
Subject: 2023 Year End Report for Provincial Offences Court

Report To: Joint Board of Management

Report date: Thursday, April 18, 2024

Recommendations

1. That this Report **BE RECEIVED** for information.

Key Facts

- Pursuant to the 2001 Memorandum of Understanding and Local Side Agreement with the Ministry of the Attorney General (“MAG”) and the Inter-Municipal Agreement, The Regional Municipality of Niagara (the “Region”) acts as agent on behalf of the 12 local area municipalities (the “LAMs”) to operate the Niagara Region Provincial Offences Court located in Welland.
- Court Services staff administer violations under the Highway Traffic Act, the Trespass to Property Act, the Liquor License Act, municipal by-laws, other provincial and federal offences and more serious matters such as charges under the Compulsory Automobile Insurance Act, the Environmental Protection Act, the Fire Prevention and Protection Act and the Alcohol & Gaming Control Act.
- The purpose of this report is to provide JBM with an overview of court operations, challenges, and successes in 2023. Appendix 1 to Report JBM-C 4-2023 provides some key highlights and Appendix 2 provides the year end operating statement for Court Services including explanation of any significant variances from budget.

Financial Considerations

As per the Inter-Municipal Agreement, 50% of the net revenues/net expenditures are shared with/recovered from the LAMs. Based on the actual unaudited operating results for 2023, Court Services operated at a net revenue position of \$1,326 thousand, of which \$663 thousand will be allocated to the Region and \$663 thousand will be allocated to the LAMs. The net revenues of \$663 thousand represents a \$576 thousand surplus over the budgeted distribution of \$87 thousand. The surplus is related to non-Vision Zero, or base operations, as the revenues/expenditures incurred in 2023 relating to the Vision Zero Road Safety Program had an overall nil impact to Court Services net revenue.

Actual audited operating results for 2022 was a net expenditure of \$276 thousand, with 50% or \$138 thousand to be recovered from the LAMs. The Niagara Region distributed budgeted net revenues of \$160 thousand to the LAMs for the first quarter of 2022 and made no further distributions as it was forecasted at that time that Court Services would finish the year in a recovery position. As a result, the total net recoverable amount at the end of 2022 from the LAMs was \$298 thousand. Funds were not collected from the LAMs at the end of 2022 and a decision was made to wait and see what 2023 operating results were before proceeding with any collection from the LAMs, if necessary, throughout 2023.

Based on the actual operating results for 2023 of \$663 thousand, the total net recoverable amount for 2022 from the LAMs of \$298 thousand will be entirely recovered, and Court Services will be in a net distribution position to the LAMs in the amount of \$365 thousand. Upon approval of the financial statements Staff will proceed with processing the net distribution to the LAMs.

Court Services participates in the Niagara Region's quarterly financial reporting process which provides analysis and commentary on budget to actual results. The Niagara Region Q4 2023 Financial Update report, as well as previous reports, can be accessed on Niagara Region's external website.

<https://www.niagararegion.ca/government/budget/finance/default.aspx>)

Appendix 2 to Report JBM-C 4-2024 contains an analysis of the 2023 budget versus actual operating results for Court Services.

Since assuming responsibility for the administration of Provincial Offences Court in 2001, the Region has received \$21.4 million in net revenue, and as per the Inter-Municipal Agreement, the LAMs have shared \$21.4 million in net revenue (based on the unaudited 2023 results). The Region has paid the Province \$39.3 million inclusive of Victim Fine Surcharges (VFS), adjudication fees, part III prosecution charges, dedicated fines, monitoring and enforcement charges and ICON processing charges

Analysis

Introduction of Automated Speed Enforcement Charges

Limited information is available to demonstrate the true ongoing operational impacts of Vision Zero matters in 2023 from a Court Services perspective due to ASE charges launching in September 2023 and the introduction Red Light Camera (RLC) charges being deferred to Q1 2024. Public Works staff prepared a report for consideration at the

Public Works Committee meeting held on April 9, 2024 (Report PW 11-2024 Vision Zero: Automated Speed Enforcement Preliminary Results and Next Steps) that provided an overview of the preliminary results and influence on driver behaviour, as well as further development of the program. While information related to ASE charging volumes, expenses, revenue, and pre-paid fine rates are outlined within this report, other critical program information will remain unavailable until Q1-Q2 2024 due to the inherent timeframes associated with the lifecycle of these charges. For example, there were no judicial hours dedicated to Vision Zero in 2023, due to the first Early Resolution pleas and trials for ASE matters being scheduled for the following year in 2024. Additionally, it takes several months for fines to become delinquent, so no collections activities were completed in 2023 for ASE charges.

Court Services will continue to provide further updates as additional data becomes available and Staff gain more experience regarding the full lifecycle of these charges.

Revenue

Gross revenue is typically influenced by a variety of factors, including but not limited to, applications for extension of time to pay, delinquent fine rates, license suspensions and charges laid.

The following factors also contributed to revenue impacts throughout the year:

- Anomalous large fine payments related to base operations
 - In an effort to have better oversight of infraction and delinquent revenues, and in order to assist with better budgeting and financial reporting, Court Services staff have started to track significant fine payments which may not reflect revenues received in the normal course of business operations. Included in the 2023 actual operating results are \$1.1 million of revenues resulting from significant fine payments which are outside of the normal course of business operations.
- Applications for extension of time to pay fines:
 - The number of applications from 2023 (4424) compared to 2022 (4540) decreased by 2.5%. There is typically a correlation between extension requests and revenue, as defendants usually file for extensions for economic reasons.
- Appeals:
 - The number of appeals received and processed by staff decreased by 6.2% in 2023 (151) compared to 2022 (161).

- Reopenings:
 - There was a slight decrease in applications for reopenings (by 4%) in 2023 (1044) compared to 2022 (1088).
 - As of September 2023, the authority to approve reopenings was downloaded to the clerk of the court, where previously this was a judicial administrative function.
- FTR Convictions:
 - Staff completed 11,957 FTR convictions in 2023; a 27% increase compared to 2022 (9,402). Based on charge type, they are broken down as follows:
 - 7,761 Base Charge FTRs
 - 4,196 VZ Charge FTRs
 - It is important to note that an increase or decrease in FTR convictions does not correlate with any change of revenue following conviction; these convictions occur as a result of the individual's lack of action related to their charge and do not necessarily result in action being taken by those individuals related to payment.
- Suspension of driver's licences:
 - The number of suspensions decreased in 2023 (3504) compared to 2022 (4680). Suspensions occur as an enforcement method when certain fines are not paid by the default date. Revenue is impacted through either a delay in a fine being paid or not being paid at all. The likelihood of successfully collecting on revenue decreases as time passes.
- Total Base (Non-VZ) Charges Laid:
 - The number of base (non-VZ) charges increased by 14.5% (3636 charges) in 2023 over 2022. The 2022 charging volume was the lowest historical amount experienced since Court Services assumed responsibility for POA Administration in 2001.

Year	New Base (Non-VZ) POA Offence Number
2014	53,913
2015	48,303
2016	40,026
2017	34,709
2018	31,957
2019	35,890
2020	27,308
2021	26,393
2022	25,086
2023	28,722

- Total ASE charges laid:
 - ASE launched in September 2023. This resulted in 14,651 charges being received from September to December 2023 for these new camera-based offences.
 - Due to the short timeframe of the program operating in 2023 and limited statistical data available due to the length of time since launch, it is not yet possible to gain an accurate sense of typical charging volumes moving forward, however the agreement with the Joint Processing Centre (JPC) currently specifies that the annual number of charges processed will be approximately 45,000 per year.
- Delinquent Fine Rates:
 - In 2022, there was a substantial increase in delinquent fine rates, however current data is showing a return to previous trend rates. Statistics from 2023 show that the monthly delinquent case average is 607 cases per month. This is a decrease of 33% compared to 2022 (888 cases/month; which was a historic high since 2015 when rate tracking was implemented). However, it does still reflect an historical overall increase in

delinquent fines when compared to the monthly average of 518 for 2019-2021.

- Prepaid Fine Rates
 - Prepaid fine rates impact revenue as well as dispute rates as the payment of a fine before proceeding to Early Resolution, Trial or FTR equates to a guilty plea of the charge. The prepayment of a fine also reduces the overall amount of time and Staff resources required to process that charge.
 - The 2023 prepaid rates were as follows:
 - Base charges:
 - 44% of all base charges were pre-paid
 - Vision Zero ASE charges:
 - 65% of all base charges were pre-paid
- Early Resolution & Trial Request Rates:
 - As of December 31, 2023, Court Services has a 90% resolution rate for matters proceeding to Early Resolution (“ER”), which is an increase over 2022 (85%); resulting in 10% of those matters being set for trial. However, the trial request rate coming out of ER remains slightly above pre-pandemic averages. The ER process was launched in 2012 and from 2013 to 2019, the average percentage of matters set for trial following ER was 9%. This has an additional impact to revenue as the wait for an Early Resolution Meeting is typically as short as 6-8 weeks, whereas a significantly longer wait time for trials increases the timeline between the charges being laid and the final disposition of the matter.
 - Court Services also saw a decrease in ER matters completed in 2023 compared to previous years as follows:
 - 4,222 in 2023
 - 4,779 in 2022
 - 5,379 in 2021
 - 5,267 in 2020
 - 6,244 in 2019
 - 5,843 in 2018

This decrease can be attributed to the decrease in charging volumes, as well as court scheduling restraints throughout the year as a result of limited judicial resources. Additionally, in 2023 there were many ER court days converted to trial days as a strategy to address trial backlogs from pandemic-related trial adjournments.

- It is also important to note that trials were adjourned as of March 2020 as a result of the COVID-19 pandemic and did not restart until April 2021,

which left the first 4 months of 2021 with additional time to dedicate to ER, compared to 2022 and 2023 which saw 12 months of trials running.

- Judicial Resources & Time to Trial:
 - Limited judicial resources have caused court closures and reductions in court time allocated to Niagara to hear pending matters, which causes delays in convictions and corresponding payments.
 - Time to trial increased significantly since March 2020 as a result of the 13-month adjournment of trials due to the COVID-19 pandemic, creating a backlog of matters awaiting trial during that period of time.
 - In 2019, pre-pandemic, the average time to trial for Part I matters was approximately 6.5 months. As of December 2023, the average time to trial for Part I matters was approximately 9 months. This is significant improvement over December 2022, which had a time to trial of 17 months.
 - During 2023, Court Services experienced 6 court closures due to lack of judicial resources, impacting 253 defendants.
 - At this time, Court Services regularly has only 1.5 of the three (3) available courtrooms scheduled based on judicial resources assigned. While there is no indication that our third courtroom will be scheduled consistently during the first half of 2024, Court Services has implemented numerous strategies to assist in addressing resulting backlog, such as:
 - “Blitz” trial days for addressing a higher volume of similar matters in a tier which typically require less time to complete;
 - Adding a 2nd prosecutor to Early Resolution dates to maximize the use of the court time;
 - Enhancing the Early Resolution model to explore alternative processes which may help to further maximize the use of court time when judiciary are available;
 - Continuous review of pending matters to explore potential for resolution prior to trial;
 - Review of court utilization statistics and refining time allocation for matters scheduled within the tiers to maximize the use of court time within all tiers;
 - Ongoing review of the Court Master Plan by the Trial Coordinator in partnership with MAG scheduling team.
- COVID-19 Charges:
 - Court Services received approximately 2035 cases under a variety of different acts and municipal by-laws related to the pandemic. 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, lower likelihood of early resolution) and pressures on court time.

- Of the total charges, 1975 (just over 97%) have been disposed of and 58 matters (3%) are still awaiting a final disposition. Court Services was able to address of these matters in an efficient manner by using the “blitz” court model, resulting in 696 matters being completed in 2023.
- Staff have collected a total of \$525,744 to date; approximately \$358,285 of which has been redirected to the Province/Federal Government.
- A total of \$2.4 million remains outstanding, of which \$2.2 million, if paid, would be redirected to the Province/Federal Government as they relate to Quarantine Act Charges.

Expenditures

Expenditures are typically impacted by several operational factors, including but not limited to, charging volumes and the types of charges, trial requests, number of appearances to resolution, re-opening applications, applications for extension of time to pay, appeal requests, as well as the need to undertake enforcement to collect on delinquent fines.

The overall average of court appearances to resolution in 2023 was 3.2 appearances per case – a slight decrease of 20% from 2022 (4 appearances). This overall decrease in number of court appearances is largely driven by an overall increase of matters resolved in 2023 at ER without the need for trial appearance.

Due to a shortage of judicial resources, Niagara and other municipalities within the Central West Region experienced the cancellation or reduction of court dates throughout 2023. This reduced the expenses related to adjudication and prosecution costs compared to historical courtroom scheduling and related expenses pre-2020.

Delinquent Fine Enforcement

In 2023, \$2.6 million in delinquent fines were collected, which represents a 3.7% increase (\$93 thousand) compared to 2022.

Despite the significant increase in delinquent fine rates over the last several years, it is important to note that there has been an increase in the number of lower-value fines being paid, while the overall value of the delinquent fines has decreased.

A partnership was created between the Region and all 12 of the LAMs in the “add to tax roll” program, which has proven to be an effective enforcement tool. Since its implementation in 2014, \$ 2 million has been added to tax rolls in the Region and to date \$1.66 million has been collected, which is an 82% collection rate. In 2023, \$201,810 of that amount was collected.

Staff utilize several other enforcement methods. These include the suspension of driver’s license, plate denial, use of third party collection agencies, and civil enforcement. Civil enforcement includes the garnishment of wages, bank accounts and the filing of Writs of Execution to secure property owned by the offender.

Through ongoing investigative and collection efforts by staff, \$7.136 million has been secured and \$4.64 million collected (a 65% collection rate) since implementing the writ process in 2003. It is anticipated that these Writs of Execution will continue to contribute to revenue in future years.

Continuous Improvement

Court Services continues to leverage every opportunity to do business differently through innovation and process improvements to ensure access to justice while simultaneously increasing productivity and improving operational efficiencies.

Continuous improvement initiatives achieved in 2023 include;

- Continued delivery of virtual and hybrid court services. Since April 2022, Niagara Court Services has delivered hybrid court matters which encompass a combination of in-person and virtual attendance by participants while the Courtroom Clerks, Regional prosecutors and judiciary are onsite in the courtroom. Defendants and representatives may opt to attend their matter in-person or virtually via Zoom. In some instances, Justices of the Peace may order all participants to attend in-person. At the present time, the majority (80%) of individuals opt to participate via the Zoom virtual courtroom where permitted.
- To address reduced Judicial resources and scheduling backlogs, Niagara Court Services launched an enhanced Early Resolution scheduling model in February 2023, whereby meetings with the Prosecutor are proactively scheduled to optimize courtroom time where the Justice of the Peace is present.
 - Prosecutors are permitted to meet with defendants to discuss potential resolutions in advance of meeting with the judiciary. These pleas are then

subsequently entered in court on the record with a Justice of the Peace who may approve the resolution as proposed.

- With this new approach, prosecution staff are able to optimize time by completing “blitz pleas” on the record with the judiciary without having to pause to conduct meetings with defendants as they have already occurred.
- This has allowed for a significant maximization of courtroom time and judicial resources. Since introducing this new approach in February and up to the end of December 2023, Niagara gained 15 additional Part 1 Trial Court days; maximizing court time and allowing a higher volume of Early Resolutions to be completed within the allotted court schedule, while also increasing the number of trial days (thereby reducing trial scheduling backlogs).
- As part of the modernization of Court Services, a significant update to Niagara’s local case management solution, the Court Administration Management System (CAMS), was completed in September 2023, to ensure that changing business needs are accommodated through technology updates. This update also supports the administration of new ASE and pending RLC charges.

Customer Service

Following the introduction of the ASE charges in Q4 of 2023, the overall increase in POA charges laid combined with the novelty of camera-based offences in Niagara have resulted in an increase in the number of customer interactions via telephone and in person. The average monthly number of counter service (in-person) visitors nearly doubled (95% increase) in Q4 (1426 monthly visitors) as compared to Q1 through Q3 (733 monthly visitors). Average monthly number of phone calls also increased by 64% in Q4 (2192 monthly calls) as compared to Q1 through Q3 (1338 monthly calls).

Court Services hosted two information sessions in 2023 (“POA Prosecution” and “The Life Cycle of a POA Charge”) which were both well-attended by enforcement agencies and LAMs. Staff also continue to work with enforcement agencies on an ongoing basis to provide guidance in working toward consistent charging and prosecutorial practices.

A variety of information, including service changes, frequently asked questions and answers, were regularly updated on the Court Services webpage to assist members of the public with information regarding business changes and current court procedures.

Highlights of Court Services' 2023 operations are provided in Appendix 1 to Report JBM-C 4-2024.

Alternatives Reviewed

Not applicable; this report is provided for information.

Relationship to Council Strategic Priorities

This report supports the Effective Region Council Strategic Priority through the delivery of fiscally responsible services, in accordance with the Inter-municipal Agreement.

Other Pertinent Reports

- JBM-C 9-2022 – Court Services 2023 Operating Budget
- JBM-C 4-2023 – 2022 Year End Report for Provincial Offences Court

Prepared by:

Miranda Vink
Manager, Court Services
Corporate Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

This report was prepared in consultation with Andrea Wheaton, Program Financial Specialist, Renee Muzzell, Manager, Program Financial Support, and reviewed by Donna Gibbs, Director, Legal & Court Services.

Appendices

Appendix 1 Court Services Highlights 2023

Appendix 2 Court Services 2023 Budget vs. Actual Variance Analysis