
MEMORANDUM

JBM-C 16-2021

Subject: Q3 Variance Analysis and Forecast to December 31, 2021

Date: December 2, 2021

To: Joint Board of Management, Niagara Courts

From: Miranda Vink, Manager, Court Services

As a result of a recent forecasting exercise undertaken, the following is a summary of the status of the 2021 Court Services budget as of September 30, 2021. The year-to-date variance analysis is attached as Appendix 1 to Memorandum JBM-C 16-2021.

Similar to Q2, the expenses and revenue look different than initially projected for 2021. In addition to the budget impacts related to the COVID-19 pandemic, the 2021 budget included expenditures and revenues related to the Vision Zero Road Safety program, which has been delayed pending completion of the required amendment to the Inter-Municipal agreement and is now targeted for launch in Q2 2022. Accordingly, no expenditures are expected to be incurred or revenues realized in 2021. To support the program, the 2021 operating budget included 12 additional FTEs for Court Services, in addition to significant increases in a number of operating expenses. These costs were fully offset in the budget by increased infraction revenue due to the anticipated increase in the volume of charges, so while the delayed implementation does cause variances in the different expense and revenue categories in the operating statements, there will be no net impact on the distribution to the local area municipalities as a result of the delay. Expense and revenue forecast projections for the remainder of 2021 have been adjusted to reflect this change. The second summary included within Appendix 1 and Appendix 2 to Memorandum JBM-C 16-2021, details the year-to-date variance analysis and forecast for the base program budget, excluding the impacts of the Vision Zero program.

Base program revenue from January 1 to September 30, 2021, is under budget year-to-date by 13.7% overall (excluding budgeted Vision Zero revenue). Due to the COVID-19 pandemic, the courthouse building was closed to the public during the Stay-At-Home Order from January 15, 2021, through February 16, 2021. In-person court matters have been adjourned since March 16, 2020, with no resumption date for in-person matters

presently set. There were limited matters that were eligible for remote proceedings at the start of 2021. Although remote Early Resolution guilty pleas, Judicial Pre-Trial, and all other non-trial matters resumed in 2020, the majority of Q1 2021 was spent without the ability to schedule new trials. However, as a result of significant efforts on the part of the Court Services team to meet Ministry of the Attorney General (“MAG”) guidelines, Niagara POA Court was the first in Ontario to commence virtual Part I trials as of April 12, 2021.

Another issue impacting infraction revenues collected is the rate of new charges laid. When comparing year-over-year, Q1 and Q2 saw a 5% increase in the charges laid compared to 2020; however, a significant decrease in Q3 of 17% has reduced the year-to-date comparison to an overall 3% decrease in charges laid compared to the same time period in 2020. As 2020 was an anomaly year due to the pandemic and 2019 saw a very large increase in charges, charging trends now appear similar to 2018, which was more of a typical year in terms of charging volumes.

Collections efforts have resumed, including the suspension of driver's licence, add to tax roll, use of third party collection agencies, and civil enforcement through Small Claims Court. However, Court Services was unable to action any newly delinquent charges until the pause on enforcement pursuant to Provincial and Judicial Orders ended on February 26, 2021. This had implications on what would have been Infraction and Delinquent revenue realized in 2020. However, with enforcement methods having resumed, this revenue has now begun to be realized in 2021 and will add to the overall 2021 gross revenue figures. Driver's license suspensions resumed April 19, 2021, and resulted in a number of payments for delinquent fines as well. The year-to-date delinquent fine revenue has gone from being under budget by 9% at Q2 to 3.5% at Q3.

Year-to-date base program operational expenditures, including indirect allocations but excluding budgeted Vision Zero expenses, are under budget overall by 14.7%, primarily due to the adjournment of trials from January 1 to April 11, 2021, in addition to the vacancy management of several positions for Q1 2021.

Considering the commencement of Part I virtual trials in April 2021, and with the approval to commence Part III Trials in September 2021, staff anticipates a rate of collection of infraction revenue in Q4 consistent with that of Q2 and Q3; however, all in-person court matters continue to be adjourned.

As of November 1, 2021, through Bill 177, the clerks of the court are now permitted to convict “Fail To Respond” (FTR) matters as well as approve applications of Extensions

of Time to Pay, which were previously duties of the Justice of the Peace. During the first two weeks of November, the Court Administration Team completed a blitz of FTR matters and were able to address six months of backlog as a result. The financial implications of addressing this backlog is undetermined, as these FTR matters result from individuals who do not respond to their tickets in the first place. There may not necessarily be an immediate direct revenue benefit as the intention to pay may not be present given the lack of response to the ticket in the first place. In fact, it may result in the need to expend additional efforts in the collection of delinquent fine revenue as a result. Similarly, Court Services is currently experiencing a 50% increase in applications for Extensions of Time to Pay due to the economic impact of the pandemic. While Court Services continues to operate to the extent possible despite the restrictions on in-person matters and with reduced judicial resources, it has been projected that both the revenue and expenses will be less than anticipated for 2021.

Appendix 2 to Memorandum JBM-C 16-2021, is a summary illustrating the forecast of Court Services' revenue and expenses to the end of 2021 based on circumstances at this time. Base program revenue has been forecasted with an unfavourable variance (excluding Vision Zero) of 11.7% overall, or a deficit of \$837,060 by year-end, in line with current revenue trends. Total operating expenditures are forecasted to show a favourable variance (excluding Vision Zero) of 14.6% or \$734,857 thousand. The net revenue is forecasted to be \$1,164,384, which would be \$580,692 distributed to the local area municipalities and \$580,692 allocated to the Region, an increase of \$7,561 each over the net revenue allocations forecasted at Q2. The final net revenue distribution share to the area municipalities will be dependent on the audited year-end results, but is forecasted to be unfavourable overall by \$99,482 to the local area municipalities and to the Niagara Region by the same amount as a result of the net reduction in infraction revenue.

Appendix 3 to Memorandum JBM-C 16-2021 is a spreadsheet illustrating the forecast of the Court Services distribution to the area municipalities to the end of 2021.

Appendix 4 to Memorandum JBM-C 16-2021 shows the estimated financial impacts of COVID-19 on the forecast for 2021. Based on the assumption that service levels and collection of revenue under regular operating circumstances would have remained consistent with that in 2019; staff have attributed to COVID-19 the cost of lost revenue as a result of court closures, adjournment of in-person trials and reduced charging volumes. In addition, incremental costs that would not have been incurred under regular operations, such as the cost of a screener position at the door to the courthouse, additional technology required for the introduction of virtual trials and additional

cleaning-related costs, have been reported as being attributable directly to COVID-19. Cost savings realized as a result of these same closures and adjournments have also been included within the COVID-19 impacts and are offsetting some of the cost of the lost revenue and incremental costs.

Respectfully submitted and signed by

Miranda Vink
Manager, Court Services

Appendices

Appendix 1 2021 Third Quarter Variance Analysis

Appendix 2 2021 Third Quarter Forecast to December 31, 2021

Appendix 3 2021 Third Quarter Forecasted Distribution to Area Municipalities

Appendix 4 2021 COVID-19 Financial Impacts Forecast