

Statement from the Rainy River District Law Association on the Report of the Auditor General

For immediate release: Monday, December 9, 2019

The Rainy River District Law Association welcomes [the Auditor General's report](#) on court operations and correctional services. This report is an important contribution to provincial efforts to make our justice system more efficient and fair, and to ensure that court resources are distributed equitably across Ontario. Likewise, it has generated significant interest across the province, in both the legal community and the general public.

COURT OPERATIONS

Various media reports have seized on the Auditor General's finding that courtrooms in the Fort Frances Courthouse are only used for an average of 1.3 hours per day. The suggestion is that our courthouse is under-utilized. We dispute that interpretation for 5 reasons.

First, by applying a standardized approach to evaluating the use of court facilities across the province, the Auditor General has, understandably, been unable to convey some of the unique constraints facing the Rainy River District.

Fort Frances is the seat of the only judicial district in the province without a resident provincial court judge. Unlike every other court, our court's operations are entirely dependent on the scheduling decisions and availability of visiting judges. The sitting of our court is also dependent on the time constraints of the visiting judges who preside here and their travel schedules, particularly in winter months when they are expected to return home on a court day to Kenora, Dryden, or Thunder Bay.

Fort Frances' court dockets are long, and matters are routinely adjourned or put over to subsequent court days because they cannot be reached or concluded before the judge's departure. Our association has been lobbying the province to assist us in filling this vacant post since the departure of Justice McKay in 2012. We met with Attorney General Doug Downey and Kenora-Rainy River MPP Greg Rickford as recently as this September.

We note that statistics from 2014 and 2017 show that the Fort Frances Courthouse has consistently had higher criminal case loads per Crown Attorney than other northern courts with more resources and resident judges. In addition to our provincial court vacancy, Fort Frances has also been without a Superior Court judge since the 1990s, while both the Kenora and Thunder Bay districts continue to have such officeholders based at their courts.

Second, the report's statistics on courtroom usage do not appear to account for our court's actual facilities and the breadth of its operations outside of the building. Importantly:

- The report bases its figures on there being 3 courtrooms in the Fort Frances Courthouse, when in fact there are only 2;
- Our court is responsible for administering regular satellite courts in Atikokan and Rainy River;
- Provincial offences court is now held outside of the courthouse, at the Fort Frances Civic Centre, because it takes place on days when our other courtrooms are in use;
- Numerous matters are dealt with by audio or video links with judges and counsel based in other locations; and
- Due to the limited sitting days of some courts in Fort Frances, counsel may advise their clients to commence some proceedings in other courthouses if it is feasible to do so.

Third, the province has consistently recognized that our court is busy. In the last two years, the Crown Attorney's Office has been expanded to 2-3 lawyers. In addition, a May 2018 response we received to a freedom of information request also revealed that the previous government initiated a project to expand

and renovate the Fort Frances Courthouse “to address significant over-programming (identified in a 2005 space utilization study), improve access to justice, accessibility, and address a number of health and safety and security concerns at the facility.” The Ministry of the Attorney General spent \$1.5 million developing designs for the courthouse expansion and renovation, but the project was cancelled in 2012 and the budgeted funds were redirected to other jurisdictions.

Fourth, the suggestion that our court is under-utilized does not square with the experience of other stakeholders in our justice system. The Town of Fort Frances covers the cost of security at our courthouse through their contract with the Ontario Provincial Police. Due to growth in our court docket, longer and later court sittings, and the necessary overtime required by police, annual court security cost projections (from which the budget is derived) have grown from \$126,000 in 2015 to \$341,000 in 2019. This line item has been the single largest uncontrollable expense on the municipality’s books.

Fifth, we note that the Auditor General’s report has also identified symptoms of our challenges. The Fort Frances Courthouse is at the top of a list of courthouses with above-average delays in disposing of criminal cases, at 177 days. Clearly, one way that these matters could be processed more quickly would be with more court time and the local judicial resources to create those conditions and set expectations.

It is difficult not to see a relationship between these facts and the numbers provided by the Auditor General.

CORRECTIONAL SERVICES

We have also reviewed the findings of the Auditor General concerning the Fort Frances Jail, which is one of Ontario’s smallest (at a capacity of 22 inmates) and oldest (at 110 years). The Auditor General’s report found that the Fort Frances Jail has the highest daily cost per inmate in the province, at \$589.

However, we wish to underscore that the proximity of the Fort Frances Jail to the courthouse, local law enforcement, and local legal counsel facilitates the timely and cost-effective disposition of criminal charges. Without a local jail, the municipality would be required to cover the additional costs to transport inmates from facilities in Kenora or Thunder Bay. New costs would also fall to taxpayers as counsel retained on Legal Aid certificates would be required to travel greater distances to meet with their clients.

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About:

The Rainy River District Law Association is a voluntary association of lawyers whose practices serve Fort Frances and the surrounding communities, from Atikokan to Rainy River and the surrounding 10 First Nations. The Association maintains a law library and facilities for the use of counsel at the Fort Frances Courthouse.

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