

The Regional Municipality of York

Committee of the Whole
Finance and Administration
June 16, 2022

Report of the Regional Solicitor and General Counsel

Court Services Annual Report 2021

1. Recommendations

Council receive this report for information.

2. Summary

This report provides Council with an overview of the Legal and Court Services, Court Services Branch 2021 Annual Report (Attachment 1) submitted to the Ministry of the Attorney General. The report includes a description of recovery efforts to minimize COVID-19 impacts and planned initiatives for 2022. This Annual Report is required under the 1999 Memorandum of Understanding with the Province of Ontario.

Key Points:

- Extension of *Provincial Offences Act* timelines into 2021 had a direct effect on collections enforcement and revenue. Additionally, remote hearing options provided the Court Services Branch (“Court Services”) with an opportunity to decrease administrative backlogs, but certain limitations impacted overall benefits.
- Court Services resumption efforts included implementation of remote (video/audio) hearings and an appointment system for front counter services to ensure compliance with health and safety measures.
- In addition to leading the resumption and modernization of the Provincial Offences Court, Court Services continued to advance priority projects that improved access to justice benefitting court users, stakeholders, and York Region.

3. Background

Court Services administers the *Provincial Offences Act* program for York Region by providing Court Operations and Prosecutions services

In 1999, the Province downloaded responsibility for administration, prosecution, and fine collection of Provincial Offences to municipalities. This transfer resulted in the Ministry of the Attorney General taking on an oversight function and assuming responsibility for the integrity of municipal courts programs. This includes providing ministerial direction on procedural guidelines, prosecutorial, court administration and court support processes and changes to case management procedures. The Ontario Court of Justice maintained its responsibility for the adjudicative function of the courts, while also identifying available judicial resources and providing scheduling guidelines for each municipal court.

Within Court Services, Court Operations is primarily responsible for court support services, administration of all *Provincial Offences Act* proceedings for charges issued in York Region, and enforcing and collecting court ordered fines, costs, surcharges and fees. Prosecutions provides a wide range of services, including the prosecution of cases before the Ontario Court of Justice, appeals, and judicial reviews in the Ontario Superior Court, the Court of Appeal for Ontario, and the Supreme Court of Canada.

York Region's Provincial Offences Court—which is the second largest Provincial Offences Court program in Ontario based on the number of charges filed — is a crucial part of the justice system providing administrative services to over 30 law enforcement and regulatory agencies. These include municipal bylaw enforcement, York Regional Police (YRP), Ontario Provincial Police (OPP), and other Provincial and Federal enforcement agencies operating in York Region. In accordance with the Inter-Municipal Agreement, all municipal *Provincial Offences Act* proceedings, including charges relating to parking, bylaw, building and fire code matters, are administered and prosecuted by York Region at the Region's expense with all revenue collected from municipal matters disbursed to the appropriate municipality.

Ontario Court of Justice emergency orders established in 2020 extended timelines of the *Provincial Offences Act* into the first quarter of 2021

The Chief Justice of the Ontario Court of Justice (the "Chief Justice") issued emergency orders throughout most of 2020 directly impacting Court Services operations. These orders had the combined effect of extending the *Provincial Offences Act* legislative timelines for defendants options and fine payment from March 16, 2020, through to and including February 26, 2021.

Additionally, the Chief Justice issued orders that adjourned all court matters from March 16, 2020, until January 25, 2021. As part of court recovery, the Chief Justice advised Provincial Offences Courts that non-trial matters could proceed by audio hearings as of September 28, 2020, and remote video trials could begin as of January 25, 2021, subject to local judicial

approval and court readiness. York Region's Provincial Offences Courts resumed non-trial matters through video on March 1, 2021, and remote video trial matters on July 12, 2021. In-person trials were adjourned throughout 2021 and resumed in April 2022.

4. Analysis

York Region Provincial Offences Courts gradually resumed services, throughout 2021, at the direction of the Ontario Court of Justice

While the extension of *Provincial Offences Act* timelines expired in early 2021 and remote access options were available to help deliver services, the backlog caused by a year-long closure significantly impacted Court Services. For example:

- 19,492 charges (or 21 per cent of all charges filed) were marked as "Fail to Respond". This means the defendant did not select one of the three options on the ticket: pay the fine; plead guilty before a Justice of the Peace; or file a trial request. Since timelines to respond to a ticket were extended into 2021, the ability to process Fail to Respond matters was delayed and has resulted in a significant pending caseload that requires judicial resources—which are presently not being provided—to move forward.
- Approximately 86,750 matters remain in the administrative backlog which is a reduction of nearly 13,000 in comparison to 2020. However, this still puts additional pressure on York Region's Provincial Offences Courts that were already operating over maximum capacity prior to the pandemic.
- Additionally, Court Services revenue was impacted by operational instabilities such as the Chief Justice's emergency order extending time to pay a fine to February 26, 2021. Total court's revenue for 2021 was \$10,127,416, which was similar to 2020 revenue, but roughly 45 per cent lower than pre-pandemic 2019 revenue.

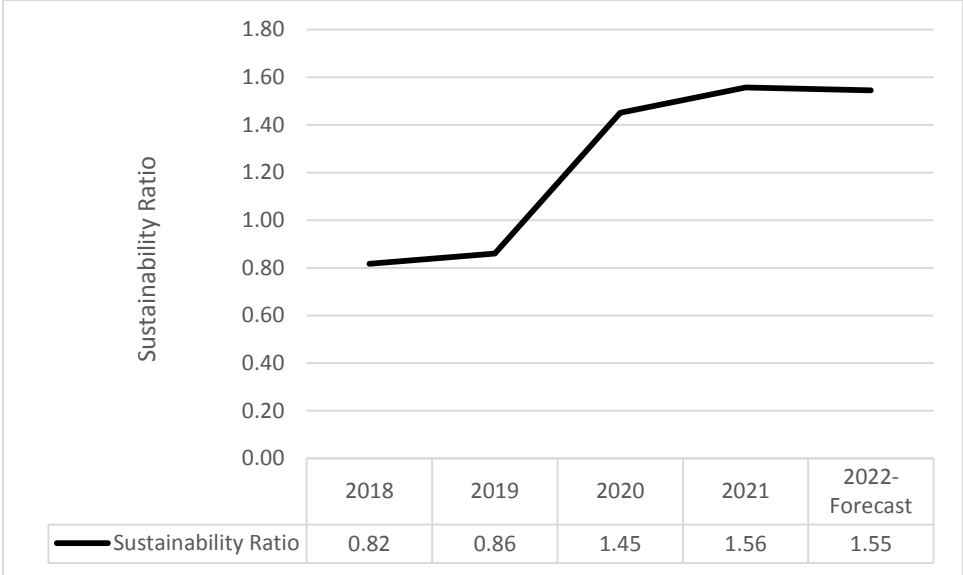
In March 2021, Court Services implemented video hearings. This was an expansion of the audio hearings project that was implemented in 2020. While the addition of video hearings was beneficial in moving matters from the administrative backlog, there were certain limitations which included docket restrictions on the number of defendants per day per courtroom and continuing limited Justice of the Peace resource availability that prevented Courts from maximizing on the benefits of the video solution. An in-person hearing option was not available throughout 2021, and only resumed in April 2022.

Court Services Sustainability Ratio has increased since 2018 and will continue to do so, if adequate legislative and structural adjustments are not made

The sustainability ratio measures operational efficiency by comparing operating costs as a proportion of the total revenue. In other words, dividing costs by the amount of revenue, the

sustainability ratio shows the level of resources and operational expense required to generate every dollar of revenue. Since 2018 the sustainability ratio for Court Services (Figure 1) has continued to increase in large part due to increasing operational and overhead costs, investment in new technology to deliver remote services, increasing demand for trials, the imminent download of Part three prosecutions to municipalities, the inability to increase fees to achieve cost recovery, and more recently the administrative backlog caused by COVID-19 court closures. If the Court Services sustainability ratio continues to increase, this will result in the Branch’s reliance on tax levy to provide adequate services. While there is an opportunity to increase revenue collection through the expansion of Automated Speed Enforcement and the introduction of an Administrative Penalty System, a continued focus must be placed on legislative reform and structural enhancements.

Figure 1
Court Services Sustainability Ratio



Unfortunately, there is not one solution that will provide a quick fix; however, Court Services feels there are several opportunities that exist that will help municipalities recover and provide opportunity for long term sustainability. This includes:

- Increasing judicial resources to increase court capacity and move cases through the court system
- Expansion of Early Resolutions reforms to all trial matters to reduce pressure on judicial resources and free up court space for more serious trial matters
- Ensuring legislative reforms under Bill 177—which promotes greater modernization and flexibility—remain a priority for the Province

- Enhancing collections mechanism to afford municipalities a greater opportunity to collect on court ordered defaulted fines
- Legislative reform to facilitate non-serious trial matters being dealt with through an Administrative Penalty System, rather than limiting this business model to camera-based offences only.

Court Services and York Region Council have long advocated for these changes to promote greater flexibility, innovation and ensure the court system is cost effective. Unfortunately, the Province has not provided clear direction on when these changes might be made and without them, municipalities are at a disadvantage to provide a sustainable program into the future.

York Region's 2021 key accomplishments focused on providing timely access to justice, while ensuring operations were prepared for increased volumes due to court closures

In 2021 Court Services' key accomplishments included:

- Executed the redesigned workspace project at the Richmond Hill court location in collaboration with Property Services, Corporate IT and our external vendor, Trica CXM Ltd. The renovation increased staff working spaces, provided a dedicated staff washroom and meeting space, revised front counter space to be more productive and ergonomic, increased filing and storage, and added further collaborative areas, all of which were *Accessibility for Ontarians with Disabilities Act* compliant.
- Transitioned typical in-person court hearings to the Zoom platform and developed internal processes that meet court etiquette protocols and ensure all stakeholders can participate in remote hearings. This has allowed York Region's Provincial Offences Courts to operate in a virtual setting while in-person appearances were suspended, and has allowed Court Services to move the backlog caused by Provincial emergency orders.
- Through the Provincial Audit and Accountability Fund, Court Services secured MNP LLP consulting to develop a Court Services Digital Roadmap and a business model for a Regional Administrative Penalty System program. The findings were outlined in a memo to Council in [October 2021](#) identifying technology and system gaps, introducing solutions and resource requirements, modernizing court processes and providing a scalable solution for rerouting matters out of the Provincial Offences Courts and into a Regional Administrative Penalty program.
- Established an appointment-based customer service model for front counter services and certain in-court services. This helped Court Services organize court users, ministries enforcement, and local municipal enforcement agencies and to ensure appropriate controls were in place to help manage capacity limits and other health and safety requirements. The appointment solution also helped increase operational efficiencies,

data collection and reporting to support decision-making and improve customer experience.

- To support staff throughout COVID-19, Court Services identified and delivered training and wellness support providing staff with tools to respond to difficult customer service situations throughout the pandemic.
- To support revenue recovery, Court Services implemented strategic default fine collection efforts including onboarding third-party collection agencies, systematic resumption of regular enforcement and implementing a second Reminder Notice campaign prior to expiry of emergency order timelines.
- Prosecutions proactively reached out to defendants and legal representatives which resulted in the successful resolution of more than 23,000 charges.

York Regions 2022 key priorities will focus on continued staff development, transfer of responsibilities from the Province to the Region and building on technological advancements to improve operational efficiencies

In 2022, Court Services will continue to implement initiatives to advance access to justice in a manner that is customer centred, timely, efficient, and fiscally responsible. Court Services will do the following to continue to explore opportunities to increase revenue collection and realize savings through the adoption of technological solutions:

- Facilitate the transfer of prosecution of Part III proceedings to the Region through an Interim Transfer amending agreement between York Region, the nine local municipalities and the Ministry of the Attorney General.
- Implement a streamlined process for hybrid hearings which will facilitate access to justice for all court users by offering a combination of remote and in-person options.
- Create a tailored training plan which includes tools focused on health, safety and wellness that enable staff to feel more engaged and empowered in their daily role.
- Complete planning for implementation of the Court's Digital Roadmap, including staff engagement, resource allocation and alignment with corporate and provincial digital initiatives and support.
- Obtain Council approval pending necessary Provincial amendments to begin the development of a Regional Administrative Penalty System that will support the transition of bylaw and camera-based enforcement away from the Provincial Offences Court system into a flexible internal administrative process.
- Expand fine payment options to include processing of payments over the phone, in addition to online, mail, and in-person.

- Develop the 2023-2026 Court Services Action Plan which will outline the direction, goals and priority projects to promote and facilitate innovation, inclusion, excellence in service delivery and maintain a sustainable justice system

5. Financial

There are no financial implications directly associated with this report. The performance measures set out in this report are reflected in the 2022 operating budget.

6. Local Impact

There is no local municipal impact directly associated with this report. The Region's Provincial Offences Courts provide court administration and prosecution related to municipal bylaw and parking matters for all nine local municipalities.

7. Conclusion

This annual report provides an overview of the activities provided by Court Services in 2021. The 2022 key initiatives will improve the court-user journey, while increasing potential digital solutions and revenue recovery.

For more information on this report, please contact Lisa Brooks, Director Court Operations at 1-877-464-9675 ext.73209. Accessible formats or communication supports are available upon request.



Recommended by:

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Approved for Submission:

Bruce Macgregor

Chief Administrative Officer

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Attachments (1)

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