

Date: 2022-06-20

Subject: **AMPS EXPANSION AND PROVINCIAL OFFENCES COURT MODERNIZATION RECOMMENDATIONS**

Contact: **Diana Soos, Commissioner, Legislative Services**

Report Number: Legislative Services-2022-692

Recommendations:

1. **THAT** the report titled “Provincial Offences Court Update and Modernization Recommendations” to the Committee of Council meeting of June 22, 2022 be received;
2. **THAT** staff be directed to proceed with planning for the implementation of the amendments to the *Highway Traffic Act* that take effect on July 1, 2022, which permit the City to move camera based offences (such as Red Light Camera and Automated Speed Enforcement) out of the provincial offences court system and into the City’s Administrative Monetary Penalties system (AMPs) and report back to Council;
3. **THAT** staff be directed to negotiate with the Ministry of the Attorney General with respect to the transfer of Part III Offences currently being prosecuted by the Ministry of the Attorney General to the City’s Prosecutor and report back to Council for final approval;
4. **THAT** Council approve one (1) permanent full-time Supervisor of Courts Administration, to oversee the expansion of the City’s AMP system (including the transfer of camera based offences to AMPs) and the overall modernization of our Court Administration processes for a total annual budget of approximately \$118,000, with the costs of this position to be fully offset by revenues and cost efficiencies generated through the ramping up of the AMP system;
5. **THAT** the costs and revenues associated with a permanent, full-time Supervisor of Courts Administration be included in the 2023 operating budget submission, with a net zero impact to the tax base, subject to Council approval.

Overview:

- 1. A lack of judicial resources and COVID related court closures has resulted in a backlog of charges that are pending within the POA Court System.**
- 2. Expanding the Administrative Monetary Penalties system (AMPs) to include violations captured through cameras and those related to property standards will help reduce demand on the POA Court System.**
- 3. Additional downloads of responsibility for Part III POA offences from the Province to City Prosecutors will give the City more control over the court scheduling and will result in the more efficient use of available judicial resources.**
- 4. Increasing the scope and number of offences that fall within the AMPs program creates a need for an additional Supervisor that will be able to focus on the expanded AMPs operation, as well as steps need to modernize the POA process.**

Background:

The City of Brampton operates the highest volume Provincial Offence Act Court (POA Court) within the GTHA outside of the City of Toronto and York Region.

Staff previously reported to Council in 2019 regarding the operations of the City's POA Court relating to a shortage of Justices of the Peace that has had the effect of causing numerous court closures (the “**2019 Report**” - see **Appendix 1**). That Report noted the following:

More specifically, while the current complement of Justices of the Peace allocated to serve the Central West Region is 52, there are currently only 40 Justices of the Peace actually available to preside within the Region, representing a 30% reduction in the number of available Justices of the Peace. It is expected that the number of judicial vacancies will increase and reach a critical point in 2020 with anticipated judicial retirements.

Court Closures

The issues caused by the current and anticipated shortage of Justice of the Peace have recently manifested as a marked increase in the number of court closures currently scheduled for 2020. More specifically, as of the date of this report there are currently 95 total and partial court days closed in 2020

representing a total of 355 courtrooms that currently have no Justices of the Peace available to preside.

Table 2 - Courtroom Closures – Brampton POA Court:

| | 2017 | 2018 | 2019 | 2020* |
|---------------------------|------|------|------|-------|
| Courtroom Closures | 125 | 139 | 177 | 355 |

*Number of Trial Courtrooms closed in 2020 as of October 1, 2019.

As reflected in the above table, in 2017/2018 the average number of courtroom closures was 132 per year. **Courtroom closures increased by 34% in 2019 and current 2020 courtroom closures represent an increase in closures of 169% as compared to the 2017/2018 average.**

The lack of resources and court closures noted in 2019 resulted in a backlog of charges that were pending within the POA Court System even at that time. This backlog has only increased further due to the combined effect of a lack of judicial resources and COVID closures.

COVID Closure Timelines

The following table presents a summary of the closure and resumption of the POA Courts as a result of COVID restrictions.

| Date | Details |
|----------------|--|
| March 16, 2020 | Court closed |
| July 2020 | Early Resolutions by phone commenced |
| October 2020 | Municipal first appearances by phone commenced |
| June 2021 | Virtual trial (non-municipal) commenced |
| January 2022 | Virtual trial municipal commenced |

The ability to commence appeals was suspended until September 2021, however, hearings for appeals commenced pre-COVID were held in summer 2021 to address the backlog.

In May 2022 POA Courts across the Province began operating on a hybrid model, which permits individuals charged to elect whether to appear in person or virtually. Notwithstanding this, there continues to be pressures reducing the efficiency of the provincial offence court system, including the ongoing lack of judicial resources and court closures, as well as a reduced number of matters that can be dealt with per court date due to additional time required per matter that is dealt with virtually rather than in person.

More specifically, the City's POA Court continues to suffer from a lack of Judicial Resources, as evidenced by the even higher number of court closures in 2021 and 2022 as compared to those outlined in the 2019 Report (see Appendix 1):

| | 2021 | 2022* |
|---|------|-------|
| Courtroom closures - These numbers represent actual closures, include those raising the reduction in daily courts from 4 to 3. | 484 | 534 |

*Total 2022 court closures are expected to be higher, as there are more daily court closures expected before the year is completed.

In addition, the 2023 Court Schedule that was provided to the City has also seen significant reduction in court time, with 78 complete courtroom day closures (or 312 courtrooms) already noted and with more closures anticipated due to judicial vacation schedules and other factors that typically result in closures (such as illness, etc.).

Current Situation:

Given the ongoing pressures affecting the operations of the City's POA Court, staff have been working to identify means of increasing the efficiency of its operations without the need to rely on additional judicial resources. To achieve this Staff are recommending the following:

1. Moving More Matters to Administrative Monetary Penalties, including Camera Based Offences

In 2019 the City expanded its Administrative Monetary Penalties program (AMPs) by enacting Administrative Penalties (Non-Parking) By-law 218-2019 to create an avenue for municipal by-law offences to be taken out of the POA Court system and into the more efficient and effective AMPs program. The AMPs program is not dependent upon judicial resources and is instead operated through Screening and Hearing Officers appointed by the City. Using AMPs instead of the POA Court also permits judicial resources to be used for more serious offences.

In a separate report Staff have proposed the enactment of a new Property Standards By-law, as well as the introduction of Property Standards offences to the City's AMPs program. This will greatly improve the efficiency of our Property Standards Officers to address community complaints regarding such matters, but will also benefit the City by reducing the number of offences within the POA Court system and preserve judicial resources to address the most serious municipal offences.

In addition, in this report Staff are seeking direction to proceed with the planning and preliminary steps required to move camera based offences, such as Red Light Camera (RLC) charges, Automated Speed Enforcement (ASE) charges, and soon School Bus Arm Camera offences to the City's AMP program. In 2021 there were 11,020 RLC and 40,278 ASE charges that were processed through the City's Court Administration Division. Currently the City estimated that approximately 50% of these offences are disputed. In 2021 approximately 2,933 and 4,774 respectively were addressed through

the POA Court system by early resolution and/or trial, with more pending and unaddressed due to the lack of judicial resources and court closures.

More specifically, effective July 1, 2022 under the *Highway Traffic Act*, municipalities will have the ability to issue a penalty order, under the administrative monetary penalties process, for camera offences and take penalty orders out of the POA Court system.

There are a number of things staff must consider and investigate to achieve this change, including working with the Joint Processing Centre, operated by the City of Toronto, to change POA infractions to Penalty Orders, ensuring the necessary technology is in place, as well as preparing and enacting municipal by-laws to introduce these camera based offences to the AMPs program.

Staff are recommending moving swiftly to transfer camera based offences to AMPs as it is a much more efficient way of managing these offences and by moving them outside of the POA Courts it permits judicial resources to be used to prosecute more serious offences.

2. Accepting a further download of Part III POA Offences to Municipal Prosecutors

In 1998 the Province amended the *Provincial Offences Act* to permit certain offences that were currently prosecuted by Ministry of the Attorney General (MAG) Prosecutors to be downloaded to the municipalities and prosecuted by City Prosecutors. In 2017 further amendments were made to the POA to permit police-laid Part III matters to be transferred to municipalities. Since that time there have been discussions with MAG regarding this further Provincial download, but without much significant movement. A download of these offences to City Prosecutors will allow the City to have greater control over the court schedule and will result in the more efficient use of available judicial resources. Therefore, Staff are seeking Council's direction to pursue the download from the Province and return to Council for final approval once a proposed agreement is reached.

3. Additional Supervisor of Court Administration

Staff are also recommending that Council approve the addition of a Supervisor of Court Administration that will focus on operating the City's Administrative Monetary Penalties System, as well as the overall modernization of the Court Administration process (including the POA Court process). We currently operate with two Supervisors, one focused on back-office court process and the other focused on in-court operations.

Staff feel that increasing the scope and number of offences that fall within the AMPs program creates a need for an additional Supervisor that will be able to focus on the AMPs operation, including the implementation plan to bring camera based offences within the program. In addition, there is a need to assess ways and means to improve the overall efficiency of the POA Court process which is something that an additional Supervisor would be tasked with undertaking.

It is anticipated that the efficiencies created by the introduction of Property Standards and camera based offences (such as ASE) to AMPs will increase the number of such charges that are laid, which would fully offset the cost of the additional Supervisor.

Corporate Implications:

Financial Implications:

This initiative will require one full-time, permanent Supervisor of Court Administration at a cost of approximately \$118,000 annually (inclusive of benefits and WSIB). The financial impact will be incorporated in the 2023 budget submission through a compensation adjustment and revenue adjustment, pending Council approval.

It is anticipated that the increased efficiencies created by the recommendations in this report will result in corresponding increase in offence related revenue (including both POA and AMP revenue) that will offset the direct labour costs associated with the request for one (1) additional Supervisor of Court Administration.

Term of Council Priorities:

This report achieves the priority of a Well-Run City.

Conclusion:

Modernization opportunities exist to increase the efficiency and effectiveness of the Provincial Offences Court program. Moving camera based offences, both Red Light and Speed Enforcement cameras, to the City's administrative monetary penalties will free up POA Court time that will be used for more serious matters. Additionally, successfully negotiating with the Province to transfer Part III Offences to the City will enable improved management and usage of judicial and court resources. An additional Supervisor of Courts Administration will be required to support both the expanded AMPs program and overall Court Administration processes.

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Attachments:

Appendix 1 –

Committee of Council Report dated October 25, 2019 re: Provincial
Offence Court Shortage of Judicial Resources