



# 2020 Provincial Offences Administration Annual Report

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# BACKGROUND

Provincial Offences Administration (POA) administers to charges from approximately 40 enforcement agencies for all acts and regulations under the *Provincial Offences Act*. A charge going to court can result in many different dispositions which do not result in a fine. A charge can be withdrawn, dismissed or suspended all of which result in zero revenue for the City. An Early Resolution meeting can result in an agreed upon plea to a reduced charge and / or 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* (inclusive of Red Light Camera), charges under City of Hamilton By-laws (excluding parking offences), *Liquor License Act*, *Trespass to Property Act*, *Compulsory Automobile Insurance Act*, the *Environmental Protection Act* and *Occupational Health and Safety Act*, to name a few.

POA administers Part I and Part III offences under the *Provincial Offences Act* which are filed by Enforcement Agencies. Administrative Penalty System (APS) offences are not administered by POA.

A Part I offence is commonly referred to as a "ticket" and is most often issued at the time of the offence. When a Part I offence notice is issued, the defendant can either plead guilty and pay the fine, request an early resolution meeting with a prosecutor or request a trial. A Part III offence is considered a more serious offence and requires the defendant to appear before a Justice of the Peace.

POA is located at 50 Main Street East, which accommodates administrative offices and four courtrooms. POA is comprised of the following services: Court Administration, Court Support, Collections and Prosecution (reporting through Legal Services).

**Court Administration** responsibilities include:

- processing fine payments and requests for extension of time to pay
- scheduling early resolution meetings and trials
- updating court documents
- receiving and processing all new charges
- appeals and re-openings of charges

**Court Support** responsibilities include:

- ensuring courtroom decorum and capture of the official court record
- production of transcripts, as requested
- management of court documents and exhibits
- swearing in of witnesses and interpreters
- arraigning the defendant on charges

**Collections** responsibilities include:

- pursuit of the collection of overdue fines
- searching for current address and phone information to assist in contact with defendants
- updating database system for collection activity

Each year, POA solicits an independent audit of the financial statements for the Provincial Offences Office. As per the Memorandum of Understanding (MOU) between Her Majesty the Queen in Right of Ontario as represented by the Attorney General and the City of Hamilton, the completed audit is submitted annually to the Attorney General and the Ministry of Finance.

# POA SNAPSHOT

The following provides a 2020 snapshot of POA performance:



**\$9.7 M**  
in Revenue  
(net provincial transfers)



**\$70.4 M**  
Outstanding accounts receivable  
**\$2.6 M**  
Revenue collected from  
defaulted accounts receivable



**\$(-.3) M**  
Contribution  
to Net Levy



**1,051**  
Trials Requested



**9,764**  
Early Resolution (ER)  
Meetings Requested



**86,736**  
Charges Received

## 2020 KEY INITIATIVES

In 2020, several continuous improvement initiatives were implemented:

- Implemented COVID-19 protocols to support Public Health guidelines including social distancing, masking, hand washing / sanitizing and active screening
- In partnership with the Ministry of the Attorney General and identified stakeholders, prepared for the introduction of virtual trials
- Enhanced accessibility and usability of online POA electronic forms
- Implemented remote interpretations in the courtrooms
- Added pre-authorized payments to facilitate regular monthly payments resulting from Extension of Time to Pay applications

## 2021 KEY INITIATIVES

Several continuous improvement initiatives are being launched for 2021:

- Implement a virtual court platform to support remote proceedings and trials
- Initiate the electronic filing of automated enforcement charges
- Prepare for the download of responsibilities resulting from the proclamation of various sections of Bill 177 by supporting the examination of Fail to Respond dockets, re-opening applications and requests for extension of time to pay by the Clerk of the Court

## EMERGING TRENDS

The following changes to the legislative environment will impact POA:

- **Bill 177** sets out legislative reforms to the *Provincial Offences Act* that modernize and streamline processes. Bill 177 would amend two key areas of the POA Court process:
  - give the Province the authority to transfer Part III prosecutions from the Ministry of the Attorney General to municipal partners; and
  - give the Clerk of the Court additional powers and duties that are currently performed by Justices of the Peace.

There will be costs associated with the download of Part III prosecutions, as well as, additional duties of the Clerk of the Court. The timing of the download of Part III prosecutions is dependent on an amendment to the MOU. Duties of the Clerk of the Court are delayed until 2021. The financial impact of Bill 177 will need to be reflected in future operating budgets.

- **Administrative Penalty System (APS)** is an alternative process which allows the municipality to manage certain types of disputes rather than utilize the provincial court system. Municipal By-law disputes account for 1% of total charges filed. Electronic Speed Enforcement and Red Light Camera offences are being considered for inclusion in APS, however, no decision has been made.
- **Bill 197** the *COVID-19 Economic Recovery Act, 2019*, permits the electronic filing of court related documents, enhancing provisions for re-openings removing the need to have documents commissioned. The Act permits any party to a court proceeding to appear remotely in a virtual court environment. This Act has caused courts to pivot to a virtual environment resulting in significant equipment investments and additional staffing.



# CHARGES FILED

In 2020, POA received 86,736 charges of which, approximately 95% of the charges filed resulted from Hamilton Police Services, automated enforcement and the Ontario Provincial Police (OPP).








## Total Charges Filed

2016	2017	2018	2019	2020
83,818	77,861	79,839	83,416	86,736

The number of charges filed has been increasing over the three-year period from 2018 to 2020. The majority (95%) of charges filed relate to the *Highway Traffic Act*.

The table below depicts Part I's and Part III's, by enforcement agency, as a percentage of charges filed over a four-year period.

## % of Charges Filed by Agency (Part I and Part III)

	Hamilton Police: Number of Charges Filed			
	2017	2018	2019	2020
	53,238	50,468	53,316	44,946
	Red Light Camera: Number of Charges Filed			
	2017	2018	2019	2020
	16,134	18,435	20,289	19,222
	OPP: Number of Charges Filed			
	2017	2018	2019	2020
	3,321	5,086	4,816	4,285
	Other Enforcement Agencies: Number of Charges Filed			
	2017	2018	2019	2020
	698	754	915	463
	Automatic Speed Enforcement: Number of Charges Filed			
	2020			
	14,877			
	All Agencies: Number of Charges Filed, Part Three's			
	2017	2018	2019	2020
	3,570	4,604	4,043	2,733
	Municipal Law Enforcement: Number of Charges Filed			
	2017	2018	2019	2020
	900	492	37	210

\*Part One's only (volumes moved to APS)

For 2020, the proportion of charges filed are as follows:

- 52% Hamilton Police Services
- 39% automated enforcement
- 5% OPP
- 70% of Part III charges are filed by Hamilton Police Services

In 2018, Municipal Law Enforcement (MLE) charges commenced its transition to the Administrative Penalty System (APS) office, resulting in a decline of charges processed through POA. Part III's continue to be processed within POA.

## TRIALS

Trials and matters are scheduled five days a week in four courtrooms. No in-person trials were scheduled after March 17, 2020 due to public safety measures enacted due to COVID-19.

Courtroom Hours				
	2017	2018	2019	2020*
All	1,959	1,685	1,774	1,051

\* 2020 courtroom utilization only represents in-court hours until March 17, 2020 and the resumption of Early Resolution beginning September 7, 2020.

## EARLY RESOLUTION

This process is intended to provide resolution to court matters without a trial. Of all Part I's filed, 11% (approximately 9,764) result in a request for an Early Resolution meeting with a prosecutor. Early Resolution was suspended from March 17 to September 7, 2020.

% of Early Resolution Hearings Scheduled					
	2016	2017	2018	2019	2020
Part 1	17%	15%	14%	16%	11%

## FAIL TO RESPOND

In 2020, 4.6% of all Part I certificates of offence filed were placed on a Fail to Respond (failed to respond to any settlement or dispute options) docket. Administratively, this process takes more time as the tickets need to be reviewed by a Justice of the Peace before a conviction and notice can be issued. Under Bill 177, tasks associated with the Fail to Respond process would be downloaded to POA.

Fail to Respond					
	2016	2017	2018	2019	2020
Part 1	30%	29%	28%	28%	4.6%

Due to COVID-19 and the extension of court timelines ordered by the Chief Justice of the Ontario Court of Justice, resulted in no Fail to Respond convictions registered after March 17, 2020.

# REVENUES

POA administers and collects fines where revenue is disbursed to other City business units such as Animal Services, Building Division, Licensing and By-law Services and Traffic Engineering and Operations (Red Light Camera charges). Red Light Camera revenue is transferred to Public Works, less any Service Ontario fees and an administrative cost. Similarly, Licensing and By-law Services and Building Division revenue is transferred to Planning and Economic Development, less an administrative cost.

Dedicated Fines, Victim Fine Surcharge, expenses associated with Part III prosecutions prosecuted by the Province and any POA fines levied against the City are payable to the Ministry of the Attorney General. Fines collected for other POA sites (i.e. Brantford, Burlington, etc.) are paid quarterly to the appropriate municipality. The remaining revenue is used to offset administration costs and contribute to the net levy. Payments can be made at any POA court office, over the phone, online via Paytickets (third party vendor), at Hamilton Municipal Service Centers and at Service Ontario locations.

Revenues for 2020 declined over previous years due to the suspension of court processes because of COVID-19. An order suspending timelines was made March 17, 2020 by the Chief Justice of the Ontario Court of Justice, which effectively put Fail to Respond convictions on hold for the remainder of the year. Fewer convictions resulted in decreased revenues. The resumption of Early Resolution on September 7, 2020 did not have a significant impact on revenues. Revenues, post pandemic, are expected to recover.

	<b>Gross Revenue</b>	<b>Net Contribution</b>
2016	\$12,685,559	\$2,952,091
2017	\$12,153,945	\$2,872,089
2018	\$12,352,242	\$2,975,996
2019	\$13,597,869	\$3,052,708
2020	\$10,523,446	\$(328,234)



## COLLECTIONS

Internal collections were responsible for collecting \$1,532,213.77 and the external collection agencies collected \$1,058,012.43 for a total of \$2,590,226.20 in 2020. This represents a decrease in overall collections of \$3,152,436.80 over 2019. COVID-19 court closures and the order made by the Chief Justice of the Ontario Court of Justice extending timelines for all court processes have impacted collections efforts across the Province. In 2017, the Province introduced legislation to improve collection efforts (inability to renew plates and drivers' licenses for driving-based offences) to encourage payment. POA has leveraged this opportunity by redirecting defaulted Red Light Camera and Automated Speed Enforcement collections to plate denial (up to a two-year process) saving the cost of the external agency fee.

Fines that qualify are added to the defendant's property taxes (tax roll). Since the introduction of tax rolling by POA in 2017, \$553,268 in outstanding fines has been added to the tax roll. For a defaulted fine to be tax rolled, property ownership must be confirmed. Specific business units, such as Licensing and By-law Services have the authority to deny issuing or renewing a license if a fine is outstanding.

As of December 31, 2020, there were approximately 90,903 defaulted fine records for a total outstanding default amount of \$70,481,483.

Write-offs for Deceased Persons, which are an automatic write-off by the Ministry of the Attorney General, totaled \$423,593.