

Subject: Court Services 2025 Operating Budget

Report to: Joint Board of Management

Report date: Thursday, October 17, 2024

Recommendations

1. That the 2025 Court Services gross base operating budget of \$12,777,778 and net base revenue of \$218,342 (increase in net revenue of \$136,545 or 166.9% over the 2024 net operating budget) as outlined in Appendix 3 to Report JBM-C 7-2024, **BE APPROVED**;
2. That an increase of \$118,888 (or 245.4%) over the 2024 net operating budget **BE APPROVED** to support program changes for the transfer of Part III and Part IX prosecution and a digital evidence management system (DEMS); and
3. That the total 2025 Court Services gross operating budget of 12,896,666 and net revenue of \$99,454, as outlined in Appendix 3 to Report JBM-C 7-2024, **BE APPROVED** and **BE RECOMMENDED** to Niagara Region Council as part of the 2025 operating budget deliberations.

Key Facts

- The purpose of this report is to seek approval for the proposed 2025 operating budget as outlined in Appendix 3 to Report JBM-C 7-2024. The budget has been prepared in consideration with the budget requirements as outlined in the Niagara Region Courts Inter-Municipal agreement.
- Court Services staff administer a high volume of charges under the Highway Traffic Act, the Trespass to Property Act, the Liquor Licence and Control Act, municipal by-laws, other provincial and federal legislation including more serious matters such as charges under the Compulsory Automobile Insurance Act, the Environmental Protection Act, and the Fire Prevention and Protection Act.
- There are several external factors, not within the control of Court Services, that impact revenue. These external factors and trends are discussed throughout the report and have been considered when preparing the 2025 operating budget.

- The proposed 2025 budget includes business cases for two proposed program changes; the transfer of Part III and Part IX prosecutions, as well as the procurement of a Digital Evidence Management System, as outlined in Appendices 4 and 5 to Report JBM-C 7-2024.
- Should the Joint Board of Management (JBM) and Regional Council approve the Court Services 2025 operating budget including the program changes, the budgeted distribution of net revenue will total \$961,969 (\$99,454 from Base Operations and \$862,515 from Vision Zero (VZ) Operations) for the Local Area Municipalities (LAMs) and \$961,969 for the Region.

Financial Considerations

Court Services is budgeting a 2025 net operating revenue including program changes, before distribution to LAMs but after indirect allocations, of \$1,923,938, which after the 50% allocation to the LAMs, will result in \$961,969 net revenue to the Region. Of this net revenue, \$862,515 is driven by the Vision Zero operations and is allocated to the Region's Transportation division to reinvest into road safety programs as per the Amendment to the Inter-Municipal Agreement. The remaining budgeted net revenue of \$99,454 represents an overall increase in the net revenues of \$17,658 or 21.6% from 2024, as outlined in Appendix 3 to Report JBM-C 7-2024.

Appendix 3 to Report JBM-C 7-2024 provides a summary of the consolidated operating budget, while Appendices 1 and 2 to Report JBM-C 7-2024 segregate the base operations (non-Vision Zero) and the Vision Zero operations, respectively.

The VZ Road Safety Program was initially approved in 2020, subject to successful negotiations with the LAMs for an amendment to the Inter-Municipal Agreement with respect to the sharing of both program revenues and costs, that was completed in 2022. As a result, in 2022, the installation of certain automated traffic enforcement devices on specific Regional roads was approved to proceed. The VZ program is comprised of several traffic safety initiatives led by the Region's Transportation Services department including red light cameras (RLC) and automated speed enforcement (ASE) for which the related Highway Traffic Act charges and resulting fine revenue is processed through the Provincial Offences Court. The VZ program launched, with a phased-in approach, in September 2023 with the installation of ASE, followed by the installation of RLC in March 2024.

The 2024 VZ budget was prepared ahead of the launch of the program and therefore included many assumptions pertaining to anticipated operations. With the launch of

ASE in September 2023 and RLC in March 2024 the full impact of the programs on operations is not yet known. The 2025 VZ operating budget has been updated based on factors impacting 2024 actual results. It is anticipated that, as the program continues to expand and actual operating results are realized, future budgets will be updated to better reflect operations.

The 2025 operating budget assumes a full year (12 months) of operations of both ASE and RLC. Staff will continue to review the actual operating results of VZ throughout 2025 and will make any necessary adjustments to the 2026 and future year budgets based on actual results and trends experienced.

Analysis

The Court Services operation generates revenue and continues to be self-funded, and therefore is not reliant on the levy budget. Pursuant to the Inter-Municipal Agreement, as amended, net revenue is shared with 50% going to the Region and 50% going to the LAMs. For the purposes of budgeting, reporting, and distribution to LAMS, base and VZ operations are separately tracked.

In preparation of the 2025 operating budget, staff reviewed 2022 and 2023 actuals and 2024 year-to-date operating results, as well as the 5-year average and long-term trends. Staff considered these trends and factors when preparing the 2025 operating budget. Adjustments were made to the assumptions in the budget where historical trending indicated that changes may be required.

Base Operations

For base operations, the 2025 net operating revenue including program changes, before distribution to LAMs is \$198,908. After the 50% allocation to the LAMs, this will result in \$99,454 net revenue to the Region. The budgeted net revenue represents an overall increase in the net revenues of \$17,658 or 21.6% from 2024 as outlined in Appendix 1 to Report JBM-C 7-2024. Significant items driving the 2025 budget are outlined below.

Infraction Revenue

- Judicial resourcing challenges continue to impact the volume of matters that can be seen by the courts, based on court closures or adjournments.

- As of September 5, 2024, Court Services has experienced 2 court closures due to lack of judicial resources, impacting matters for 18 defendants. Although 2024 closures are lower than 2021 through 2023 rates, it is important to note that since 2021, closures have occurred at a greater rate during Q4 on an annual basis (therefore the total closures for 2024 are unknown at the time of writing this report). An extended wait time for trial results in a longer timeline between the charges laid and an outcome (infraction revenue) being realized.
- As a result of the judicial resourcing challenges, in addition to closures of scheduled court dates, Court Services' is currently operating only 1.5 of the three available courtrooms based on judicial resources available. There is no indication that additional judicial resources will be available in the first quarter or beyond in 2025.
- Charging volumes by enforcement agencies in 2022 were at historical all-time lows since the transfer of Provincial Offences Court operations in 2001. Base charging volumes continue to remain far below pre-2020 averages and there has been a 3% decrease in charging volumes experienced from January to August 2024 compared to the same period in 2023.
- In recognizing recent trends related to one-time large-value fine payments for infraction revenue, as well as conservative trending to 2023 revenue, the 2025 infraction revenue budget has been increased by \$504,000 or 19.4% for base operations.

Delinquent Revenue

- As of August 2024, the average number of monthly new base delinquent cases is 786 per month, which represents an 18% increase over 2023. Rates of delinquency still remain significantly higher than the monthly average of 592 from 2019 to 2021.
- Although the number of delinquent cases has remained higher the past 2 years, this does not necessarily correlate into a direct increase in delinquent fine revenue as Court Services operates on a cash basis and revenue is only recorded when it is collected/paid. The volume of delinquent cases is high, however Court Services' ability to collect upon these charges is decreasing due to economic factors.
- Court Services Collections staff continue to utilize all enforcement tools available including collection notices, driver's licence suspensions, plate denials, referral to

third party collection agencies and credit reporting, civil enforcement (Garnishments and Writs of Seizure and Sale), as well Add to Tax Roll, to collect the unpaid fines.

- Based on the factors noted above, base delinquent revenue is budgeted to increase \$50,000 over 2024 or 1.9% for base operations.

Expenses

While charging volumes are low, workload remains very high. In consulting with our peers across Ontario, we know that this is a common shared experience with other POA courthouses across the province. Workload impacts include:

- The September 2023 transfer of signing authority to the Clerk of the Court from the Justice of the Peace under Bill 177; the Clerk of the Court are now responsible for the processing and approval of reopenings. Further, Court Services has experienced a continued increased rate of reopening requests, despite an overall reduction in charging volumes:
 - 2024 January to August YTD – 911 reopenings
 - 2021-2023 – average 1020 reopenings annually
 - 2020 – 548 reopenings
 - 2019 – 768 reopenings
- Virtual and hybrid courts are more complex and require additional supports to run a virtual/hybrid courtroom.
- A higher rate of delinquency means more time dedicated to collection efforts, processing extensions of time to pay, investigating opportunities for writs, liens, and add to tax roll.

Program Changes

1. Transfer of Part III and Part IX Prosecution Matters

As part of the transfer of responsibility for the administration and prosecution of POA matters pursuant to an agreement with the Province in 2000, only the responsibility for the prosecution of Part I POA charges was transferred to the Region. The Province retained the prosecution of the Part III and Part IX charges; which are more serious charges with higher penalties.

In 2018 the Province enacted Bill 177: Stronger, Fairer Ontario (Budget Measures) Act, which permits the Province to enter into an agreement with Municipalities to

download responsibility for the prosecution of Part III POA charges. Pursuant to Bill 177, the Ministry of the Attorney General (MAG) is now seeking to transfer these matters from the Crown to municipalities on a voluntary basis, with the timing of individual transfers across the Province being informed by local site readiness and capacity.

A business case was brought forward for consideration as part of the 2024 budget process. At that time, staff had recommended not to proceed with the voluntary transfer. Conversations with the Crown Attorney's office have remained ongoing since that time. Staff are submitting a business case for the 2025 budget, recommending the transfer at this time, in light of the increased number of municipalities who have engaged in the voluntary transfer (and experienced operational benefits as a result) and the risks of the Province implementing a mid-year rate change related to Crown Prosecutions and/or mandating the transfer to municipalities.

The proposed transfer is a budgeted increase of \$217,990, of which 50% of the net expense is allocated to the LAMs through the distribution. Court Services is requesting an increase of two permanent full-time equivalent (FTE) employees.

Further details of the Transfer of Part III and Part IX Prosecution Matters can be found within the operating business case (#BC005), which has been attached as Appendix 4 to Report JBM-C 7-2024.

2. Digital Evidence Management System (DEMS)

The proposed program change is \$19,000 for the implementation of the Digital Evidence Management System, of which 50% of the net expense is allocated to the LAMs through the distribution. Court Services seeks to procure the DEMS technology to support the administration of the Provincial Offences Court program. Considering the substantial increase in digital evidence in recent years, obtaining a DEMS license for Court Services will allow prosecution to achieve significant efficiencies in meeting the legislative as well as technical requirements of digital evidence management, enhancing and modernizing the administration of Provincial Offences Court, and customer service. Using the same platform as our partners (NRPS, OPP) will also facilitate collaboration and create efficiencies in engagement with those enforcement agencies.

Further details of DEMS can be found within the operating business case (#BC075), which has been attached as Appendix 5 to Report JBM-C 7-2024.

Vision Zero

The total net revenue relating to the VZ operations is \$0 (2024 - \$0) as shown in Appendix 2 to Report JBM-C 7-2024. Net revenue from VZ operations of \$1,725,030 is distributed as \$862,515 to the LAMs and \$862,515 allocation between departments to the Region's Transportation division to reinvest into road safety programs as per the Amendment to the Inter-Municipal Agreement.

The 2025 VZ budget reflects the changes that have occurred, or that are anticipated to occur, based on limited realized operating results within the VZ program. Additionally, as per PW 11-2024, the increased capacity of the Joint Processing Centre is anticipated to result in an increase from 45,000 tickets (40,000 ASE and 5,000 RLC) to 65,000 tickets (60,000 ASE and 5,000 RLC) in 2025. Other significant items driving the 2025 budget are outlined below.

Infraction Revenue

The 2025 infraction revenue budget has been set at \$5,914,000 an increase of \$1,774,000 or 42.8% over the 2024 budget. The 2024 budget was established ahead of the launch of the VZ program and therefore included a significant number of assumptions built into revenue calculations including the estimated infraction revenue per ticket. Based on realized operations so far within the VZ program, the average revenue per ticket has been adjusted within the calculations included in the budget, resulting in an adjustment to budgeted infraction revenues within the program.

Delinquent Revenue

Court Services Collections staff began receiving Vision Zero delinquent cases in January 2024. As of August 2024, the average number of new Vision Zero delinquent cases are 628 per month.

The 2025 delinquent budget revenue has been set at \$1,341,000 which is an increase of \$762,000 or 131.6% from the 2024 budget. The 2024 budget was established ahead of the launch of the VZ program and therefore included a number of assumptions. Based on limited realized operating results of the program, it is estimated that delinquent revenues will be higher than previously anticipated on an annual basis.

Expenses

As of October 2024, Court Services has completed recruitment of 7 of the 12 approved VZ FTEs (which were approved as part of the 2020 operating budget). Based on realized experience to date, it is not anticipated that all 12 of the approved FTEs will be required for the administration and prosecution of VZ charges. As such, Court Services will be reducing the total maximum VZ FTEs from 12 to 10. This would also assist in creating a net-zero change in total Court Services FTEs, if the proposed business case for the transfer of Part III prosecutions is approved, as a result of introducing two new FTEs in the base operating budget to support the transfer of Part III prosecutions. With Niagara Region's Transportation Division having received approval to update their agreement with the Joint Processing Centre to increase the annual number of ASE charges from 45,000 to 60,000 annually, the recruitment of the remaining three VZ FTEs will continue on a gradual basis as required as the long-term operational impacts of the VZ continue to be realized.

Niagara Region Courts Inter-Municipal Agreement

The budget has been prepared in consideration with the budget requirements as outlined in the Niagara Region Courts Inter-Municipal agreement. The Niagara Region Courts Inter-Municipal Agreement (the "Inter-Municipal Agreement") provides that:

Section 7 – Budget 7.1

The Manager, on behalf of the Agent, shall prepare an annual budget for the Program setting out estimated operating and capital costs, and projected revenue from fines, fees, applicable grants, subsidies and other revenues. The budget shall be submitted to the Board for approval.

Section 8 – Apportionment of Costs and Revenue

8.1 The Agent shall be entitled to recover its costs from the gross revenues generated by the transfer of POA administration. Gross revenues shall not include Part II Parking revenues, as otherwise provided for in Section 6 of this Agreement.

8.2 The Region shall receive 50% of the net revenues.

8.3 All Municipalities, with the exception of the Region, shall receive 50% of net revenues, and it shall be distributed on the basis of assessment.

Alternatives Reviewed

Any reduction of expenditures as outlined in Appendix 1 to Report JBM-C 7-2024 could result in the Niagara Region not being able to meet its obligations under the Memorandum of Understanding with the Ministry of the Attorney General to properly administer the Provincial Offences Court (including increased legislative duties imposed pursuant to Bill 177). This may result in charges being dismissed for lack of prosecution, loss of revenue as well as reputational risk.

Should the business case related to DEMS not be supported for 2025 implementation, Court Services' ability to efficiently prosecute cases and provide timely access to disclosure will be impacted given the increasing volume of digital evidence and lack of existing technology to manage it, which could in turn compromise program delivery obligations set forth as the administrator of POA on behalf of the MAG.

Should the business case related to the transfer of Part III and Part IX Prosecutions not be approved, there will be a lost opportunity to realize efficiencies and improvements in court utilization and customer service and the risk of MAG implementing a mid-year rate change related to Crown Prosecutions and/or mandating the transfer to municipalities, resulting in mid-year budget changes.

Relationship to Council Strategic Priorities

Court Services aims to continually support Regional Council's Effective Region and Equitable Region objectives as they pertain to the administration of the Provincial Offences Court program as core service to residents and visitors to the region and the overall goals of enhanced program effectiveness, court modernization fiscal responsibility and supporting community safety across Niagara.

Other Pertinent Reports

- [PW 64-2019 – Public Works – Vision Zero Road Safety Program](https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=277bcf05-71ce-4d77-867e-5e839b3f87be&Agenda=Agenda&lang=English&Item=13&Tab=attachments)
(<https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=277bcf05-71ce-4d77-867e-5e839b3f87be&Agenda=Agenda&lang=English&Item=13&Tab=attachments>)

- [PW 11-2024 – Vision Zero: Automated Speed Enforcement Preliminary Results and Next Steps](#)

(<https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=f1a449da-56b7-47e5-a046-29635f575803&Agenda=Merged&lang=English&Item=20&Tab=attachments>)

- [JBM-C 6-2024 – 2nd Quarter Variance Analysis and Forecast to December 31, 2024](#)

(<https://pub-niagararegion.escribemeetings.com/Meeting.aspx?Id=67d9a7ac-2c91-4dfe-bedc-6c6c78fc233e&Agenda=Agenda&lang=English&Item=10&Tab=attachments>)

Prepared by:

Miranda Vink
Associate Director, Court Services
Corporate Services

Recommended by:

Dan Carnegie
Commissioner
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Chief Administrative Officer

This report was prepared in consultation with Adam Niece, Program Financial Specialist, Renee Muzzell, Manager, Program Financial Support and reviewed by Donna Gibbs, Director Legal and Court Services and Melanie Steele, Associate Director, Reporting and Analysis.

Appendices

- Appendix 1 Schedule of Expenditures and Revenue – Base Operations - 2025 Budget
- Appendix 2 Schedule of Expenditures and Revenue – VZ Operations - 2025 Budget
- Appendix 3 Schedule of Expenditures and Revenue – Total Program Operations –
2025 Budget
- Appendix 4 Operating Business Case – Transfer of Part III and Part IX Matters
- Appendix 5 Operating Business Case – Digital Evidence Management System
(DEMS)