



# The Advocates' Society La Société des plaideurs

November 10, 2023

VIA EMAIL: [Doug.Downey@ontario.ca](mailto:Doug.Downey@ontario.ca)

The Honourable Doug Downey, K.C., M.P.P.  
Attorney General of Ontario  
Ministry of the Attorney General  
McMurtry-Scott Building  
720 Bay Street, 11<sup>th</sup> floor  
Toronto, Ontario M7A 2S9

Dear Attorney General:

## **RE: Staffing Shortages at New Ontario Court of Justice in Toronto**

The Advocates' Society writes to express our grave concern about the staffing issues at the new Ontario Court of Justice courthouse at 10 Armoury Street in Toronto (the "New Toronto Courthouse"), and to encourage the Ministry of the Attorney General to take immediate, short-term measures as well as forward-looking, long-term measures to remedy this troubling issue.

As you know, The Advocates' Society is a not-for-profit organization representing approximately 5,500 diverse lawyers and students across the country, including approximately 4,500 in Ontario—unified in their calling as advocates. As the leading national association of litigation counsel in Canada, The Advocates' Society and its members are dedicated to promoting a fair and accessible system of justice, excellence in advocacy, and a strong, independent, and courageous bar. A core part of our mission is to provide policymakers with the views of legal advocates on matters that affect access to justice, the administration of justice, the independence of the bar and the judiciary, the practice of law by advocates, and equity, diversity, inclusion, and reconciliation with Indigenous peoples in the justice system and legal profession.

The Advocates' Society sincerely appreciates Ontario's investment in physical infrastructure for its justice system. While the COVID pandemic demonstrated that some court processes such as document filing can and should be moved online, justice remains a fundamentally human process that often requires in-person interaction between participants to fulfil its purpose. Indeed, in criminal matters, section 715.21 of the *Criminal Code* provides a presumption that criminal proceedings will occur in person in the courtroom, with all parties present. Therefore, there remains an ongoing critical need to invest in accessible physical spaces where the work of justice can take place, including courthouses. Equally critical are investments in the people who make those places run. Investments in court staff must include compensation packages that reflect the current importance and complexity of their roles.

The lack of adequate court staffing at the New Toronto Courthouse has led to the closure of multiple courtrooms every week, and the continual adjournment of criminal proceedings. These adjournments negatively impact all of the participants in the criminal justice process. Victims are denied the timely resolution they deserve. The accused's right to trial within a reasonable time under section 11(b) of the *Canadian Charter of Rights and Freedoms* is threatened, potentially leading to a stay of proceedings for

exceeding the timelines set out by the Supreme Court of Canada in *R. v. Jordan*.<sup>1</sup> Witnesses are inconvenienced and stressed by having to return another day, which can entail additional expenses for travel, further missed days of work, and the need for new arrangements for familial care and accommodations at the courthouse. When this is a regular occurrence, the administration of justice is brought into disrepute in the eyes of the public.

Lawyers are also negatively affected by frequent, short-notice adjournments. The time that Crown attorneys and defence counsel have spent preparing for a matter and attending court is wasted, heightening the stress on lawyers and negatively affecting mental health. In addition, counsel's wasted time increases the costs to their clients, including Legal Aid clients. There is a cumulative effect of court delay. It in turn causes unnecessary delay in other client matters the lawyer could have been addressing instead, negatively impacting Ontarians' access to justice.

Adequate staffing is part of the solution to these problems. The Advocates' Society strongly encourages the Ministry of the Attorney General to take additional remedial measures, in the short and the long term, to ensure adequate staffing at the New Toronto Courthouse.

Measures to implement in the short term include addressing the factors contributing to court staff departures and turnover. First, staff may require benefits to facilitate their in-person attendance downtown (e.g., paid parking or transit) or other incentives to encourage in-person attendance that are currently not in place. Second, the wages for court staff are not commensurate with the new skillset and demands associated with the role or with other similar positions in the civil service or private sector. This situation needs to be corrected. Third, the work is often contract-based (contracts are frequently offered for less than six months) and irregularly scheduled with no guarantee of minimum hours (sometimes described in job postings as 'on-call').<sup>2</sup> Each of these circumstances will have a negative impact on recruitment and retention. As such, The Advocates' Society recommends continuing to reclassify court services positions to place court staff in higher pay categories to account for the new skills required in the role; and increasing the number of full-time equivalent positions to ensure court staff positions can be filled on a full-time and permanent basis. To this end, we would be pleased to assist by providing budget submissions.

In the long term, The Advocates' Society recommends that the Ministry continue to invest in the creation of an accessible, responsive, and efficient justice system, which can facilitate remote processes and proceedings where appropriate and accommodate in-person processes in all other cases. These investments ought to include moving certain key administrative processes online (e.g., digital criminal informations, digital disclosure), investing in human resources and training, and increasing access to technology and technical support, for all participants—witnesses, accused, victims, and court staff. These investments also ought to include ensuring that Ontario's justice centres are physically accessible to the public and all participants in the justice process.

I invite you to contact The Advocates' Society should you have any questions about our recommendations.

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<sup>1</sup> 2016 SCC 27, [2016] 1 S.C.R. 631.

<sup>2</sup> Information on wages, required skills, and contract terms was drawn from the open positions for court services staff listed on the Ontario Public Service Careers website, online: <<https://www.gojobs.gov.on.ca/Jobs.aspx>>.

Yours sincerely,



Dominique T. Hussey  
President

**CC:** Daniel Brown, President, Criminal Lawyers' Association  
Betty Vavougiou, President, Ontario Crown Attorneys' Association  
M. Christine Roth, Chair, Ontario Bar Association Criminal Justice Section  
Vicki White, Chief Executive Officer, The Advocates' Society

**The Advocates Society's New Toronto Courthouse Task Force**

Cathy Guirguis, *Olthuis Kleer Townshend*  
Scott C. Hutchison, *Henein Hutchison Robitaille LLP* (chair)  
Jason Mitschele, *Public Prosecution Service of Canada*  
Lynda E. Morgan, *Addario Law Group*  
Eric Neubauer, *Neubauer Law*  
Teodora Obradovic, *Fogler, Rubinoff LLP*