



INFORMATION REPORT

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: June 6, 2012	
SUBJECT/REPORT NO: Provincial Offences Administration (POA) 2011 Annual Report (FCS12041) (City Wide)	
SUBMITTED BY: Roberto Rossini, General Manager Finance & Corporate Services	PREPARED BY: Wendy Mason X5718
SIGNATURE:	

Council Direction:

n/a

Information:

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

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, first attendance/early resolution
- Staffing profile
- Write-offs and outstanding accounts receivables
- Success of internal and external collections

The highlights in this year's report include:

- 2011 revenues exceeded year end projection and charges filed remained consistent with 2010
- Follow-up on workload challenges due to number of charges filed. Charges filed in the first quarter of 2012 are compared to 2011 and 2010.
- Judicial resources and the impact on POA court sittings. Judicial resources were sufficient for 2011. Hamilton POA maybe looking at the need for additional courts in 2012/2013 due to new process effective March 31, 2012. The need for additional Justice of the Peace resources in 2013 may be necessary to meet the anticipated demand for Early Resolution and expected retirements of Justices of the Peace.
- Technology advances in relation to data entry of charges filed into the ICON system. Scanned Images of the Certificates of Offence are emailed to the third party vendor which allows for a faster turnaround and keeps all hard copies in the court office.



Hamilton

ANNUAL REPORT
PROVINCIAL OFFENCES OFFICE
CITY OF HAMILTON
2011



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. Options available to the defendant changed effective March 31, 2012 with the passing of new legislation which offers the defendant the ability to meet with a prosecutor with the goal of an early resolution. 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 prosecutor for an Early Resolution Meeting
- 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 Early Resolution

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 an Early Resolution meeting with a prosecutor. The hearing is 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. Early Resolution came into effect on March 31, 2012.

Statistics from an Early Resolution Pilot Project conducted by Durham POA indicates that we can anticipate as much as 80% of all Part Ones filed to result in a request for an Early Resolution meeting. If this proves to be the case in Hamilton, additional court times will be required for Early Resolution meetings and resolutions to be heard by the Judiciary. The other anticipated result of this option is an expected reduction in the number of matters going to trial. Statistics will be kept in 2012 and a follow-up reported in the next POA Annual Report.

Tickets and Revenue

In 2011 27.3% 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 2011 Hamilton Police filed 434 Part I certificates of offence beyond the seven day period, an increase of 1% over 2010. The OPP filed 83 Part I certificates of offence which were beyond the seven day filing period, a reduction of 9.8% over 2010. 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. Increased charges filed and additional court sitting time will result in increased expenses for the POA.

OVERVIEW OF PROVINCIAL OFFENCES 2011

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 Division. The administrative side of the operation consists of employees in the following work categories:

Court Administration Clerks –increased to Ten as of Nov. 2011

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 ten permanent Court Administration Clerks. The ratio of tickets issued per Court Administration Clerk for 2011 is 1 court admin to 8,698 tickets. The suggested ratio at time of transfer was one court administration clerk to 5,000 – 6,000 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 \$2,874,044 in revenue generated in 2011. The external collection agency has collected a total of \$828,829. 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

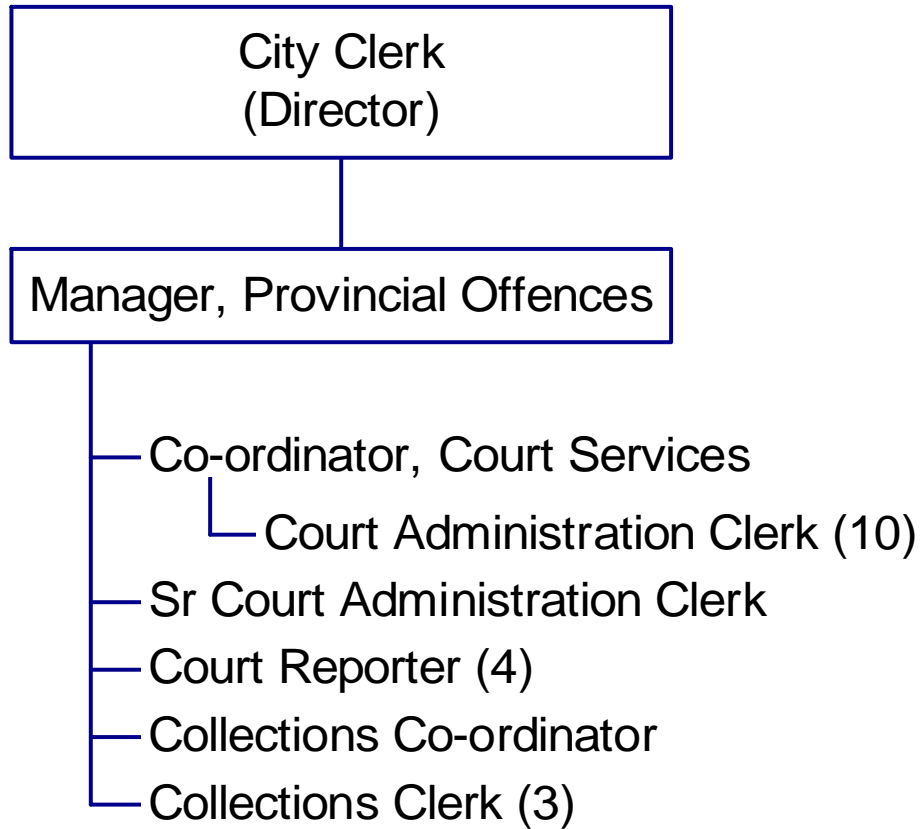
The Manager of Provincial Offences is responsible for the POA operation, is the main contact for the Ministry of the Attorney General for POA matters involving change to legislation, required reporting as per the Memorandum of Understanding, financial administration, etc. The Manager is a member of the 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 – Five
Supervisor of Prosecutions – One
Lawyer – One
Prosecution assistants – two

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



Total POA Office FTEs = 21

FOUR YEAR COMPARISON OF CHARGES FILED

	2008	2009	2010	2011
January	5524	4361	6094	6253
February	5132	5328	5746	7239
March	5071	7324	8481	9204
1st Qtr Totals:	15727	17013	20321	22696
April	6215	7004	8808	8241
May	5027	6243	7437	7945
June	5297	6486	7819	7193
2nd Qtr Totals:	16539	19733	24064	23379
Year-to-date Totals:	32266	36746	44385	46075
July	5360	5910	7144	7566
August	5343	5648	7692	8287
September	5735	6861	7757	6664
3rd Qtr Totals:	16438	18419	22593	22517
Year-to-Date Totals:	48704	55165	66978	68592
October	6247	7247	7571	6685
November	4436	6337	7355	6767
December	3524	4641	5256	4934
4th Qtr Totals:	14207	18225	20182	18386
Total	62911	73390	87160	86978

Revenue

POA revenues generated in 2011 exceeded budget of \$6.5 million and POA revenues generated in 2010. The spreadsheet below provides details of the revenue generated through POA for other City departments and POA for 2008 through 2011.

<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	1,045,849	6,345,178
2010	9,158,571	2,563,272	6,595,299
2011	9,043,352	2,337,940	6,705,412

Prepaid Fines

In 2011, 56.5% 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 27% and external collection agencies were responsible 8% of the total POA revenues generated in 2011. Internal collections totalled \$2,874,044 and the external collection agency collected \$828,829.

<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
2011	9,043,352	3,858,816	5,184,536

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

Court administration expenses increased in 2011 with the decision to transfer expenses totalling \$623,450 previously charged to the Legal Division’s budget to the Provincial Offences budget. Additional court time and the purchase of a scanner to assist in the data entry by the third party vendor also contributed to the increase in expenses in 2011.

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. The Proposed Write-Off Report of Outstanding Fines for Provincial Offences in 2012 is scheduled to be reported to the September 10, 2012 Audit, Finance and Administration Committee. Outstanding accounts receivables as of December 31, 2011 are \$51,377,580. The outstanding accounts receivables for 2010 totalled \$48,335,804. Accounts Receivables for POA sites across the Province continue to grow and this issue was addressed in the Commission on the Reform of Ontario’s Public Services, Recommendation 18 – 10, 18-11, 18 – 12 and 18 – 13 inserted below:

Recommendation 18-10: The Ministry of Finance should take the lead by providing assistance to municipalities in developing policy for the collection of unpaid Provincial Offences Act fines in the province.

Recommendation 18-11: Use licence and registration suspensions as a tool to facilitate the collection of Provincial Offences Act fines related to vehicles, including parking, speeding and automobile insurance violations.

Recommendation 18-12: Allow fines to be added via the property tax roll by adding Provincial Offences Act fines to the offender’s property tax bill, even if the property is jointly owned.

Recommendation 18-13: Offset tax refunds against unpaid Provincial Offences Act fines.

<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
2011	Available for Sept. report	Available for Sept. report	51,377,580

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 61 days in 2011, an increase from 30 days in 2010. A review of the court master plan permitted an increase in the number of days courtroom 326 is utilized. Permission for 2012 allowed for the additional usage of court room 326 for Early Resolution hearings for an additional two days per week. This helped to reduce 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. Judicial resources and courtroom availability are always on the radar of court administration and prosecution to ensure we have an appropriate balance of available court time to the number of charges where a First Attendance meeting or a trial are requested.

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 twelve years since transfer of responsibility of POA from the Province to the Municipalities. Transcripts revenue generated in 2011 (which is recorded as part of the POA revenue) totalled \$11,069.25.

Highlights/Challenges

Judicial Resources

A judicial appointment was made in July of 2011 in Central West Region that helped to reduce re-assignment of Hamilton Justices of the Peace to other cities. Judicial Resources have been sufficient in 2011 to keep all POA courts running. With the onset of Early Resolution in 2012, and the possibility of Judicial retirements in 2013, POA management from court administration and prosecution are hopeful that Justice of the Peace appointments will occur in a timely fashion to ensure no disruption to the court master plan. If required, staff may write a future report to Council to consider petitioning the Ministry of the Attorney General for a judicial appointment for the City of Hamilton.

Time to Trial

Charges filed where a trial is requested are being scheduled into 2013 as of early 2012. Increasing charges with no additional courtroom assignments will push the time to trial out even further. The Local Administrative Justice of the Peace has reviewed 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 remained constant in 2011 compared to 2010. The third courtroom was utilized for 61 days in 2011 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. \$150,255.00 was recovered from defendants in 2011.

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 realizing the sensitivities required and consequences to individuals respecting fines, etc.. Staff must administer according to all rules, regulations, policies and legislation. POA staff are addressing a much higher volume of clients with the increase in charges filed (25,000) in the past three years. The first quarter of 2012 is showing a large number of charges filed compared to the same period in 2011 and 2010. See chart below for statistics.

FIRST QUARTER CHARGES FILED

<u>2010</u>	<u>2011</u>	<u>2012</u>
20,321	22,696	25,233
	increase of 2375	increase of 2537

Technology Advances in POA

The Provincial Offences Administration team have successful launched the use of a scanner used to forward images of all Part 1 certificates of offence and red light camera charges to the third party vendor for data entry. A bar code has been added to all Part 1 certificates to assist the scanner in reading the offence number. These images are emailed to the vendor on a daily basis for keying into the ICON system.

Turnaround is guaranteed within 72 hours which is of great benefit for staff when applying payments to a case, scheduling first attendance/early resolution meetings and trials. The scanner has eliminated the need for a courier to pick up and return delivery of copies of the tickets for data entry, and saves two business days for the process to occur.