services Commission (Commission) has made good progress towards implementing our past recommendations relating to individual complaints of the investing public. The Commission has implemented three of our five recommendations and continues to make progress towards meeting the remaining two recommendations.

Introduction

The Ministry of Justice and Attorney General (Justice) provides legal services and justice policy advice to government in order to protect the legal rights of citizens and to promote social and economic order for Saskatchewan. Also, the Ministry provides support for the courts system, prosecutorial services, civil law services, and marketplace regulation.¹

For the year ended March 31, 2010, the Ministry spent \$145.3 million on its programs and earned revenues of \$51.4 million. Information about the Ministry's revenues and expenses appears in Justice's 2009-2010 annual report (see <http://www.justice.gov.sk.ca>).

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

	<u>Original Estimates²</u>	<u>Actual</u>
	(in millions of dollars)	
Courts and civil justice	\$ 46.6	\$ 48.4
Legal and policy services	27.0	27.4
Boards and commissions	25.1	25.6
Central management and services	20.5	20.7
Community justice	18.4	17.6
Marketplace regulation	4.0	3.7
Capital asset amortization	0.7 ³	0.5
Courts capital	--	1.4
Total Expenses	<u>142.3</u>	<u>145.3</u>
Capital Acquisitions	<u>22.2</u>	<u>12.8</u>
	<u>\$ 164.5</u>	<u>\$ 158.1</u>

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

	<u>Year-end</u>
Criminal Property Forfeiture Fund	March 31
Law Reform Commission of Saskatchewan	March 31
Office of Residential Tenancies – Director's Trust Account	March 31
Provincial Mediation Board Trust Accounts	March 31

¹ Ministry of Justice and Attorney General, 09-10 Annual Report, p. 7.

² *Saskatchewan Provincial Budget 09-10 Estimates*.

³ Amortization is not included in appropriation.

	<u>Year-end</u>
Public Guardian and Trustee of Saskatchewan	March 31
Queen’s Printer Revolving Fund	March 31
Saskatchewan Financial Services Commission 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 conclusions and findings

In our opinion, for the year ended March 31, 2010:

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

In this chapter, we also report the results of our follow-up work to assess the progress the Saskatchewan Legal Aid Commission and the Saskatchewan Financial Services Commission have made towards addressing our past recommendations. We also provide an update on recommendations of the Standing Committee on Public Accounts (PAC) that are not yet implemented and have not been discussed in the chapter.

Approvals of cost-share agreements

Justice needs to obtain proper approval for all its cost-share agreements with the Federal Government.

Justice administers and funds certain initiatives that receive financial contributions from the Federal Government, such as the Aboriginal

Courtworker Program. Justice makes agreements with the Federal Government to share costs for administering such programs. *The Federal-Provincial Agreements Act* requires cabinet approval (Order in Council) for all such agreements with the Federal Government.

The cost-share agreement for the Aboriginal Courtworker program expired on March 31, 2008. Justice has extended the program without cabinet approval.

For 2009 and 2010, Justice recorded approximately \$620,000 and \$620,000 respectively as the amounts owing from the Federal Government for administering the program.

- 1. We recommend that the Ministry of Justice and Attorney General establish a process to obtain approval for all federal-provincial cost-share agreements in accordance with *The Federal-Provincial Agreements Act*.**

Timely submission of cost-share claims

Justice needs to submit all cost-share claims as stipulated in the agreements.

The cost-share agreement with the Federal Government for the Aboriginal Courtworker program requires Justice to submit to the Federal Government by December 31 each year a claim statement showing eligible expenses incurred in a fiscal year. However, the last claim statement Justice submitted for this program related to the 2005-06 fiscal year.

Lack of timely submission of claims increases the risk that cost-sharing partners may not pay their share of the costs of the programs. At March 31, 2010, Justice had amounts owing from the Federal Government totalling \$1.8 million for the Aboriginal Courtworker program.

- 2. We recommend that the Ministry of Justice and Attorney General submit timely claims for all of its cost-share programs.**

Complying with the credit card security standards

In our 2008 Report – Volume 3, we recommended that the Ministry of Justice and Attorney General secure credit card information in accordance with the credit card industry’s security standards. In December 2008, PAC agreed with our recommendation.

Justice accepts on-line credit card payments for some of its services (e.g., fines, annual returns, purchase of copies of legislation).

During the year, Justice continued to work with a contractor and has made some progress. It has identified security gaps and controls to address these gaps. However, Justice needs to do more to secure information relating to the credit card transactions in accordance with the credit card industry’s security standards.

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 loss of public money, reputation, and the ability to process payments.

We continue to recommend that the Ministry of Justice and Attorney General secure credit card information in accordance with the credit card industry’s security standards.

Adequacy of information technology (IT) processes

In our 2008 Report – Volume 3, we recommended that the Ministry of Justice and Attorney General sign an adequate agreement on disaster recovery and security with the Information Technology Office (ITO). In December 2008, PAC agreed with our recommendation.

Justice has not made any changes to its agreement with ITO. The agreement with ITO does not adequately address security requirements. For example, the agreement does not set out what security policies and procedures Justice’s employees need to follow. Nor does it identify disaster recovery times for significant applications. As a result, Justice does not know if ITO’s disaster recovery processes meet Justice’s needs.

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

In our 2008 Report – Volume 3, we also recommended that the Ministry of Justice and Attorney General adequately monitor the security and availability of its IT systems and data. In December 2008, PAC agreed with our recommendation.

To know that its computer systems and data are secure, Justice needs to monitor whether the security ITO provides is adequate. Justice continues to receive from ITO monthly reports similar to the past year. As previously reported, those reports provide little information on the security or availability of IT systems and no information about the adequacy of ITO's controls. Accordingly, Justice does not know about control deficiencies at ITO and how they could impact Justice's systems and data.

Justice has processes for removing user access for individuals who no longer work for the Ministry. However, employees did not always follow them. Lack of timely removal of user access for former employees increases the risk of inappropriate access and unauthorized changes to the Ministry's systems and data.

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

Completing business continuity plan

In our 2005 Report – Volume 3, we recommended that the Ministry of Justice and Attorney General complete and implement its business continuity plan (BCP).⁴ In February 2006, PAC agreed with our recommendation.

Justice has developed and approved plans for recovery of its critical services. Justice has provided ITO with recovery time objectives for each

⁴ **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 including normal operations of computerized systems.

of its critical IT systems. As stated earlier, Justice does not know if ITO's disaster recovery processes meet the Ministry's needs.

Justice completed some BCP testing during the year. However, key elements of the plan still need to be tested, including testing recovery of critical IT systems.

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

Saskatchewan Legal Aid Commission

The Saskatchewan Legal Aid Commission (Commission) was established on September 1, 1983 pursuant to *The Legal Aid Act*. The Commission provides legal advice and representation to individuals (clients) who meet the criteria defined in *The Legal Aid Regulations, 1995*. The Commission receives over 23,000 applications requesting legal services each year.⁵ Generally, any individual who receives social assistance is eligible to receive legal services.

Implementation of past recommendations needed

In our previous reports, we made recommendations relating to the Commission's information technology. As noted in the exhibit below, these recommendations remain outstanding.

We continue to make the recommendations contained in Exhibit 1.

⁵ Saskatchewan Legal Aid Commission 2009-2010 Annual Report, pg. 14.

Exhibit 1 – Summary of previous outstanding recommendations

RECOMMENDATION (INITIAL REPORT)	STATUS WITH PAC	ACTIONS THE COMMISSION TOOK IN 2009-10	STATUS OF RECOMMENDATION
Information technology			
We recommend the Saskatchewan Legal Aid Commission follow its password standards and monitor user access for its systems. (2008 Report – Volume 1 - Chapter 8)	PAC agreed with this recommendation on June 17, 2008.	The Commission is upgrading its systems in 2010 and plans to address this recommendation at that time.	Partially implemented.
We recommend the Saskatchewan Legal Aid Commission adequately configure, update, and monitor its computers and network equipment. (2008 Report – Volume 1 - Chapter 8)	PAC agreed with this recommendation on June 17, 2008.	The Commission is upgrading its systems in 2010 and plans to address this recommendation at that time.	Partially implemented.
We recommend the Saskatchewan Legal Aid Commission develop and test a disaster recovery plan for its information systems and data. (2008 Report – Volume 1 - Chapter 8)	PAC agreed with this recommendation on June 17, 2008.	The Commission prepared a draft disaster recovery plan but it has not been approved or tested.	Partially implemented.

Saskatchewan Financial Services Commission

Processes to investigate complaints—a follow-up

In 2007, we assessed the Saskatchewan Financial Services Commission's processes to investigate complaints by the investing public. Our 2007 Report – Volume 3 reported that the Commission did not have adequate processes to investigate complaints by the investing public. We made five recommendations. On August 28, 2008, PAC agreed with our recommendations.

The following section sets out the recommendations (in italics) and the Commission's progress up to June 30, 2010 towards addressing those recommendations.

Most significant complaints

We recommended that the members of the Saskatchewan Financial Services Commission establish a formal system to focus investigative resources on timely attention to the most significant complaints.

The Commission has met our recommendation.

The Commission did a risk assessment to help determine its priorities. It plans to review this assessment annually. The risk assessment was used to help develop case assessment forms that document the assessment of risk for individual complaints received. Employees use the case assessment forms, reports about on-going investigations, and staff meetings to review the relative significance of each complaint (i.e., prioritize).

When a complaint relates to a possible violation of the *Criminal Code*, the Commission refers the matter to the police. The Commission also considers whether it should investigate the matter because it is responsible for any violation of securities laws. However, if it decides not to investigate, it monitors the police investigation and reassesses its decision monthly.

Standards for investigations

We recommended that the members of the Saskatchewan Financial Services Commission establish standards for planning, conducting, and reviewing investigations into complaints from the investing public.

The Commission has met our recommendation.

The Commission approved an Enforcement Procedures Manual (Manual) that sets out standards for investigations. These standards include investigation templates and sample documentation to help employees conduct investigations. The Manual also establishes standard timeframes for completion of key phases of the investigation.

The Commission authorized management to make changes to the Manual over time as necessary. The Commission reviews and approves all changes to the Manual annually.

Monitor investigations

We recommended that the members of the Saskatchewan Financial Services Commission monitor all investigations of complaints from the investing public including those referred to self-regulatory organizations.

The Commission continues to work towards fully addressing the recommendation.

The Commission requires independent review and approval at key stages of the investigation such as case assessment, completion of initial planning, conclusion of the investigation, and closure of the file. Standard forms document these approvals.

The Commission set up a process for its members to review closed files for compliance with standards. In fall 2009, Commission members began reviewing closed files. During the review, members were to verify management's review and approval to close a file. We found that the members' review did not always detect incomplete management reviews.

To avoid any actual or perceived bias, the new process does not allow the reviewing Commission member to hear the case if it is reopened at a future date. For this reason, the Commission documents which Commission member has reviewed a file. Because the new process began in April 2010, we cannot assess the effectiveness of this process. Management told us that no files have been reopened as a result of members' review.

At times, the Commission may refer investigation and enforcement of complaints to self-regulatory organizations with which it has agreements (e.g., the Investment Industry Regulatory Organization of Canada, the Mutual Fund Dealers Association of Canada). The Commission reviews investigation reports from these organizations. Triennially, the Commission participates in oversight reviews of these organizations, including their investigation and enforcement processes.

We continue to recommend that the members of the Saskatchewan Financial Services Commission monitor all investigations of complaints from the investing public including those referred to self-regulatory organizations.

Review investigation process

We recommended that the members of the Saskatchewan Financial Services Commission require and review sufficient information about investigations of complaints from the investing public to carryout their responsibilities.

The Commission has met this recommendation.

The Commission implemented reporting and review processes. These processes enable oversight of investigations while maintaining independence of hearing panels.

The Chair of the Commission continues to be involved in active oversight of operations including investigations. The Chair does not sit on any hearing panels.

The Commission receives monthly dashboard reports on activity levels including matters involving self-regulatory organizations, the police, or another provincial security regulator. The Commission does not receive detailed information about investigations. However, as stated earlier, members of the Commission review closed investigation files to monitor compliance with standards and investigation results. The reviewing Commission member is not assigned to a hearing panel if the reviewed file is reopened at a later date.

Set performance targets

We recommended that the members of the Saskatchewan Financial Services Commission set performance targets to help measure progress towards objectives.

The Commission told us it plans to continue improving its processes to measure performance of its securities complaints process.

The Commission identified a few output measures that focus on completion of key stages of investigations. It also set targets for these measures and requires management to report against these measures monthly. The Commission has begun to report publicly on one of these measures in its annual report.

The Commission did not set out requirements to explain differences between planned and actual results for performance measures. Nor did it receive management reports explaining such differences. Management told us it verbally explains differences at Commission meetings.

The Commission has not identified performance measures related to planned outcomes. Management told us the Commission is working to clarify its key outcomes. Following this, it plans to realign its planned actions, identify performance measures for planned outcomes, and set targets for those performance measures.

We continue to recommend that the members of the Saskatchewan Financial Services Commission set performance targets to help measure progress towards objectives.

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

The following table provides an update on recommendations previously made by PAC that are not yet implemented and are not discussed earlier in this chapter.⁶

PAC REPORT YEAR⁷	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 September 2007) We have a follow-up planned for 2011.

⁶ For the definitions of the key terms used in the table, see Chapter 24 – Standing Committee on Public Accounts.

⁷ 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 YEAR⁷	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 September 2007) We have a follow-up planned for 2011.