

INFORMATION REPORT

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: September 21, 2011	
SUBJECT/REPORT NO: POA Annual Report (FCS11069) (City Wide)	
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SIGNATURE:	

Council Direction:

The Provincial Offences Court Administration Office Annual Report for the year 2010 attached as Appendix "A" to report FCS11069, represents the seventh such report that has been presented to Council.

Information:

This Annual Report will provide a profile of the staffing complement, key functions of the office and major issues impacting Court Administration and Court Support.

The Annual Report provides council and the public with a synopsis of how the POA process works. Essentially the Annual Report provides summaries in the following key areas:

- Charges Filed and Revenue
- Courtroom usage, trials and first attendance
- Staffing profile
- Write-offs
- Success of internal and external collections

The highlights in this year's report include:

- 2010 revenues exceeded year end projection and charges filed increased by 18.8% over 2009.
- Workload challenges due to increased charges filed. Details are referenced in report.
- Collection agency fees were added to ICON providing greater efficiency for front counter staff.
- Judicial resources sufficient to permit the opening of an additional courtroom for 30 days in 2010. Details are referenced in the report.



Hamilton

ANNUAL REPORT
PROVINCIAL OFFENCES OFFICE
CITY OF HAMILTON
2010



INTRODUCTION TO THE HAMILTON PROVINCIAL OFFENCES OFFICE

The Provincial Offences office (POA) is responsible for the administration and prosecution of all provincial offences matters occurring within the City of Hamilton. These offences are varied and cover a broad range of legislative enforcement from speeding to careless driving under the Highway Traffic Act, charges under City of Hamilton By-laws, Liquor Licence Act, Trespass to Property Act, Compulsory Automobile Insurance Act, the Environmental Protection Act and Occupational Health and Safety, to name a few.

This office deals with Part I and Part III offences under the Provincial Offences Act which are filed by Enforcement Agencies.

A Part I is commonly referred to as a "ticket" and is most often issued by an officer at the time of the offence. When a Part I offence notice is issued, the recipient has three options:

- 1 – Plead guilty and pay the fine
- 2 – Request to meet with a Justice of the Peace to plead guilty with an explanation
- 3 – Request a trial

A Part III is considered a more serious offence and one that requires the offender to appear in court before a Justice of the Peace. This court appearance allows the prosecutor to introduce evidence that may affect sentencing, such as a driving record.

Trials and First Attendance

Trials are scheduled five days a week in two courtrooms with three court tiers each day at 9:00, 10:30 and 1:30. First appearances are scheduled five days a week at 1:30. A third courtroom is utilized for lengthy trial matters for up to sixty days a year when judicial resources are available for this purpose.

A further option, for Part I offences, is for the offender to request a First Attendance Meeting with a prosecutor. The hearing is scheduled for matters that fall within the established criteria and are scheduled in a timely fashion allowing for retrieval of the officer's notes, accident report or other necessary documentation to assist in the negotiation by the prosecutor at this hearing. If a resolution can be reached, the offender is taken to a courtroom to enter their guilty plea and be sentenced.

Bill 212 is changing many procedures within POA. First Attendance will change to an Early Resolution meeting effective March 1, 2012. Bill 212 changes were adopted over an 18 month period beginning in 2010. Training in these changes is vital to ensure we are providing proper service and information to our clients.

Tickets and Revenue

In 2010 27.2% of all Part I certificates of offence filed were placed on a Fail to Respond docket. These tickets are then reviewed by a Justice of the Peace, and if appropriate a conviction is entered and a Notice of Fine and Due Date is mailed to the client. It is important to note that if there is a flaw in the ticket – a Justice of the Peace will quash the ticket, therefore no conviction is registered and no fine is assessed. It is also important to understand that not every ticket will generate revenue. If a trial is requested, the facts must be proven and at sentencing the Justice of the Peace may dismiss the charges, or enter a conviction with a suspended sentence which means a conviction is registered with the Ministry of Transportation but no fine is assessed.

An enforcement agency has seven days to file an offence with the court. In 2010 Hamilton Police filed 423 Part I certificates of offence beyond the seven day period, a reduction of 13.7% over 2009. The OPP filed 92 Part I certificates of offence which were beyond the seven day filing period, a reduction of 17% over 2009. These charges could not proceed due to late filing. These represent a loss of prosecution and possible revenue.

The Provincial Offences office administers to and collects fines where the revenue is journalled to other city departments such as: Animal Control, Building and Licensing, Parking and Red Light Camera (Traffic Engineering & Operations). Dedicated Fines and Victim Fine Surcharge, payable to the Ministry of the Attorney General, and fines collected for other POA sites are paid quarterly to the appropriate party after reconciliation with the quarterly statement. All fine payments are processed through ICON (Integrated Courts Offence Network). This system must be used as per the Memorandum of Understanding with the Province.

The quarterly statement also invoices the POA office for offences entered into the ICON system at \$1.95 per offence. Fees charged for prosecution of Part III offences by a Provincial Prosecutor and the adjudication fees for the Justice of the Peace are invoiced via the quarterly statement.

OVERVIEW OF PROVINCIAL OFFENCES 2010

PROFILE

The Provincial Offences office employs twenty one staff members who are part of the City Clerks Division and six who are part of the Legal Department. The administrative side of the operation consists of employees in the following work categories:

Court Administration Clerks – Nine
Sr. Court Administration Clerk – One
Financial Assistant 1 – One (**reports to Finance**)
Court Reporters – Four
Collection Clerks – Three
Collection Coordinator – One
Coordinator of Court Services – One
Manager of POA – one

Court Administration Clerks

The Provincial Offences office has nine permanent court admin clerks. The ratio of tickets issued per court admin clerk, as suggested by the Ministry of the Attorney General, is 1 court admin clerk to every 5,000 – 6,000 tickets issued. This ratio for 2010 is 1 court admin to 9,685 tickets.

Senior Court Administration Clerk

The senior court administration clerk is responsible to verify and release all enforcement for fines that are past due. The senior court administration clerk also coordinates the interpreters for all POA matters which includes scheduling, receipt, calculation and verification of fees and processing of invoices. The senior court administration clerk provides assistance and training to the court administration clerks.

Financial Assistant

The financial assistant is responsible for all Peoplesoft financial transactions relating to the Provincial Offences office general ledger accounts. Duties include: monthly balancing of Provincial reports, monthly bank reconciliation, AFR reporting, general ledger journal entries, recording of daily revenue receipts, account analysis, production of financial statement, ordering and paying of invoices via purchase requisitions, orders and receipting, tracking and disbursement of revenues and year end accruals.

Court Reporters

Court reporters take the official court record in the courtroom ensuring that everything said is captured on the tape and that it can be transcribed into a court transcript verbatim and by format legislated under rules of civil procedure. Training for this position is lengthy due to the skills involved in transcript preparation and courtroom protocol, along with the ability to multi-task and work efficiently and expeditiously so that court is able to manage the entire list.

Collections Staff

The Provincial Offences office has an internal collections section and utilized two collection agencies for outstanding fines. The internal collections section was responsible for \$2,655,626 in revenue generated in 2010. The external collection agency has collected a total of \$948,638. The collection reporting figures include the Victim Fine Surcharge that is payable to the Province of Ontario. The Victim Fine Surcharge amount cannot be identified through the collections database. The dollar amount recorded as POA revenue would be less than the above indicated numbers as a result.

Coordinator of Court Services

The Coordinator of Court Services provides trial coordination services involving Judiciary, lawyers, prosecutors and the public. The Coordinator of Court Services schedules the court administration clerks as they rotate through seven positions and approves all vacation requests and administers to the attendance function on behalf of all POA employees. The Coordinator also administers to any complex matters that the court administration staff are unable to resolve with members of the public.

Manager of Provincial Offences

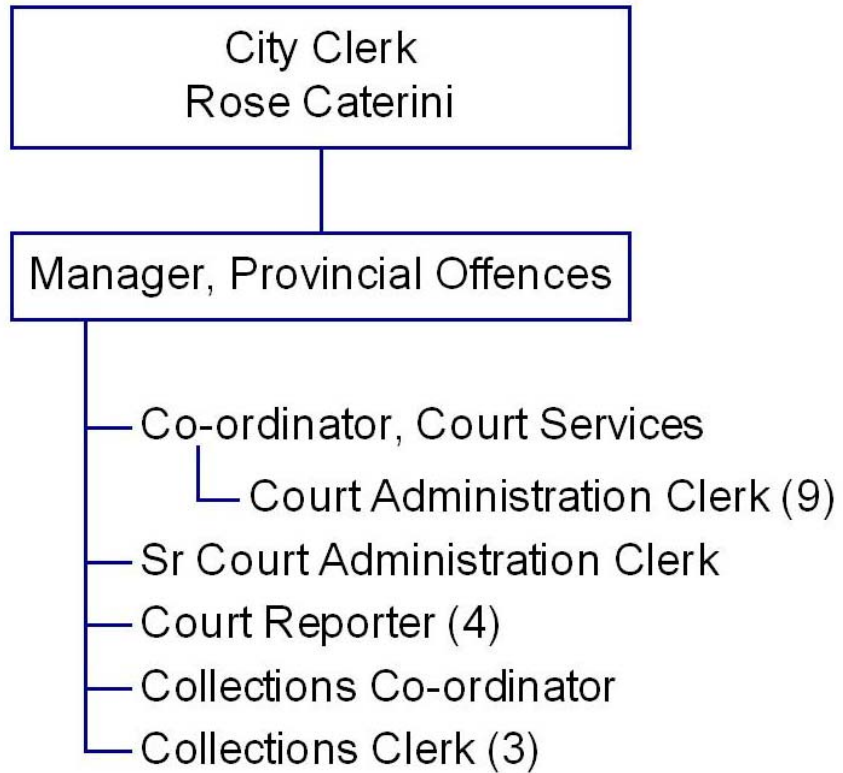
The Manager of Provincial Offences is responsible for the POA operation, is the main contact for the Ministry of the Attorney General for POA matters involving change to legislation, required reporting as per the Memorandum of Understanding, financial administration, etc. The Manager is a member of the Municipal Court Managers Association and sits on the Forms Subcommittee. Liaison with the Local Administrative Justice of the Peace and the Regional Senior Justice of the Peace regarding allotted court time and scheduling of Justices of the Peace is a responsibility shared by the Coordinator of Court Services and the Manager of POA.

Prosecution Staff

Municipal Prosecutors – Four
Supervisor of Prosecutions – One
Lawyer – One

The prosecutor presents the evidence in the courtroom on behalf of the enforcement agency which involves questioning witnesses in order to provide the court with the required information to make their judicial decision. The prosecutor works closely with the court reporter in calling the cases for the court and scheduling trial dates should the case require an adjournment.

ORGANIZATIONAL CHART



THREE YEAR COMPARISON OF CHARGES FILED

	2008	2009	2010
January	5524	4361	6094
February	5132	5328	5746
March	5071	7324	8481
1st Qtr Totals:	15727	17013	20321
April	6215	7004	8808
May	5027	6243	7437
June	5297	6486	7819
2nd Qtr Totals:	16539	19733	24064
Year-to-date Totals:	32266	36746	44385
July	5360	5910	7144
August	5343	5648	7692
September	5735	6861	7757
3rd Qtr Totals:	16438	18419	22593
Year-to-Date Totals:	48704	55165	66978
October	6247	7247	7571
November	4436	6337	7355
December	3524	4641	5256
4th Qtr Totals:	14207	18225	20182
Total	62911	73390	87160

Total charges filed in POA increased by 19% in 2010 over 2009, and 16.7% in 2009 over 2008.

Revenue

Revenues generated in 2010 exceeded budget and revenues generated in 2009. The increase in charges filed by 13,772 (18.7% over 2009) would be a factor in the increased revenue. The spreadsheet below provides details of the revenue generated through POA for other City departments and POA for 2009 and 2010. The 2010 revenue resulted from 58,265 payment transactions.

<u>Year</u>	<u>Hamilton Revenue</u>	<u>Other City Departments</u>	<u>Provincial Offences</u>
2008	6,905,634	627,812	6,277,822
2009	7,391,027	1,045,848	6,345,177
2010	9,158,571	2,563,272	6,595,298

Prepaid Fines

In 2010, 57.5% of all Part I certificates issued resulted in voluntary pre payment of the fine. This statistic is consistent within a few points each year since 2006.

Mail Payments

The Provincial Offences office places high priority on the processing of fine payments received by mail. These payments are processed the day they are received, or the following day should volumes not allow for same day processing. This efficiency ensures that cases are not sent to further enforcement unnecessarily which would cause concern to our clients. Enforcement can include suspension of driver's licence and collection activity.

Internal Collections

The internal collection staff has produced more revenues as a result of collection activity than the external collection agencies have produced. The internal collection staff work the more recent files which should be more fruitful than older files sent to the external collection agencies.

Internal collections were responsible for 24% and external collection agencies were responsible 9% of the total POA revenues generated in 2010. Internal collections totalled \$2,655,626 and the external collection agency collected \$948,638.

<u>POA Court Administration Costs</u>			
	<u>Gross Revenues</u>	<u>Gross Expenses</u>	<u>Net</u>
2008	6,905,634	3,136,193	3,769,441
2009	7,391,027	3,146,165	4,244,862
2010	9,158,571	3,194,066	5,964,505

Please note, Victim Fine Surcharges payable to the Province of Ontario are excluded from these figures.

Write-offs

A review of all outstanding fines occurs annually to determine what cases should be considered for write-off based on the inability to collect. Report FCS11070 Proposed Write-Offs of Outstanding Fines for Provincial Offences is also an item on the September 21, 2011 Audit, Finance and Administration Committee agenda. Outstanding accounts receivables as of December 31, 2010 are \$48,335,804.

Provincial Offences Write-Offs		
August 4, 2011		
<u>2003 Write-Offs Summary</u>		
(Conviction Date)		
	Files	Dollars
Uncollectable	2051	\$ 902,696
Deceased Persons	95	\$ 62,230
Under Payments	882	\$ 11,949
Total	3028	\$976,875

<u>WRITE-OFF HISTORY</u>			
	<u>Files</u>	<u>Dollars</u>	<u>Outstanding Accounts Receivable</u>
2008	12,266 (includes parking)	1,468,950	42,019,788
2009	1,725 (no parking)	564,740	43,876,452
2010	3,028 (no parking)	976,875	48,335,804

Courtroom Usage

Courtrooms 300 and 320 are scheduled every day, with three tiers in each courtroom daily. Scheduled court tiers are for the following times – 9:00, 10:30, and 1:30. Matters are scheduled in ICON (Integrated Courts Offence Network) utilizing officer availability to ensure police officers are not incurring overtime for traffic court appearances. Courtroom 326 is used for lengthy trial matters and this time is scheduled through our trial coordinator. The current lease allows for use of this courtroom for up to 60 days a year. If we need to exceed the 60 days, we are charged \$125.00 per day. Courtroom 326 was scheduled for 30 days in 2010. A review of the court master plan is underway by the Local Administrative Justice of the Peace that will hopefully provide additional usage of our third courtroom, two or three days a week on a permanent basis. This will permit more matters to be scheduled than currently permitted, will help with reducing time to trial and provide resolution to more court matters on a daily basis. The need for more courtroom availability is aligned with the increasing number of charges filed.

Transcript Preparation

Court transcripts are ordered by the Judiciary, lawyers, insurance companies, etc. Transcripts are prepared following legislated format outlined in civil rules of procedure. Transcripts can be difficult to prepare as you are typing from the court recorded tape of proceedings. The Hamilton Provincial Offences office has not missed a deadline for preparation of a transcript in the eleven years since transfer of responsibility of POA from the Province to the Municipalities.

Highlights/Challenges

Judicial Resources

Judicial resources for Hamilton have increased by one appointment since 2009. Additional appointments are needed elsewhere in Central West Region to ensure the Justices of the Peace with a home base of Hamilton, are not required elsewhere to ensure Judicial coverage needed for all courts are sufficient. An appointment was made in July of 2011 in Central West Region that will help to reduce re-assignment of Hamilton Justices of the Peace to other cities.

Time to Trial

Charges filed where a trial is requested are being scheduled into 2012, some as far as June. Increasing charges with no additional courtroom assignments will push the time to trial out even further. The Local Administrative Justice of the Peace is reviewing the court master plan and Judicial Resources in an effort to provide an additional two to three court days in our third courtroom in 2012. Trial requests increased in 2010 over 2009 by 69%. 2009 – 6,222 vs 2010 – 9,023. The third courtroom was utilized for 30 days in 2010 to assist with the increasing number of trials being requested due to the additional number of charges being filed

Collection Agency Fee By-Law 07-007

The collection agency fees were added to ICON as an efficiency method for front counter staff to determine if the defendant owed any collection agency fees. This has improved front counter service and has made it easier for staff and clients.

Challenges to POA Staff Due to Increased Workload

All staff in the POA section are professional and passionate about their work. Our work requires a thorough understanding of the Provincial Offences Act, Courts of Justice Act and many other policies and procedures. We work closely with members of the public knowing their inability to drive impacts their employment and families. Staff must administer according to all rules, regulations, policies and legislation while dealing with clients who can be upset over their situation. POA staff are addressing a much higher volume of clients with the increase in charges filed (25,000) in the past two years.