



# INFORMATION REPORT

<b>TO:</b> Chair and Members Audit, Finance and Administration Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> September 9, 2013	
<b>SUBJECT/REPORT NO:</b> POA 2012 Annual Report (FCS13051) (City Wide)	
<b>SUBMITTED BY:</b> Mike Zegarac Acting General Manager Finance & Corporate Services	<b>PREPARED BY:</b> Wendy Mason, 905 546-2424 x5718
<b>SIGNATURE:</b>	

**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, Collections 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, early resolution
- Staffing profile
- Write-offs and outstanding accounts receivables
- Success of internal and external collections

**The highlights in this year's report include:**

- 2012 revenues exceeded year end projection.
- Charges filed increased by 12% over 2011.
- Follow-up on workload challenges for court administration due to number of charges filed.
- New to POA in 2012 – telephone payments
- New to POA in 2012 – Early Resolution and the impact on POA



Hamilton

**ANNUAL REPORT**  
**PROVINCIAL OFFENCES OFFICE**  
**CITY OF HAMILTON**  
**2012**



## **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; 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. One has trials in three court tiers each day at 9:00, 10:30 and 1:30 and the other has trials at both morning tiers, and first appearances at 1:30. A third courtroom is utilized for Early Resolution two days a week for three court tiers up to sixty days a year. The third courtroom is also used for lengthy trials when judicial resources and courtroom availability permit. Trial requests have reduced with the onset of the early resolution process, but not as significantly as anticipated. The trial request rate is currently 7.7% of all part ones filed in 2012 and the rate was 11% in 2011.

Approximately 11.7% of all part ones filed result in a request for an Early Resolution meeting with a prosecutor. These meetings are in person, and if you reside more than 75 kilometers from the court address, you can request an electronic meeting via telephone.

Fail to Respond

In 2012, 25% 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.

Increasing Expenses

The quarterly statement 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.

<b>POA Court Administration Costs</b>			
	<b>Gross Revenues</b>	<b>Gross Expenses</b>	<b>Net</b>
<b>2008</b>	<b>6,905,634</b>	<b>3,136,193</b>	<b>3,769,441</b>
<b>2009</b>	<b>7,391,027</b>	<b>3,146,165</b>	<b>4,244,862</b>
<b>2010</b>	<b>9,158,571</b>	<b>3,194,066</b>	<b>5,964,505</b>
<b>2011</b>	<b>9,043,352</b>	<b>3,196,422</b>	<b>5,845,372</b>
<b>2012</b>	<b>10,577,679</b>	<b>3,221,214</b>	<b>7,356,465</b>

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

Provincial Offences expenses increased in 2012 with the additional usage of our third part-time courtroom expanded use for the early resolution process and the Judicial costs which accompany courtroom usage and the hiring of additional court administration and prosecution staff.

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, 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.

## OVERVIEW OF PROVINCIAL OFFENCES 2012

### PROFILE

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

Court Administration Clerks –Ten  
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 2012 is 1 court admin to 9,749 tickets. This is an increase of almost 1,000 tickets per court administration clerk over 2011. 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 \$3,400,000 in revenue generated in 2012. The external collection agency has collected a total of \$953,621. 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

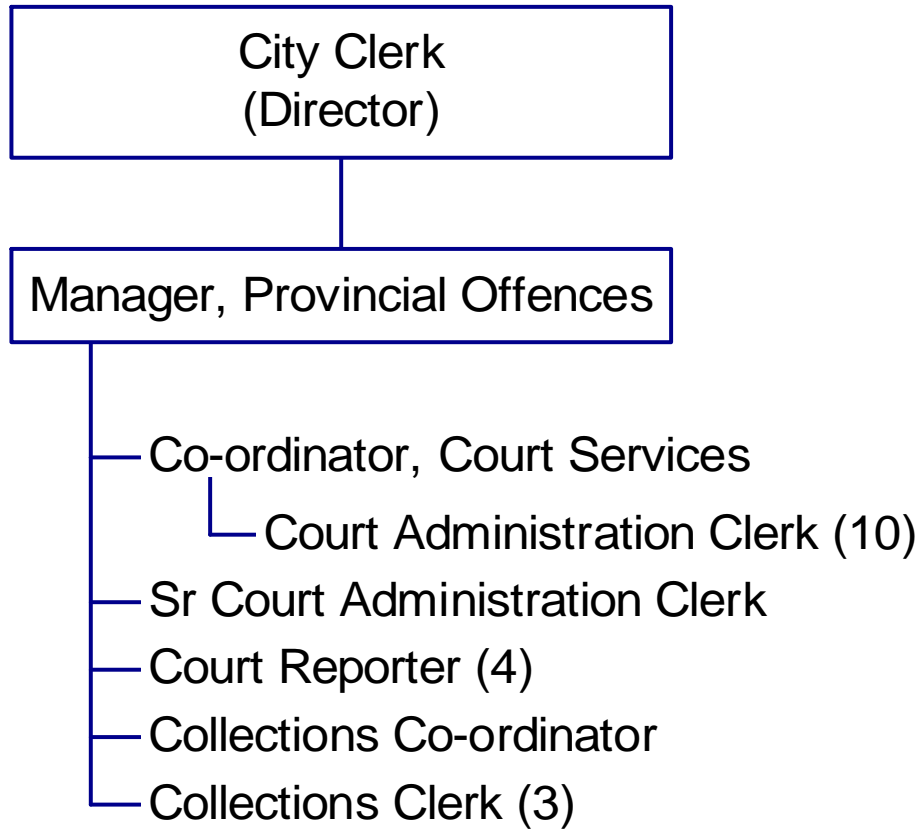
The Manager of Provincial Offences is responsible for the POA operation, is the main contact for the Ministry of the Attorney General for POA matters involving change to legislation, required reporting as per the Memorandum of Understanding, financial administration, etc. The Manager is a member of the 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**





**FIVE YEAR COMPARISON OF CHARGES FILED**

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>January</b>	5524	4361	6094	6253	7866
<b>February</b>	5132	5328	5746	7239	8335
<b>March</b>	5071	7324	8481	9204	9031
<b>1st Qtr Totals:</b>	15727	17013	20321	22696	25232
<b>April</b>	6215	7004	8808	8241	8377
<b>May</b>	5027	6243	7437	7945	9427
<b>June</b>	5297	6486	7819	7193	7764
<b>2nd Qtr Totals:</b>	16539	19733	24064	23379	25568
<b>Year-to-date Totals:</b>	32266	36746	44385	46075	50800
<b>July</b>	5360	5910	7144	7566	8593
<b>August</b>	5343	5648	7692	8287	8722
<b>September</b>	5735	6861	7757	6664	7999
<b>3rd Qtr Totals:</b>	16438	18419	22593	22517	25314
<b>Year-to-Date Totals:</b>	48704	55165	66978	68592	76114
<b>October</b>	6247	7247	7571	6685	8288
<b>November</b>	4436	6337	7355	6767	7458
<b>December</b>	3524	4641	5256	4934	5614
<b>4th Qtr Totals:</b>	14207	18225	20182	18386	21360
<b>Total</b>	<b>62911</b>	<b>73390</b>	<b>87160</b>	<b>86978</b>	<b>97474</b>

**An increase of 10,496 charges in 2012 over 2011.**

**POA is administering to 34,563 more charges in 2012 than in 2008.**

**Revenue**

POA revenue generated in 2012 exceeded the budget of \$7.1 million and POA revenues generated in 2011. \$484,143.00 of net POA revenue was generated from very large fine payments over \$10,000.00 each. The spreadsheet below provides details of the revenue generated through POA for other City departments and POA for 2008 through 2012.

<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
2012	10,659,753	3,010,924	7,648,869

**Prepaid Fines**

In 2012, 58% 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, 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 were processing an average of 250 phone payments monthly.

**Internal Collections**

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

Internal collections were responsible for collecting \$3,434,183 and the external collection agency collected \$953,621 in 2012.

**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. \$156,640.00 was recovered from defendants in 2012.

**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 2013 is scheduled to be reported to the September 9, 2013 Audit, Finance and Administration Committee. Outstanding accounts receivables as of December 31, 2012 are \$51,813,277. The outstanding accounts receivables for 2011 totalled \$51,377,580. 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.

<b><u>WRITE-OFF HISTORY</u></b>			
	<b><u>Files</u></b>	<b><u>Dollars</u></b>	<b><u>Outstanding Accounts Receivable</u></b>
<b>2008</b>	<b>12,266 (includes parking)</b>	<b>1,468,950</b>	<b>42,019,788</b>
<b>2009</b>	<b>1,725 (no parking)</b>	<b>564,740</b>	<b>43,876,452</b>
<b>2010</b>	<b>3,028 (no parking)</b>	<b>976,875</b>	<b>48,335,804</b>
<b>2011</b>	<b>3534</b>	<b>1,056,465</b>	<b>51,377,580</b>
<b>2012</b>	<b>2996</b>	<b>744,348.33</b>	<b>51,813,277</b>

### **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 early resolution and lengthy trial matters which are 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. This cost will increase to \$500.00 per day effective September 1, 2013.

Early resolution hearings began in June of 2012 in courtroom 326. Judicial Resources did not permit for these hearings to occur during the months of July and August. This process will help 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 and early resolution requests. 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 an early resolution meeting or a trial has been 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 digital court recorded proceedings. The Hamilton Provincial Offences office has not missed a deadline for preparation of a transcript in the thirteen years since transfer of responsibility of POA from the Province to the Municipalities. Transcripts revenue generated in 2012 (which is recorded as part of the POA revenue) totalled \$15,867.91.

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**Highlights/Challenges**

**Judicial Resources**

The Hamilton court system saw the retirement of one of our long time Justices of the Peace, Mr. Stevely on December 31, 2012. His Worship Woloschuk was assigned to Hamilton as his replacement. The judicial numbers for Hamilton remained in tact as a result. Hamilton POA has found that additional courtrooms and Justices of the Peace, court reporters, prosecutors and court administration staff may be required to manage the caseload increases we continue to experience. Time to trial is stretching out to unacceptable time frames and we are beginning to receive Charter Arguments as a result.

**Court Facility**

Court administration, prosecution and the Judiciary feel that it is critical for POA to be able to expand into additional courtrooms as soon as possible. There are no additional courtrooms for POA to lease within the John Sopinka Courthouse. Our lease that expires on August 31, 2017 will not be renewed. We are in the process of determining where POA will move to as a result. Court administration is working closely with the Local Administrative Justice of the Peace to review the court master plan for any efficiency that would assist with trial and early resolution scheduling and time to trial.

**Time to Trial and Early Resolution**

Charges filed where a trial is requested are being scheduled into 2014 as of early 2013. Increasing charges with no additional courtroom assignments will push the time to trial out even further. The Local Administrative Justice of the Peace has provided an additional two court days in our third courtroom in 2012. Trial requests have reduced by a small margin in 2012 compared to 2011 due to the launch of the option to request an early resolution meeting with a prosecutor in an attempt to resolve the matter without going to trial. The third courtroom was utilized for 51 days in 2012 for early resolution hearings and lengthy trials. POA is finding that early resolution is far more popular than first attendance was.

11% of all part ones filed pass through this process and the total number of requests for Early Resolution exceeded First Attendance by 6,000 requests in 2012 over 2011. The reduction in trial requests is minimal in comparison, so the workload for court administration staff has increased as a result of the Early Resolution process.

**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, ICON 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 over last year. Charges filed in 2012 increased by 10,496 over 2011 or by 12%. All charges generate phone and counter inquiries and activities such as fine payments, requests for Early Resolution or a Trial, requests for more time to pay, court appearances, re-openings and appeals. We are managing the additional workload through overtime in 2013 to permit analysis for possible request for increased staff through the budget process in 2014.