



Hamilton

ANNUAL REPORT
PROVINCIAL OFFENCES OFFICE
CITY OF HAMILTON
2016



INTRODUCTION TO THE HAMILTON PROVINCIAL OFFENCES OFFICE

The Provincial Offences Office (POA) is responsible to administer to justice. A charge going to court can result in many different dispositions, which doesn't include a fine. A charge can be withdrawn, dismissed or a sentence of Suspended Sentence can occur and all of these resulting in zero revenue for the City. An Early Resolution meeting can result in an agreed upon plea to a reduced charge and a reduced fine. Charges filed 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 (not parking), *Liquor Licence Act*, *Trespass to Property Act*, *Compulsory Automobile Insurance Act*, the *Environmental Protection Act* and Occupational Health and Safety and Red Light Camera charges, to name a few.

Charges Filed

Charges filed in 2016 were 83,435 compared to 84,747 in 2015. A reduction of 1,312 charges (1.57%).

Trials

Trials are scheduled five days a week in three courtrooms. POA processed 5,846 requests for trial in 2016. Trials are being scheduled into late 2017. The third courtroom was utilized for 172 days in 2016, an increase of 35 days over 2015 and 65 days over 2014. Court utilization has improved with the onset of the Trial Co-ordinator position. The new facility will permit scheduling into four courtrooms instead of the current three which will help with time to trial. The occupation date for new court facility located at 50 Main Street East, Hamilton is expected to be fall of 2018.

Early Resolution

Early resolution hearings began in June of 2012. This process is intended to help to reduce time to trial and provide resolution to court matters without a trial. Of all part ones filed, 17% resulted in a request for an Early Resolution meeting with a prosecutor. This has increased from 16% in 2015 and 15% in 2014. POA processed 12,146 requests for an Early Resolution meeting. Of all charges filed, 26% result in a court hearing (trial or early resolution) requiring resources from court support (court reporters) and prosecutors.

Judicial Resources

Judicial Resources are now being allocated to permit Early Resolution meetings to occur during the months of July and August. The ability to schedule these meetings during the summer months along with the addition of our third courtroom has assisted with ensuring these matters are before the court in an appropriate timeframe. We are now scheduling an Early Resolution meeting five months out from date of request. In 2015 we were scheduling within eight weeks and in 2014 we were scheduling eight months from date of request. The Trial Coordinator monitors this scheduling and determines if we need to adjust court tiers to accommodate early resolution vs trials.

Fail to Respond

In 2016, 30% of all Part I certificates of offence filed were placed on a Fail to Respond docket. That is an increase of 4% over 2015. 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.

Revenue

Year	Hamilton Revenue	Other City Department	Provincial Offences
2009	7,391,027	1,045,849	6,345,178
2010	9,158,571	2,563,272	6,595,299
2011	9,043,352	2,337,940	6,705,412
2012	10,659,793	3,010,924	7,648,869
2013	11,122,251	3,797,524	7,324,727
2014	11,261,223	3,730,384	7,530,839
2015	11,352,372	3,877,848	7,474,524
2016	10,950,060	3,915,252	7,034,808

\$309,834.21 of the Net Revenue of \$7,034,808 resulted from large fine payments of \$10,000.00 or more.

Fine Revenue Not Reported through the POA Budget

The Provincial Offences office administers to and collects fines where the revenue is disbursed to other city departments such as: Animal Control, Building and Licensing, 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 Municipality 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.

Prepaid Fines

In 2016, 53% of all Part I certificates of offence issued resulted in voluntary pre payment of the fine. In 2015, 55% were prepaid. This statistic is consistent within a few points each year since 2006, also taking into consideration that the number of charges filed each year varies.

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 license, plate denial and collection activity.

Telephone Payments

In January of 2012 POA began taking credit card payments over the phone. This option was included on our phone auto attendant to inform our clients of this new option. By year end POA staff had processed an average of 250 phone payments monthly. The numbers have steadily increased year over year. In 2016, POA processed 6,610 phone payments, averaging 550 monthly. Phone payments have more than doubled in four years.

Internal Collections

The internal collection staff produced more revenue as a result of collection activity than the external collection agencies have. The internal collection staff administer to the more recent files which should be more fruitful than older files sent to the external collection agencies. Files are sent to the external collection agencies if our internal collections team have not had success in contacting the defendant and been able to track a current address or phone number.

Internal collections were responsible for collecting \$4,084,775 and the external collection agencies collected \$1,593,033 in 2016. That represents an increase in overall collections by the internal staff and the collection agencies of \$170,190 over 2015.

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. See Report FCS17050 also on Audit, Finance and Administration Committee agenda for May 8, 2017. Write offs for Deceased Persons which are an automatic write off by the Ministry of the Attorney General once POA updates the ICON system with the Deceased Persons code (DP) totalled \$151,370.17 from 246 files.

Write-off History

Council Approval	Files		Dollars	Outstanding Accounts Receivable Year End Prior to Write-off Request
2009	12,266	(includes parking)	1,468,950	42,019,788
2010	1,725	(no parking)	564,740	43,876,452
2011	3,028	(no parking)	976,875	43,335,804
2012	3,534		1,056,465	48,335,804
2013	2,996		744,348	51,813,277
2014	2,575		413,742	55,694,977
2015	0		0	59,225,747
2016	3,924		1,541,755	61,636,843

Deceased Persons

Outstanding fines are automatically written off by the ICON system when the code DP has been entered into the system. In 2016, POA updated 246 files for deceased persons totaling \$151,370.17. In 2015, files for 304 deceased persons totaling \$253,579.11 were updated and written off.

Outstanding Accounts Receivables

Outstanding accounts receivables as of December 31st are as follows:

2016	2015	2014
\$61,853,753	\$61,636,843	\$59,225,747

Workload

Charges pending over six months saw a reduction of 28.8% over 2015.

Court operational hours increased by 13.5%.

Re-openings decreased by 14%.

Appeals increased by 54%. This creates more work for court administration and court support staff.

Changes in Legislation impacting POA

Bill 27, *Burden Reduction Act*

- Will allow POA to enforce for outstanding fines where only costs or collection agency fees are outstanding.

The *Transportation Statute Law Amendment Act 2015*

- Intention to enhance the collection of defaulted POA fines
- New legislation will
- Expand plate denial to include defaulted POA fines for driving-based offences such as speeding
- Allow for denial of **all** licence plates owned by a defaulter for fines stemming from driving-based offences
- Simplified payment process – defaulted fines can be paid at Service Ontario (target of Spring 2017)
- **ISSUE** – \$20.00 fee will be deducted from the fine payment as a fee to the municipality with jurisdiction on the charge. This fee is not applicable if the fine is paid at the municipal court office.
- **ISSUE** – the Ministry of the Attorney General initiative to mandate fine payments in chronological order will not be an option when payments are made at Service Ontario
- **RECOMMENDATION**– that the Ministry of the Attorney General not take \$20.00 from each fine payment. Instead include an additional fee to be charged to the client similar to their re-instatement fee of \$198.00 for a driver's licence and \$40.00 for a plate denial.
- **RECOMMENDATION** - to build a flag into the system which will send court fine information to the Ministry of Transportation indicating there are "older fines outstanding" and the client is directed to attend at the court location where enforcement of chronological payment can be mandated.

The Municipal Court Manager's Association (MCMA) and Ontario Municipal Tax and Revenue Association (OMTRA) have forwarded recommendations to the Ministry of the Attorney General requesting an increase to fees and an introduction of new collection fees which will allow the municipality to recover reasonable costs of collecting debt.

The two recommendations are quoted from the Briefing Note for the City of Mississauga included in this 2016 POA Annual Report and attached as Appendix "A" to Report FCS17051.



Briefing Note

Subject: ENHANCING MUNICIPAL COLLECTION OF DEFAULTED *PROVINCIAL OFFENCES ACT* (POA) FINES

The *Transportation Statute Law Amendment Act (Making Ontario's Roads Safer), 2015* (formerly Bill 31) is the key piece of a broader package of legislative and subsequent supporting regulatory amendments to the *Highway Traffic Act*, *Provincial Offences Act* and *Highway 407 East Act*.

On June 2, 2015, the Act received Royal Assent

Ministry of Transportation (MTO) advises that the Act intends to; *Enhance the collection of defaulted Provincial Offences Act fines.*

MTO advises the new legislation will

1. Expand Ontario's existing plate denial regime, which applies to **vehicle-based offences** (such as red light camera offences), to also include defaulted POA fines for **driving-based offences** (such as speeding) that currently result in a licence suspension;
2. Allow for the denial of **all licence plates** owned by a defaulter, for fines stemming from *driving-based offences*;

The Ministry of Transportation has also advised that they are building a simplified payment process that allows defaulted fines to be collected through Service Ontario.

MTO has been working with the Ministry Attorney General (MAG), as well as the Ministry of Municipal Affairs and Housing (MMAH), and the Association of Municipalities of Ontario (AMO), on the appropriate implantation of this new legislation. The MTO announced that they are targeting a Spring 2017 implementation for the new legislation

FINE COLLECTION INITIATIVES related to legislation as outlined by the province

Initiative	Ministry
Expansion of licence plate denial	MTO
Improved access to MTO data	MTO
Increase \$20 fine default fee	MAG
Mandate fine payment in chronological order	MAG
Make collection agency fees enforceable like a fine	MAG
Ensure that late fees remain payable when an extension is granted	MAG
Ensure that MTO and Service Ontario have information to refer defaulters to the correct municipal court office	MAG

Issues for the Municipalities

- 1) The MTO advised that any new system builds/enhancements would be at a full "cost recovery" format. The method of cost recovery has been determined by the province to be a \$20 fee taken



off of the top of any monies collected at Service Ontario for defaulted POA fines. This \$20.00 will be taken directly from the amount owing to municipalities resulting in a loss of revenue for each infraction paid at Service Ontario.

MTO has been asked to provide their legal authority for taking. \$20.00 and has advised that they will get back to municipalities on this however no timeline has been committed for response.

- 2) The MAG initiative to mandate fine payments in chronological order as outlined above is in reference to the current process that allows persons paying POA fines to select whichever fines they wish to pay (commonly referred to as "cherry picking") instead of paying oldest fines first. Currently, people generally only pay the fines associated with getting their licence suspension reinstated or to avoid an impending licence suspension. MAG and MTO have advised that staff at Service Ontario counters will only have access to POA fine information related to driving offences, therefore eliminating the ability to enforce any chronological payment mandate.

Recommendations

- 1) That MTO not be permitted to take \$20.00 off the top of every POA fine payment collected at Service Ontario. Cost recovery methods could include an additional \$20.00 fee charged to the client by MTO similar to their current licence reinstatement fee (\$180) and plate denial fees (\$40).
- 2) Have a system flag built in to the system which sends Court fine information to MTO indicating that there are "older fines outstanding", so that persons who owe monies for old outstanding POA matters are directed to attend the court location where enforcement of chronological payment can be mandated.