
MEMORANDUM

JBM-C 15-2021

Subject: Court Services COVID-19 Update

Date: December 2, 2021

To: Joint Board of Management

From: Miranda Vink, Manager, Court Services

The purpose of this memorandum is to provide the Joint Board of Management (JBM) with an update regarding the operational impacts of the COVID-19 pandemic and associated declaration of emergency on Court Services. This memorandum is a follow up to JBM-C 9-2021 from August 19, 2021, JBM-C 5-2021 from April 8, 2021, JBM-C 1-2021 from January 28, 2021, JBM-C 14-2020 from December 17, 2020, as well as JBM-C 7-2020 from August 13, 2020.

Court Services has maintained ongoing contact with the Ministry of the Attorney General to keep apprised of Provincial developments affecting court operations and has issued a number of communications to JBM, Regional Council, and other stakeholders, including enforcement agencies, to provide updates regarding key changes. The Region's website has been updated regularly to ensure the public is informed of developments as they occur. The following provides an updated overview of activity that has taken place since the last report and a projection of expected service delivery moving forward.

Quick Facts:

- **Leaders in Court Services:** Niagara Court Services was the first Provincial Offences Courthouse in Ontario to launch Zoom Trial proceedings in April 2021; and as a result received inquiries from Provincial Offences Courthouses across Ontario, in Alberta and Nova Scotia to consult and support the launch of virtual trials in their provinces as well.
- **Virtual Court:** We had over 2500 individuals through our Zoom courtrooms from September 1 to October 31.
- **Customer Service:** We saw 1200 individuals come through the courthouse for in-person customer service from September 1 to October 31, along with 3500

incoming calls to POA in the same time period. This equates to 4700 customer interactions in a 2-month period

- **Trial Scheduling:** Currently scheduling Zoom trials into Q1 2022 for both Part I and Part III matters. As of November 1, 2021, the average time to trial for Part I matters is 547 days. In 2019, pre-pandemic, the average time to trial for Part I matters was 200 days. From September 15 to the end of 2021, there have been a number of court cancellations due to a lack of judicial resources compounding the COVID-19 backlog.
- **Early Resolution (ER):** As of November 1, 2021, Court Services has an 86% resolution rate for matters proceeding to ER, resulting in 14% of those matters being set for trial. The trial request rate coming out of ER has continued to gradually decline over the last several months, however overall it is the highest rate Court Services has experienced since ER started in 2012 (between 2013-2019, the average percentage of matters set for trial following ER was 9%).
- **COVID-19 Related Charges:** Approximately >1330 cases related to the COVID-19 Pandemic (Reopening/Quarantine/Emergency Measures) have been received since March 2020.
- **Delinquent Fine Enforcement:** From April 19, 2021 (once enforcement activities for delinquent fines were permitted to resume), to November 10, 2021, 3392 cases were suspended, with a total balance outstanding of \$3.86 Million. During these same months, we received payment in full for 978 (29%) of the cases totaling over \$797,025 (24%).

Highlights of Operational Changes to Court Services:

- The courthouse is open to the public to provide in-person customer service; however the continued direction from the Ministry of the Attorney General (MAG) is for all in-person Provincial Offences matters remain adjourned. Key components to resuming in-person matters at Niagara POA will be a) site readiness and b) availability of judicial resources.
- MAG have emphasized that virtual matters via audio and video will continue be the primary mechanism, with in-person matters occurring only when mandatory.
- In terms of site readiness, Court Services successfully completed the site assessment by the Public Services Health & Safety Association (PSHSA) on January 28, 2021. The sole site readiness component currently outstanding relates to daily HVAC reporting requirements based on further information provided by MAG in October 2021. Court Services is actively working in collaboration with Facilities Management, the Ministry and the Recovery

Secretariat to execute next steps with regard to HVAC reporting. Once this is resolved, final approval to resume in-person matters will then be confirmed with the Niagara Region's CAO, in accordance with Provincial requirements.

- Effective April 12, 2021, Niagara Provincial Offences commenced virtual Part I Trials via Zoom video. Virtual Part III Trials also successfully launched via Zoom in September 2021. Training and reference documents were prepared and provided to Court Services staff, judiciary, enforcement agencies, paralegal agent groups and external prosecutors to assist with preparation for Zoom trials.
- Staff continue to provide judicial pre-trial matters and early resolution guilty pleas remotely where eligible, before a Justice of the Peace via audio conference (commenced July 6, 2020) and continue to conduct all eligible non-trial matters remotely via audio conference (resumed as of October 19, 2020).
- Judiciary are participating in court matters remotely in the majority of cases, however some members of the judiciary are participating in court matters onsite.
- There has been an increased demand for customer service resources. Comparing January 1 to October 31, 2019, with the same time period in 2021, call volumes have increased by 44% and duration has increased by 29% compared to pre-COVID 2019 statistics, due to in-person restrictions and the increased complexity of the inquiries and support needed. Although in-person customer service has decreased by 63%, the average visitor transaction time for those who do visit the courthouse has increased by 34% as a result of the increased service complexity.
- The extension of time provided regarding limitation periods and the pause on enforcement pursuant to Provincial and Judicial Orders ended on February 26, 2021. This extension had implications for what would have been Infraction and Delinquent revenue realized in 2020. With enforcement methods having resumed, this revenue has begun to be realized in 2021 and add to the overall 2021 gross revenue figures. As a Collections mechanism, drivers' license suspensions also resumed April 19, 2021, for the first time since March 2020.
- Judicial resourcing challenges have been a significant factor in Court Services' ability to address backlog due to the pandemic as it limits the number of matters which can be seen by the courts based on court closures or adjournments. An extended wait time for trials results a longer timeline between the charges being laid and an outcome realized. In 2019, pre-pandemic, the average time to trial for Part I matters was 200 days. As of November 1, 2021, the average time to trial for Part I matters is 547 days.

- All 3 courtrooms are equipped to proceed with virtual trials with the necessary Zoom licences and installation of document cameras and graphics processors completed to support the display of exhibits.
- To support access to justice in the new world of virtual court, Court Services established agreements with the Welland and St. Catharines Public Libraries to offer computer access and private space to participate in virtual court matters as needed. Staff also procured an iPad and docking station to create a Zoom Access Hub onsite in the courthouse lobby for individuals to use where they do not have access to internet or Zoom-compatible devices.
- Court Services has received approximately >1330 cases related to the pandemic, under a variety of different acts and municipal bylaws. Many of these charges are dedicated fines, which do not result in revenue for Court Services but do represent increased workload for prosecutors (e.g. high volume of disclosure) and pressures on court time. Court Services is presently working to establish solutions to mitigate these current challenges.
- MAG is continuing to plan for a phased approach to the transfer of Part III prosecutions and the timing of individual transfers across the Province will be informed by local site readiness and capacity to assume this important responsibility.
- Implementation of Vision Zero Project (Red Light Camera and Automated Speed Enforcement) has been delayed and is now targeted to commence in 2021 subject to the approval of the necessary amendment to the Inter-municipal Agreement.

Staffing

- A hybrid of in-office and remote work arrangements for Staff has been facilitated where possible.
- Unanticipated staffing pressures related to COVID-19 are currently impacting the Court Services Team, including the use of Court Services employees to complete MAG mandated visitor screening at the courthouse entrance during business hours. A temporary Screener role was added to the staffing complement as a result of this pressure; the cost of which has been offset by Provincial pandemic relief funding.
- In addition, it became quickly apparent that a 2nd staff member is required to assist in the courtroom during Zoom matters. While the Court Room Clerk conducts the court matters and completes the courtroom monitor functions, a 2nd person is required to act as the meeting host in Zoom. The host works to

coordinate the participants, manage the decorum and enable features such as setting up breakout rooms for defendants and their legal counsel to hold a private discussion. As such, a temporary Court Customer Service representative role has been added to Court Services for the remainder of 2021 to assist with mitigating some of these pressures, which was accommodated within the current budget.

- The prosecution of COVID-19 pandemic related charges is presenting some workload challenges due to the significant amount of disclosure and time commitments required for these cases; which are also less likely to result in early resolution given their nature. Court Services is exploring options for 2022 with regard to temporary prosecution staffing resources to assist with these challenges.

Operational Outlook

- December 2021 to March 2022:
 - Continued facilitation of hybrid service delivery: court matters via audio, and video; and in-person counter service.
 - Implement daily HVAC reporting per MAG requirements, confirm CAO approval for resumption of in-person matters, and submit related documentation to the Judiciary and Province to pursue resumption of in-person matters.
 - Preparation for Vision Zero launch subject to approval of the amendment to the Inter-municipal Agreement, including staffing recruitment and adaptation of processes as a result.

Respectfully submitted and signed by

Miranda Vink
Manager, Court Services