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on
Public Accounts

Chairperson
Mr. Jim Maloway
Constituency of Elmwood

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Monday, August 17, 2020

TIME – 1 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Jim Maloway (Elmwood)

VICE-CHAIRPERSON – Mr. Andrew Smith (Lagimodière)

ATTENDANCE – 10 QUORUM – 6

Members of the Committee present:

Mr. Johnston, Ms. Lamoureux, Messrs. Maloway, Michaleski, Mses. Morley-Lecomte, Naylor, Messrs. Smith, Teitsma, Wasyliv, Wiebe

Substitutions:

Ms. Lamoureux for Mr. Lamont

Mr. Wiebe for Mr. Lindsey

APPEARING:

Mr. Tyson Shtykalo, Auditor General

WITNESSES:

Hon. Mr. Cullen, Minister of Justice

Mr. Dave Wright, Deputy Minister of Justice

MATTERS UNDER CONSIDERATION:

Auditor General's Report – Follow-up of Recommendations, dated March, 2018

Managing the Province's Adult Offenders

* * *

Mr. Chairperson: Good afternoon. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following report: the Auditor General's Report–Follow-up of Recommendations, dated March 2018, Managing the Province's Adult Offenders.

Committee Substitutions

Mr. Chairperson: For the committee's information, pursuant to our rule 104(2), I would like to note the following substitutions for this afternoon's meeting: Mr. Wiebe for Mr. Lindsey, Ms. Lamoureux for Mr. Lamont.

* * *

Mr. Chairperson: Before we get started, are there any suggestions from the committee as to how long we should sit this afternoon?

Mr. Scott Johnston (Assiniboia): An hour and then revisit, Mr. Chairman.

Mr. Chairperson: Thank you.

The suggestion was one hour and we revisit at that time. Agreed—is that agreed? *[Agreed]*

Does the Auditor General wish to make an opening statement? No? Thank you.

Does the deputy minister wish to make an opening statement? And would he please introduce his staff joining him here today.

Mr. Dave Wright (Deputy Minister of Justice): With me—I'm Dave Wright, Deputy Minister of Justice, and with me are Ms. Maria Campos, our assistant deputy minister for corporate strategic services division, and Scott Kolody, associate deputy minister for Community Safety Division.

So, happy to make an opening statement and start by saying the department—Justice welcomes the recommendations and has, since 2014, the recommendations from the Auditor General, and believes that the report and the follow-up to the report has provided considerable initiative and really led to improved outcomes.

Since March 2018, the department has been working within the framework of the criminal justice modernization strategy that the minister of Justice of the day announced in March 2018. That strategy has provided the framework by which much of the work of the department in relation to the criminal justice system has been performed, and under that framework we've driven forward many of the recommendations set out by the Auditor General and responded to the concerns of the report.

Custody and remand numbers have declined substantially since the—our previous updates. As of July of this year, the count in custody corrections was 87 youth and 1,780 adults. That's as of late July. So we have significantly reduced numbers from both the 2014 report, and frankly, since our last report.

So work continues along the lines suggested by the Auditor General. Primarily in—as in relation to this report, we've worked to expand diversion options across the province, launching, for example, restorative justice centres and Restorative Justice North initiatives; enhanced, planned and commenced and then have expanded the Responsible Reintegration Initiative, which deals with the reintegration of offenders coming out of custody; and a number of other initiatives, including support to community mobilization and other community-based initiatives.

Developments such as the implementation and expansion of weekend court work, whereby prosecutors and defence lawyers are available and justices of the peace available to deal with cases more efficiently on the weekend and in the evenings have led to reductions in time to disposition, have contributed to them. Also, efforts such as efforts to reduce fail-to-attend charges have been critical in expediting judicial processes, reducing time to disposition and speeding—made some necessary improvements in terms of dealing with timely disposition.

This department has also expanded capacity in the problem-solving courts that the Auditor General refers to, including mental health, drug addiction and, more recently, in the establishment, under the leadership of the provincial court, the fetal alcohol spectrum disorder court, which commenced last March.

Strategic priorities include development of a new youth justice strategy, strategic changes to address challenges in bail processes, updating strategies in expansion of restorative justice, improving services to address mental health and addictions, both for offenders and those in the community and approving access to justice in the northern region and continued expansion of our support for offenders leaving custody.

The—Manitoba Justice has worked to expand their transparency by being—reporting publicly as required or as set out in our criminal justice modernization strategy and more recently, as of December, under the government-wide balanced scorecard initiative.

Before summarizing, I—before ending the statement, I do want to acknowledge and highlight accomplishments across the department in the context of the COVID pandemic. The department made with—I say department, but it worked with our colleagues and partners in the courts and defence bar, police and

across the system—numerous changes to address the demands of the pandemic, so existing processes involving arrests, bail hearings, technological advancements, remand and custody. For example, the suspension of the direct lock-up process was a major and overdue change to Manitoba's system. Many of the changes made in the context of the epidemic have had a beneficial impact on the functioning of the justice system and support the recommendations in the auditor—in the OAG's report.

So, again, the department continues to appreciate the work of the OAG and the recommendations made in the report.

That is my statement.

Mr. Chairperson: Before we proceed further, I'd like to inform those who are new to this committee—the process that's undertaken with regard to outstanding questions. At the end of every meeting, the research officer reviews the Hansard for any outstanding questions that the witness commits to provide an answer and will draft a questions-pending-response document to send to the deputy minister. On receipt of the answers to those questions, the research officer then forwards the responses to every PAC member and to every other member recorded as attending that meeting.

Before we get into questions, I'd like to remind members that questions of an administrative nature are placed to the deputy minister, and that policy questions will not be entertained and are better left for another forum. However, if there are—a question that borders on policy and the minister would like to answer that question or the deputy wants to defer it to the minister to respond, that is something that we would consider.

The floor is now open for questions.

Ms. Lisa Naylor (Wolseley): Do I have to stand? *[interjection]* Okay, sorry.

First of all, I want to welcome the new Auditor General in your role for—congratulations to you.

And if you could comment on the current status of recommendation 7, have you seen the work of any long-term capital plan to address bed shortages and overcrowding? *[interjection]*

Mr. Chairperson: The Auditor General.

Mr. Tyson Shtykalo (Auditor General): So our follow-up that we did, the follow-up report, was issued in March 2018. The work that we looked at, or

the work we did, was up to the status as of September 30th, 2017. At that time, we had not seen a comprehensive long-term capital plan, and I know there's been activity since then, but it's nothing that we would've looked at or that I could comment on, so I would recommend that question to be put to the department.

* (13:10)

Ms. Naylor: I'd like to ask the deputy what the status is.

Mr. Wright: Yes. So the—stage 1 of the—I believe you have our—the sorry—so there was—two-stage process established for the preparation of a comprehensive plan.

Stage 1 dealt with the scope confirmation exercise. That exercise was completed in—some time ago and the intention was to move on to a second, stage 2 master planning that was based on the expectation that there'd be a requirement for continued expansion of capacity—correct custody capacity.

Since, after completion of stage 1, it became apparent that the demand for custody had declined—we had fewer people in adult custody, some approximately 200 or more fewer people—and it became apparent to us over time that the—that that reduction in demand was sustainable and would continue, and that led us into—roughly into late into the last year. So we didn't—have not proceeded, and I don't anticipate that we will proceed with stage 2 of the master planning, as it was based on the expectation of a continued need for expansion.

The—both the period prior to the pandemic and then the experience of the pandemic has indicated that, once we have a better sense of what the long-term capacity needs will be—we know they're much—they are reduced from where they were—but once we have that, we would be looking at a planning of sorts relating to the facilities that we do have.

Ms. Naylor: So just to clarify for my own understanding: so the recommendations that—recommendation No. 7, the issue with the bed shortages and overcrowding has been greatly reduced and you don't anticipate that changing in the near future?

Mr. Wright: No, we don't see any change to our response in the near future.

Ms. Naylor: I thank you.

In your opening document here, you have addressed one of my questions, which was what the count is in custody at this point as of July, which is pretty current. But I wanted to ask the deputy if COVID-19 has caused any incidences of overcrowding in the Remand Centre.

Mr. Wright: The—COVID had—has a couple impacts. One, it has required a different handling of persons in the facility, so it's required us to, on public health advice, to isolate folks more frequently as they enter the facilities. So it has required a different handling.

Overall, though, the capacity, the number of people in facilities has declined, as it has across most jurisdictions, fairly significantly. So, on the one hand it has required us to handle persons differently, but on the other hand, there's a reduction of capacity. And the answer is no, it hasn't created more difficulty in overcrowding. *[interjection]*

Mr. Chairperson: Ms. Naylor.

Ms. Naylor: Sorry? Sorry.

How many individuals are being double- and triple-bunked at this time?

Mr. Wright: So the most recent data I have is—on that question—is April 2020, so there'll be a further decline in population since then.

At that time, across the facilities there were 374 individuals in single cells, 665 in double cells, 201 in triple cells, and 765 in either four-person or dorms.

Ms. Naylor: So, those numbers are from April, so I'm not sure if you're able to answer this, but I wanted to ask how the closure of the Dauphin Correctional Centre may have changed those numbers. Do you have any sense of that?

Mr. Wright: Not significantly, given the relatively small capacity that Dauphin Correctional Centre had, and in Dauphin Correctional Centre a significant portion of the population was in large—in dorms, in larger rooms. So the—it wouldn't have changed the distribution as between single and larger.

Ms. Naylor: So, I see that currently, as of July 27th, that for adults in custody, it's—you're at 93 per cent of capacity. So I'm just wondering if all sites are within their capacity, or if there are certain centres that are overcapacity.

Mr. Wright: So we have a—the Auditor General points out in his report there's some such activity in the question of rated capacity, and so we've—I can talk

about the actual versus rated capacity. But, in fact, in many of the facilities, we have available beds beyond the rated capacities that were established during the period of increase.

So in terms of the rated capacity, though, I can tell you that as of—actually, as of today we have—sorry, the question was the number of facilities with—that are overcapacity as of today?

An Honourable Member: Yes.

Mr. Chairperson: Just a moment.

Before I recognize anybody, if you could just signal to me when you're actually ready, because you may be getting briefed on your answer, and I don't—I can't recognize you for Hansard purposes until you're actually ready to speak.

Mr. Wright: So I'll address this—so I can go through the adult facilities.

The Brandon Correctional Centre: today, we have 334 beds available and 305 inmates as of today. So it's below capacity.

Headingley correction facility: we have 890 beds available, and we're somewhere in the order of 600 men. So, again, below capacity.

Milner Ridge is below capacity.

The Pas Correctional Centre: we have 120 actual beds available and 114—sorry, 119, including women. So, again, below capacity.

So—and the other facilities are below capacity, as well.

Ms. Naylor: So it sounds like every site is currently within capacity.

Are there any—are there certain centres that are more susceptible to double-bunking?

* (13:20)

Mr. Wright: So two parts, I think, to the answer. The first is that we move offenders around as needed to make sure that the facilities are operating appropriately and that without unnecessary pressure. Different facilities are structured different ways and some have—larger facilities have—that's up in Dauphin—had a very large dorm, so to the extent that they are subject to—they are designed to have larger groups of inmates. So I don't know there's pressure. I think the first part of my answer addresses the question of pressure, but the second part is that, yes,

different facilities that are designed differently, so we have expectations of bigger groups.

Ms. Naylor: So, given the times we're in, is—are those double-bunking situations a greater concern for COVID-19? And I guess I'm wondering how that's being addressed.

Mr. Wright: The—we've had very good public health advice through this process, and we've acted on that public health advice and structured our approaches to many things on the basis of that advice, and so I'm satisfied that our situation is good. Nobody's without anxiety during this period subject to that anxiety, and I think I'm pleased with where we are.

Ms. Naylor: Thank you for your answers, deputy.

This question is for the Auditor General. Recommendation 2 appears to hinge on the development of the master capital plan. So can you comment on the status of the development of standards for existing facilities, if any of those are complete, and which ones are outstanding and why?

Mr. Shtykalo: Yes, at the time of our follow-up when we looked at recommendation 2, we found the Province had not yet developed standards for correctional centres to consistently meet the Province's Correctional Services Act requirements for safe, secure and humane accommodation for people in custody.

Ms. Naylor: I think I didn't hear everything that you said. What was the last sentence that you said?

Mr. Shtykalo: Right. At the time of our last follow-up, in September 2017, the Province had not developed standards for correctional centres to consistently meet the Province's Correctional Services Act requirements for safe, secure and humane accommodation for people in custody.

Ms. Naylor: Okay, so at the time of the follow-up there was no development of standards. Am I understanding that correctly?

Mr. Shtykalo: It's my understanding that at the time it was a work-in-progress, but I don't have any information on, kind of, what—at what stage of progress they were under.

Ms. Naylor: I guess I'm looking for further information then, about, like, why there wouldn't be some update on those—on the development of those standards at this time.

Mr. Shtykalo: So for a question as to why something was or how—I feel—I think that's probably a question better directed to the department.

Ms. Naylor: Then I would ask the deputy if you can explain why there were no development of standards at that time, or at—that have happened since that recommendation.

Mr. Wright: So, in the time before the department's response, and I—my understanding of the report is a forward-looking piece, and it really had to do with the design of new facilities and the standard for new facilities.

We are—we're then and are now relatively stuck with the facilities that we have, so the—as I explained earlier in response to your question about recommendation 7, we start off—headed off into this process which would have included the development of standards and the updating of standards based on continuing evolving standards, so we have not done the work to establish accommodation standards.

I want to be clear, too, that when we're talking about accommodation standards, we're not talking about standards for delivery of—a widespread delivery of correctional services. This is about standards—facility standards. So I don't want to be taken as saying we don't have standards for the delivery of services within custody facilities.

Ms. Naylor: Another question for the deputy.

The—in March 2018, the minister released the Criminal Justice System Modernization Strategy, which you certainly alluded to in your opening notes. Could you provide a broader overview of how implementing the new strategy and initiatives outlined within that is going? Kind of what's been done, what's been ongoing, and what's outstanding?

Mr. Wright: I'd be pleased to, and I could talk all day, as you'd imagine. And I—so I won't. But I'm going to focus on a few that are—a few items I think are very relevant to the report. And I'll just focus on the—on some of those initiatives, for example.

The Responsible Reintegration Initiative is an initiative that we established in 2017 that dealt with a process for supporting the reintegration, sometimes on early—usually on relatively short periods of early leave—temporary absences to facilitate and better prepare offenders for return to the community, successful integration.

Since that time, we started in Winnipeg, we've expanded that program to western Manitoba,

refocused it to include focus on female offenders with or without the temporary absence. And now we're in the process of preparing to tweak the program, I'd say, to more emphasize support for employment.

And the—I can tell you that, to date, under that program we've had 362 approved applications for offenders to work through the program; 303 of those were successfully completed. A number were—small—a relatively small number, I'd say, were revoked, and not all completely successful, of course. And relatively few have returned to custody.

So I would say, we're just coming up to the two years where we'll be able to measure recidivism, but certainly, anecdotally, we're—that program has been very successful. And I think one of the rather anecdotal—but measures of that success is that we're finding that individuals who are in the program, once they complete their sentences and no longer have any formal obligation, are maintaining contact with their worker in that program's probation officer, community corrections worker, beyond the period of their sentence. So we're finding that to be a successful piece.

*(13:30)

So that's one item under the criminal justice modernization strategy. Focus on another: community mobilization has become a focus. We've—the Thunderwing project in Winnipeg started earlier in the—before the—early in the last decade, but it was—showed success and we've expanded the community mobilization—sorry, support for community mobilization across the province.

There are now 12 communities doing 'communable'—commune mobilization, nine of which we support financially. We are strengthening an overall central support to those hubs and looking for further opportunities to expand it, and that's been very successful—very well supported by a range of community participants. The RCMP has been a very big proponent but also helps—health—regional health authorities, schools and others. So that's another feature, I'd say, that we're quite pleased, very pleased with.

Restorative justice is a central element of the—our strategy. We established the Restorative Justice Centre in Winnipeg in 2017, and that was very helpful in expanding the number and, frankly, making restorative justice more easily accessible for prosecutors and police. We work with the Winnipeg Police mediation services. Onashowewin and

Salvation Army are partners in the Restorative Justice Centre in Winnipeg, and that's been very successful at increasing the number of restorative justice referrals.

Most recently, we started, in February of this year, Restorative Justice North in Thompson in partnership with MKO and MMF. And that will facilitate, I'm confident, greater and more effective restorative justice in the northern communities.

And so those are a few examples of things that we've done under the criminal justice modernization strategy. Could speak as well about changes in prosecutions, improvements in technology, all of which have had a beneficial impact, we'd say, on the justice system.

Ms. Naylor: One more question, Deputy.

How many cases have been diverted to restorative justice programs in 2017, 2018, 2019 because of that change in policy?

Mr. Wright: I can respond by quarter, if that's acceptable.

We—well, I'll say this. Our target is—has been 5,000 cases per year and we're being right on that—around that.

So in the first quarter of '18-19, there's 1,224; the second quarter of '18-19, 1,244; third quarter of '18-19, 1,289; fourth quarter of '18-19, 1,183; first quarter of '19-20, 1,198; second quarter of '19-20, 1,297; third quarter, 1,199; fourth quarter, 1,184; and then it fell in the first quarter of '20-21 because of the pandemic.

Mr. Chairperson: Any further questions?

Hearing no further questions or comments, I will now put the question on the report.

Does the committee agree that we have completed consideration of Managing the Province's Adult Offenders of the Auditor General's Report, Follow-up of Recommendations, dated March 2018? Agreed? *[Agreed]*

Before we rise, it would be appreciated if members would leave behind any unused copies of reports so that they may be collected and reused at the next meeting.

The hour being 12:35 and a half, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 1:35 p.m.

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