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**From:** McPhail, Roxanne <Roxanne.McPhail@york.ca> **On Behalf Of** Regional Clerk

**Sent:** Tuesday, June 29, 2021 11:01 AM

**Subject:** Regional Council Decision - Court Services Annual Report 2020

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On June 24, 2021 Regional Council made the following decision:

1. Council adopt the Resolution in Attachment 2 advocating for immediate regulatory and legislative amendments to provide municipal Provincial Offences Courts with the flexibility to respond to the critical pressures described in this report.
- 
2. The Regional Clerk circulate the Resolution in Attachment 2 to other municipalities that administer Provincial Offences Courts, the Ministry of the Attorney General, Ministry of Transportation and Association of Municipalities of Ontario for support.
3. The Regional Clerk circulate this report to the Clerks of the local municipalities.

The original staff report is attached for your information.

Please contact Lisa Brooks, Director Court Operations at 1-877-464-9675 ext. 73209 if you have any questions with respect to this matter.

Regards,

**Christopher Raynor** | Regional Clerk, Office of the Regional Clerk, Corporate Services

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Our Mission: **Working together to serve our thriving communities – today and tomorrow**

# **The Regional Municipality of York**

Committee of the Whole  
Finance and Administration  
June 10, 2021

Report of the Regional Solicitor

## **Court Services Annual Report 2020**

### **1. Recommendations**

1. Council adopt the Resolution in Attachment 2 advocating for immediate regulatory and legislative amendments to provide municipal Provincial Offences Courts with the flexibility to respond to the critical pressures described in this report.
2. The Regional Clerk circulate the Resolution in Attachment 2 to other municipalities that administer Provincial Offences Courts, the Ministry of the Attorney General, Ministry of Transportation and Association of Municipalities of Ontario for support.
3. The Regional Clerk circulate this report to the Clerks of the local municipalities.

### **2. Summary**

This report provides Council with an overview of the Legal and Court Services, Court Services Branch ("Court Services") 2020 Annual Report (Attachment 1) submitted to the Ministry of the Attorney General. The report includes a summary of the impact of the COVID-19 pandemic on Court Services, recovery efforts, and planned initiatives for 2021. The Annual Report is required under the 1999 Memorandum of Understanding with the Province of Ontario. This report also recommends advocacy for immediate regulatory and legislative changes enabling flexibility for municipal Provincial Offences Courts to respond locally to their respective critical pressures as court operations resume.

#### Key Points:

- In response to the COVID-19 pandemic, emergency orders adjourned most 2020 court matters and extended *Provincial Offences Act* ("POA") legislated timelines, impacting Court Services operations from March, 2020 to the end of February, 2021
- These extensions and adjournments significantly increased the Ontario Court of Justice pending caseload in York Region, led to a substantial administrative backlog and had an adverse impact on fine revenues collected by Court Services

- Court Services resumption efforts included implementation of remote (audio) hearings and the reopening of front counters with appropriate health and safety measures in place
- In addition to leading the resumption and modernization of POA court services, Court Services continued to focus resources on priority projects that improved access to justice and benefitted both York Region and stakeholders
- Council's support is requested in advocating for POA Court reforms which will modernize and streamline the processes governing administration of charges and support municipal recovery efforts while addressing an increasing pending caseload and restoration of revenue streams

### 3. Background

#### **Court Services administers the *Provincial Offences Act* program in accordance with strict legislative and legal requirements by providing two distinct functions, respectively Court Operations and Prosecutions**

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 for each municipal court.

At the same time, York Region and Court Services took over responsibility for Court Operations and Prosecutions. Court Operations is primarily responsible for court support services, administration of all *Provincial Offences Act* charges issued in York Region, and enforcing and collecting *Provincial Offences Act* 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 POA 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 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.

## **Bill 177 aims to modernize and streamline the Provincial Offences Courts**

Legislative amendments to the *Provincial Offences Act* were passed by the Ontario Legislature in December 2017 under Schedule 35 of Bill 177, the *Stronger, Fairer Ontario Act (Budget Measures)*, 2017. These amendments include reforming the Early Resolution process, transferring Part III prosecutions to municipalities, improving collection of default fines, and expanding the powers of the Clerk of the Court. Ultimately, the proposed Early Resolution reforms fall considerably short of supporting the justice system modernization and efficiency objectives of the Ministry of the Attorney General.

In December 2019, the Ministry of the Attorney General indicated its intention to implement a phased-in approach to the Bill 177. To date, the Attorney General has only proclaimed and implemented section 48.1, which allows for the use of certified evidence for all Part I proceedings where a set fine exists (commonly referred to as "tickets"). The balance of the Bill 177 amendments is expected to be proclaimed later in 2021.

## **4. Analysis**

### **COURT SERVICES ANNUAL REPORT 2020**

#### **Throughout 2020, three separate orders were issued by the Ontario Court of Justice and the Province adjourning all court matters, suspending all *Provincial Offences Act* timelines, and later extending these timelines into 2021**

The Chief Justice of the Ontario Court of Justice (the "Chief Justice") and the Province of Ontario issued separate emergency orders in response to the pandemic throughout 2020 directly impacting Court Services operations. These orders had the combined effect of extending the *Provincial Offences Act* legislative timelines in the period March 16, 2020 through to and including February 26, 2021. Prior to COVID-19, defendants that did not dispute a ticket within the legislated timeline were deemed not to dispute the charge and would be convicted. Without the timelines in effect, defendants no longer were required to pay a ticket or request a trial throughout the duration of the emergency order, ultimately hindering Court Services ability to process matters and adding to the caseload of unprocessed tickets.

Simultaneously, the Chief Justice also issued orders that adjourned all court matters from March 16, 2020 until January 25, 2021. This resulted in the postponement of nearly 100,000 trial matters until 2021, at the earliest. As part of court recovery, the Chief Justice advised Provincial Offence Courts that non-trial matters could go ahead by audio hearings starting September 28, 2020 and that the resumption of remote trials could go forward as early as January 25, 2021, subject to local judicial approval and court readiness. In-person trials

would continue to be adjourned until the court schedule is approved by the Regional Senior Justice of the Peace and health and safety measures have been implemented.

Regrettably, Provincial Offences Court recovery was impeded by lack of timely Provincial direction concerning the resumption of services. While the Provincial objective may have been to support POA operations, the priority was on resumption of Criminal Court operations, resulting in changing timelines and direction. When this was coupled with the existing issue of limited judicial resources—which was intensified throughout the pandemic—Court Services was prevented from effectively responding to the growing POA Court backlog, which directly impacted public access to justice.

### **Closure of courts due to the pandemic resulted in a 50 per cent decrease in fine revenue and an increased pending caseload of over 100,000 court matters**

Extension of *Provincial Offences Act* timelines, along with the continued closure of trial court hearings significantly impacted the ability to process charges and to address pending caseload despite reopening Court Services' front counters on September 14, 2020 for essential administrative services. For example:

- A total of 103,434 charges were filed by enforcement officers—including 400 COVID-19 enforcement related charges—representing a 30 percent decrease from 2019.
- 23,401 charges (or 23 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 throughout 2020, the ability to process Fail to Respond matters was pushed to 2021 has resulted in a significant pending caseload that requires judicial resources—which are not forthcoming—in order to move forward.
- Approximately 100,000 trial matters were impacted in 2020, including 49,000 trial requests. This has put additional pressure on courts that were already operating over maximum capacity prior to the pandemic.

Additionally, court revenue was impacted by operational instabilities such as the Chief Justice's order extending time to pay a fine to February 26, 2021. Total courts revenue for 2020 was \$11,956,394, about 50 per cent lower than 2019 revenue. As of December 2020, approximately 85,666 cases were in default totalling \$53 million. Defaults are considered deferred revenue as all outstanding fines are a debt to the Crown, owed in perpetuity and never forgiven.

### **Court Services 2020 accomplishments focused on resumption of in-person services, modernizing operations and improving access to justice**

In 2020, Court Services' main focus was responding to the COVID-19 pandemic and embracing opportunities to modernize York Region's courts through digital transformation of

services. Health and safety considerations, technology advancements and targeted campaigns were all key components to COVID-19 response initiatives. Even with the disruption to regular operations, Court Services continued to focus resources on priority projects that benefitted both York Region and stakeholders:

- Developed a comprehensive COVID-19 recovery framework including: a phased resumption plan for Court Services; a comprehensive communication plan to internal and external stakeholders; a Safe Space plan for in-person services ensuring the health and safety of staff and customers; and a training plan for staff on health and safety measures, mental wellbeing, and customer service during COVID-19.
- Reopened court and prosecution in-person front counter services. This included leading the coordination of front entrance protocols at the Newmarket and Richmond Hill courts and implementing modified customer journey processes under new health and safety measures that support active COVID-19 screening, occupancy standards, and compliance with face covering requirements. The new processes were further supported through installing self-serve kiosks and purchasing an online appointment solution for courts.
- In collaboration with Property Services, Court Services retrofitted all POA courtrooms and court public space in both Newmarket and Richmond Hill to comply with Regional and Ministry of the Attorney General health and safety requirements.
- In response to Bill 197 the *COVID-19 Economic Recovery Act, 2020*, Court Services assembled a Digital Transformation Team tasked with expanding court services to online or remote access. Some of the initiatives implemented throughout 2020 included acquiring and implementing a remote hearing solution for non-trial court proceedings to help reduce the pending caseload by providing a safe remote environment.
- Court Services' Reminder Notice letter campaign to defaulted offenders reminded them of their outstanding fine and encouraged them to address it. Of 6,212 letters sent, 702 resulted in payments totaling approximately \$200,000. This initiative was a proactive approach to addressing the default fine backlog, while reviving reduced revenue streams due to a pause in collections enforcement. A second round of this initiative was implemented in Q1 of 2021.
- In anticipation of York Region POA Courts resuming remotely in 2020, Prosecutions proactively reviewed approximately 57,000 matters awaiting trial. Where phone numbers or email addresses were available, prosecutors contacted defendants to resolve these matters so that defendants could plead guilty once Court resumed remotely. Through these efforts, approximately 3,000 matters were heard remotely in November and December 2020, which helped to reduce the pending caseload of charges to reschedule and improved revenue.

## **2020 Key Accomplishments**

- Transitioned the Newmarket Provincial Offences court location to 17150 Yonge Street in a timely and efficient manner while adapting to the remote work environment, transitioning to online services, and responding to the Emergency Orders
- In collaboration with York Region Transportation Services, Court Services processed charges and provided support in tracking Key Performance Indicators for the Automated Speed Enforcement Pilot intended to improve road safety, change driver behaviour, and promote safer communities.
- Court Services, along with York Regional Police, implemented a new Digital Evidence Management System (DEMS), which modernizes outdated processes for disclosure of evidence in media format (in-car camera and dashcam videos, photographs and 911 calls). The previous system required disclosure of media evidence to be provided in a physical disc format, whereas DEMS securely shares digital evidence/disclosure with prosecutors, courts and defendants, when requested. This transition has eliminated the backlog of approximately 6,000 disclosure requests that were outstanding as of April 1, 2020.
- Reviewed over 80,000 default case files to facilitate future collection activity to maximize recovery of revenue.
- Participated in the Bill 177 Working Group with Ministry staff and other Municipal Court Managers. As part of this working group, Regional staff provided recommendations to move parts of Bill 177 forward in support of POA courts recovery. Section 48.1(1) allowing for the use of certified evidence involving tickets was proclaimed into effect on December 14, 2020 and Prosecutions implemented process changes in response.

## **York Region 2021 key priorities will build on technology advancements to improve operational efficiencies and promote greater customer service**

In 2021, Court Services will continue to advocate for legislative and regulatory change to advance our objective to provide access to justice that is customer centred, timely, efficient, and fiscally responsible. Court Services will also explore opportunities to increase revenue collection and realize savings through the adoption of technological solutions.

### **2021 Priorities:**

- Continue to expand the remote hearing solution for court proceedings and related processes to reduce backlog and support health and safety precautions
- Leverage the Provincial Audit and Accountability Fund to support York Region's Courts Modernization Project which includes developing a Court Services Digital

Roadmap and a Regional Administrative Monetary Penalties System business model, which will drive efficiencies and improve service delivery

- Implement an online appointment management system for in-person and remote services, supporting York Region's customer-centric approach by providing efficient and timely access to justice
- Working alongside Property Services and other Corporate partners, execute the redesigned workspace project at the Richmond Hill court location to improve customer flow and available office space
- Provide training and wellness opportunities to help staff manage their health and well-being and focus on their continued development.

## **COUNCIL RESOLUTION**

### **Operational pressures that existed prior to the pandemic have become more pronounced and need to be met with legislative reforms to enable timely recovery of Provincial Offences Courts**

Court Services has long advocated for legislative reforms streamlining and modernizing POA Courts to support equitable and timely access to justice. Immediate regulatory and legislative changes are critical to delivering services to the public by putting in place the most modern, efficient, and effective justice system attainable. The resolution in Attachment 2 requests:

1. That the Attorney General halt proclamation of the Early Resolution reforms included in Bill 177 and take immediate action to streamline and modernize this section of the legislation. Under the proposed amendment, complex and redundant time periods and rules will be introduced which will delay court outcomes and cause multiple defendant appearances.
2. That the Attorney General Enact changes to the *Provincial Offences Act* and any related regulations to permit the prosecution and defence to agree, at any stage of a proceeding, to a resolution in writing. This will conserve court time and judicial resources for contested matters.
3. That the Minister of Transportation, in consultation with municipalities, consider temporarily suspending the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions.

### **Proclamation of currently planned Bill 177 reforms to the Early Resolution process will prevent reasonable and effective access to court proceedings by creating a complex and lengthy process**

Early Resolution is an optional program Provincial Offences Courts can offer allowing defendants who opt to dispute their charges to request a meeting with a prosecutor to resolve the charges prior to a trial. Operational limitations resulted in York Region Court Services suspending this option in 2017. Prior to 2016, matters set for early resolution were



heard within the intake court, however, due to a province-wide shortage of Justices of the Peace, the Regional Senior Justice of the Peace directed these matters to be scheduled within the courtroom. York Region Court Services did not have the capacity to accommodate the roughly 30,000 early resolution matters into the court schedule therefore suspending this option on January 1, 2017.

Under the proposed Bill 177 amendment, when a defendant attends a meeting with the prosecutor, a successful resolution culminating in a recorded judicial outcome is inordinately delayed by a series of complicated rules and redundant time periods which will not be easily understood by the public and will accordingly hinder and not facilitate access to justice.

In order to achieve the stated goal, the Bill 177 provisions must be amended to facilitate prosecution/defendant resolution discussions and to allow the resolution to be implemented without the need for judicial involvement and redundant waiting periods. If the Ministry of the Attorney General were to make it more effective and efficient to administer Early Resolution proceedings, York Region Court Services would reconsider offering the Early Resolution option to defendants.

### **Legislative reforms would provide timely access to justice to millions of Ontarians accessing the system annually**

Provincial Offence Courts play an integral role in Ontario's Justice system with an average of 1.5 million matters heard in Provincial Offences Courts across the Province annually. POA Courts are the most frequently accessed courts by Ontarians while at the same time being the most overlooked and under resourced by the Province. Chronic under-allocation of judicial resources has resulted in increased scheduled and unscheduled court closures. Municipalities have no control over the availability of Judicial resources and are at the mercy of the province to allocate adequate resources.

These issues are not unique to York Region. The Municipal Court Managers Association of Ontario has elevated these issues and made requests to Provincial staff with limited response. There are many benefits to be realized Province-wide through streamlining and modernizing of the Provincial Offences Program. Reforms will reduce dependency on scarce judicial resources while enabling timely access to justice. Importantly, it will also allow municipalities to implement the technology to support an efficient process and expedite dispositions for defendants.

### **Temporarily suspending imposition of demerit points would result in fewer trial requests**

It is understood that defendants often request trials to seek resolutions that reduce demerit points. If demerit points were temporarily suspended for defendants with no previous relevant convictions who acknowledge guilt and pay their ticket, this could potentially reduce trial requests and accordingly alleviate pressures faced by trial courts. Pertinent details—such as the duration of the temporary initiative and which offences it would apply to, how to deal with multiple tickets, as well as eligibility criteria—could be determined by the Ministry of Transportation in consultation with municipalities.

## 5. Financial

There are no financial implications directly associated with this report. The performance measures set out in this report are reflected in the 2021 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 and Provincial Offences Court services provided by York Region Court Services in 2020, and identifies key legislative amendment opportunities that York Region should continue to advocate for.

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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:

**Dan Kuzmyk**  
Regional Solicitor



Approved for Submission:

**Bruce Macgregor**  
Chief Administrative Officer

May 28, 2021  
Attachments (2)  
eDocs #12583939

# ANNUAL REPORT

For the Year Ended December 31, 2020

**COURT SERVICES**  
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## COURT SERVICES MANDATE

### Court Services provides two distinct functions:

- Court Operations and Prosecution
- York Region operates the second largest Provincial Offences Act court program in Ontario

### Provides services to:

- Members of the public
- York Region's nine cities and towns
- Over 30 law enforcement and regulatory agencies
- Ministry of the Attorney General
- Judiciary

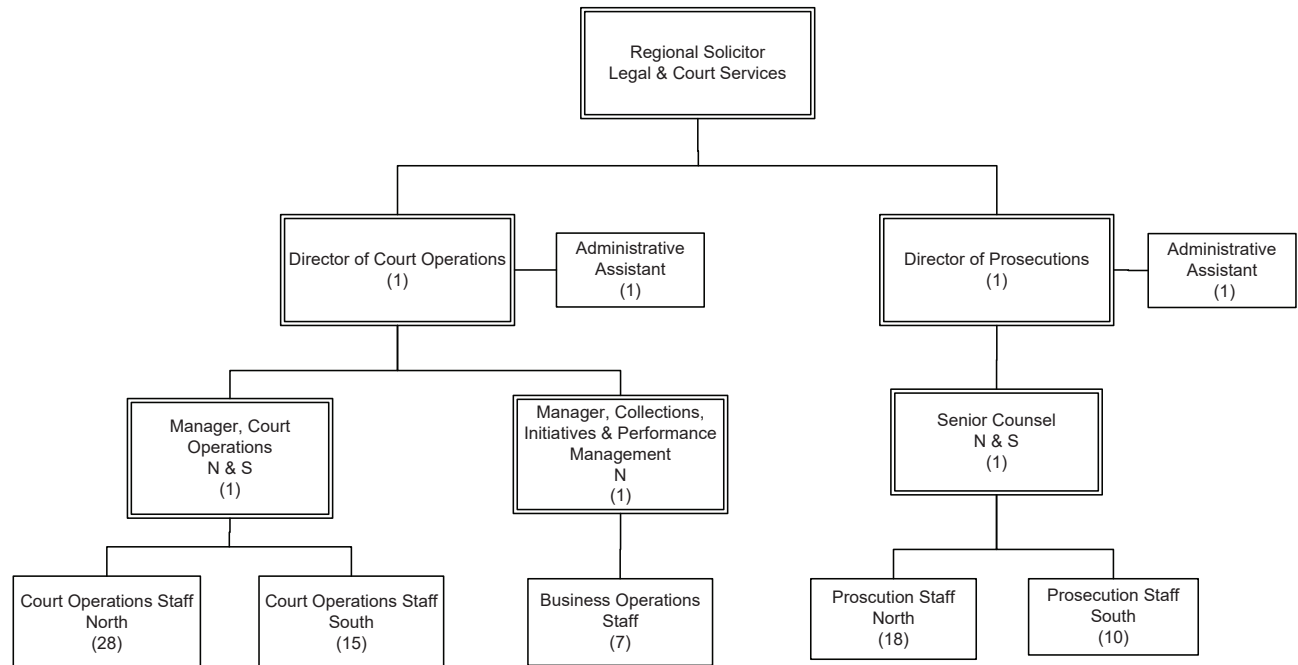
### Operates:

- 2 court locations in the Town of Newmarket and City of Richmond Hill
- 6 trial courtrooms\* (4 in Newmarket, 2 in Richmond Hill)
- 2 intake courtrooms\* (1 in Newmarket, 1 in Richmond Hill)

*\*As per approved court master plan*

We are committed to creating and fostering a progressive culture in Courts that strives to always be innovative, technologically advanced, inclusive, progressive and fiscally responsible and which upholds a sustainable justice model.

# ORGANIZATIONAL CHART



(85 FTE)

*\*As of December 31, 2020*

# MESSAGE FROM DIRECTOR OF COURT OPERATIONS LISA BROOKS

Providing timely, quality and cost-effective access to justice remains a top priority for York Region's Court Operations. Despite the impacts of the COVID-19 pandemic and subsequent court closures across Ontario in 2020, we continued making strides to uphold our mandate.

The Newmarket Court relocated to 17150 Yonge Street, a significant undertaking achieved efficiently and on time despite the challenges imposed by the pandemic. This exciting change and opportunity allows York Region Court Services to identify further operational efficiencies and improve the customer experience.

The impact of COVID-19 throughout 2020 necessitated the implementation of innovative technologies to improve service delivery and increase operational efficiencies. This led to the introduction of a number of key initiatives and implementation of a digital transformation plan identifying key requirements for supporting

courts recovery, accelerating the modernization of Court Services, the expansion of remote-video capabilities and the implementation of automated speed enforcement technology.

We recognize the important role our staff play in our objectives. Despite the challenges we experienced in 2020, staff persevered, learning new skills and training to support the use of new technologies. We maintained our focus on development through the training of staff in the integration of new digital technologies, providing opportunities for our staff to achieve a positive and safe working environment.



## MESSAGE FROM DIRECTOR OF PROSECUTIONS HANS SAAMEN

Prosecutions is responsible for a wide range of legal services including the prosecution of charges before the Ontario Court of Justice (OCJ) as well as appeals and judicial reviews in the OCJ, the Superior Court of Justice, the Court of Appeal for Ontario and the Supreme Court of Canada.

In 2020, Prosecutions faced the closure of courts and transitioned to work from home. New processes were developed including converting paper-based files to electronic files, providing staff with secure remote access. All disclosure was provided through electronic means, eliminating the backlog of disclosure requests. The new basket consent order process for appeals started on January 1, 2020, resulting in the ability to resolve approximately 50% of appeals without the need for the parties to appear in person. More than 50,000 files were reviewed and defendants and legal representatives were contacted to resolve charges. Through these efforts, more than 5,000 resolutions were

arranged in 2020 and scheduled for pleas in virtual courtrooms beginning in November. Various conferences and education programs allowed prosecution managers to train prosecutors and officers.

Moving into 2021, the focus will be transitioning to virtual hearings, working with enforcement agencies to improve the ability to receive and provide disclosure electronically and working toward completing the transfer of Part III prosecutions from the Province to the Region. We will continue advocacy for streamlining and modernization the Provincial Offences Act (POA), as well as legislative reforms to create more efficiencies related to automated speed enforcement and red-light cameras to free up court time.

## 2020 KEY ACCOMPLISHMENTS

### POA Court Process Improvement

Court Services in collaboration with the Judiciary, the Crown Attorney's Office, the Ministry of the Attorney General, the Ontario Paralegal Association and the York Region Law Association implemented the new consent order process for appeals. This allows for resolved appeals and applications to be completed over the counter without the need for the prosecutor and defendant to appear in court, saving court time for contested applications and appeals. This process is saving court time for contested applicants and appeals and reducing the time to wait for a hearing from eight months to less than four.

Court Services, along with York Regional Police, implemented a new Digital Evidence Management System (DEMS), which modernizes disclosure processes. The previous system required disclosure to be provided in a physical format, the new DEMS securely shares digital evidence/disclosure with crown prosecutors, courts and defendants.

In collaboration with York Regional Police, Court Services eliminated the backlog of approximately 6,000 disclosure requests and established a new process to process requests within 30 days.

### Ministry cooperation and resource-sharing initiatives:

Participated in the Administrative Monetary Penalty System (AMPS) Working Group with Ministry staff and affected stakeholders, to determine the feasibility of AMPS for specific *Highway Traffic Act* offences.

### Facilities improvements:

Transitioned the Newmarket Provincial Offences court location to 17150 Yonge Street, in a timely and efficient manner, reducing disruption in service and introducing modernized approaches to daily operations. The addition of two trial courtrooms and one intake courtroom increases capacity at the new location. York Region will work with local judiciary to incorporate the new resources into the future court masterplan.

### Information technology upgrades:

In collaboration with Transportation Services, Court Services provided support in tracking performance measures data related to the Automated Speed Enforcement (ASE) Pilot. Court Services will continue to process ASE related charges

for the duration of the pilot. The pilot will determine the capacity of York Region's Provincial Offences Court to process infractions, test technology capabilities and promote safer communities.

### Fine enforcement and collection initiatives:

York Region analyzed over 80,000 default case files to prepare for future collection activity. In addition, processes were implemented to support a consistent approach and key performance indicators were developed to support future decision making and audits. Monitoring and will be finalized in 2021.

### Legislative Analysis and Implementations:

When passed in 2017, Bill 177 *Stronger, Fairer Ontario Act* reformed the early resolution process transferred Part III prosecutions to municipalities, improved the collection of default fines and expanded the powers of the court clerk by amending the *Provincial Offences Act*.

Court Services participated in the Bill 177 Working Group with Ministry staff and other Municipal Court Managers providing recommendations to move portions of the bill forward to support Provincial Offences Court recovery.

Prosecutions analyzed the impact of proclaiming section 48.1 of the *Provincial Offences Act*, implemented the appropriate process changes and communicated this to the stakeholders who would be impacted by the legislative change.

This amendment will help Court Services recovery by reducing the number of charges to be withdrawn if the officer fails to attend the trial. Prosecutions will now discuss a resolution with the defence rather than withdrawing the charge. However, it will not change prosecutions requirement to have the officer notified to attend trial for most offences.

### Notable Precedent Setting Cases

Precedent setting cases refer to court decisions that are considered as authority for deciding subsequent cases involving identical or similar facts, or similar legal issues. Precedent requires courts to apply the law in the same manner to cases with the same facts. Precedent establishes guiding legal principles for participants of the justice system.

Prosecutions successfully argued several precedent setting cases:

*R v Nguyen* – Decision was upheld at the Ontario Court of Appeal case that the s. 11(b) 18-month presumptive ceiling for delay established by the Supreme Court of Canada in *R v Jordan* applies to Provincial Offences Act proceedings.

*R v Irwin* – Decision was upheld at the Ontario Court of Appeal that a defendant cannot collaterally attack an Order issued by a building inspector under the *Building Code Act*.

*Regional Municipality of York v. 2575173 Ontario Inc.*

*o/a Wimpy's Dinner* - Established a precedent that if an officer certifies an offence notice was served on a corporate defendant and the Offence notice requesting a trial is filed, the court can be satisfied the corporate defendant was served and can convict the defendant if he or she fails to appear for trial.

## 2020 COVID-19 IMPACTS AND INITIATIVES

The emergency orders, while necessary for public safety, placed additional stress on York Region's Provincial Offences Courts. While enforcement activity continued throughout the pandemic, the means to handle these matters were effectively shut down without alternatives, increasing risk of extending the time to trial. With York Region courts already operating at maximum capacity, this was a significant challenge.

Prior to the pandemic, municipalities were calling on the Province to modernize court due to increasing times to trial, pressures on judicial resources and restrictive legislation preventing innovation. With the Ontario Court of Justice orders extending time limitations and the suspension of in-person proceedings, this created additional unanticipated pressures on the Provincial Offences court system. Without significant improvements, adequate judicial resources and a system promoting greater flexibility and innovation, municipalities are at a disadvantage to progress.

### Response and Recovery Framework

York Region courts developed a COVID-19 recovery framework including a resumption plan, communication plan for internal and external stakeholders and a safe space plan to support health and safety measures accompanied by a staff training plan focused on health and safety, mental wellbeing and customer service. The framework focuses on digital modernization and resumption of in-person services aligned with direction from the Ministry of the Attorney General, Recovery Secretariat and Public Health.

### Digital Modernization

A digital transformation plan identifies the technology requirements to support court recovery and accelerate the modernization of Court Services. Initiatives identified within the digital plan and implemented throughout 2020 include:

- Remote hearing solution for non-trial court proceedings with associate processes (i.e. virtual dockets) to help reduce the pending caseload by providing a safe remote environment
- Virtual processes supporting the vetting of court files and streamlining disclosure processes allowing for digital delivery of disclosure to counsel, agents and defendants

### Resuming In-Person Service

Reopened court and prosecution in-person front counter services including the coordination of front-entrance protocols at Newmarket (17150 Yonge Street) and Richmond Hill (50 High Tech Road) court locations. A modified customer journey process was created to comply with new health and safety measures supporting active COVID-19 screening, occupancy standards and upholding the mandatory mask requirement. The installation of self-serve kiosks and purchasing of an online appointment solution also supported the reopening. York Region Court Services also retrofitted all courtrooms and court public spaces allowing customers to access services unavailable online or when the customer does not have access to technology. Prior to the implementation of DEMS and in the absence of in-court First Appearances, Prosecutions implemented a curbside pickup process for disclosure of DVD's to legal representatives and contacted defendants with Motor Vehicle Collision (MVC) offences to provide disclosure electronically.

### Revenue Recovery:

Court Services ran a targeted Reminder Notice letter campaign to defaulted offenders. Offenders were sent a friendly reminder of their outstanding fine and encouraged to address it. More than 6,000 letters were mailed and 702 payments were received, totaling approximately \$200,000, addressing the backlog of defaulted fines and reviving reduced revenue streams. This will be repeated in Q1 of 2021.

## Review and Resolution of Matters:

In anticipation of York Region's Provincial Offences Court resuming remotely, Prosecutions proactively reviewed 57,000 matters awaiting trial. Where phone numbers and/or email addresses were available, prosecutors contacted defendants to resolve matters so defendants could plead guilty once Court resumed. This reduced the pending caseload of charges and bolstered revenue streams. More than 5,000 matters were resolved through acceptance of offers in 2020, with 3,031 of these matters being heard remotely in November and December 2020. In 2021, resolution letters will be mailed due to no phone number or email address being on file.

## KEY WORKLOAD DRIVERS

The following numbers reflect the disruption of service caused by the COVID-19 pandemic response. York Region will continue to report this data for transparency and to contribute to future post-pandemic analysis. While this data should not be considered the norm, it reflects the pressures experienced and showcases the need for greater provincial direction and assistance in the resumption of services.

### Total Charges Filed (by Agency) in 2020

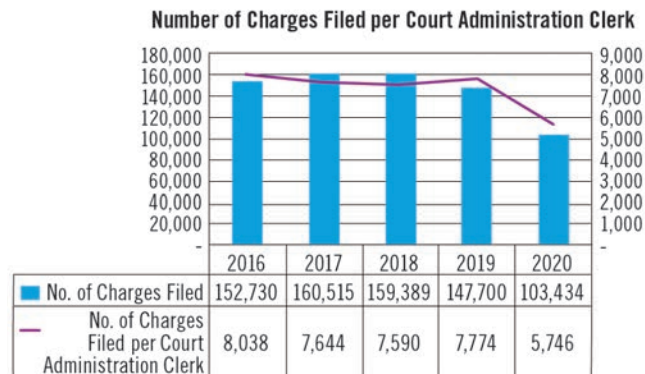
	Number of Charges	Percentage of Caseload
York Region Police	77,998	75.41%
Ministries and Other Agencies	11,410	11.03%
Ontario Provincial Police	9,038	8.74%
York Region	2,175	2.10%
Town of Aurora*	1,009	0.98%
City of Markham	462	0.45%
Town of East Gwillimbury*	336	0.32%
Town of Whitchurch-Stouffville*	298	0.29%
City of Vaughan	278	0.27%
Town of Richmond Hill	178	0.17%
Township of King*	133	0.13%
Town of Georgina	91	0.09%
Town of Newmarket	28	0.03%
<b>Total Charges Filed</b>	<b>103,434</b>	<b>100.00%</b>

\*These municipalities have not yet "opted in" under section 18.6(1)(a) of the *Provincial Offences Act*, meaning their Parking Tickets continue to be processed through the ICON computer system and are automatically included in the total number of charges filed. For other municipalities (those that have "opted in"), parking charges are not included in the statistics above. A pending caseload of 2020 parking violations for municipalities who have not opted in, is not represented in the table above as these will be processed through ICON in 2021.

In 2020, the total charges filed in York Region decreased slightly and can likely be attributed to provincewide stay-at-home orders, reduced daily commuting and less public and enforcement interaction. Of the charges filed, 399 are COVID-19 related charges.

Act Type	Number of Charges Filed
Certificate of Offence - Accidents (i.e. Motor Vehicle)	2,124
Accident Information	12
Federal Certificate of Offence	73
Federal Information	1
Certificate of Offence	91,662
Parking Infraction Notice	1,799
Information	7,763

The Provincial standard for number of charges filed per Court Administration Clerk is 5,000 to 6,000. A reduction greatly impacts the total number of charges filed per clerk. However, York Region met the Provincial standard. Court Services intends to seek innovative workload management strategies while continuing to maintain its high quality of work and customer service.





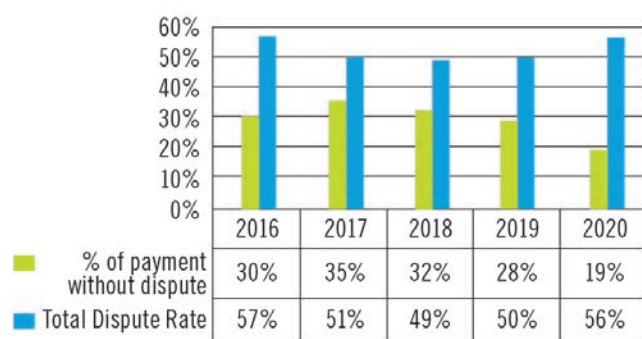
## Customer Service

York Region continues to provide in-person and telephone services to all court users at both court locations. There was a significant reduction in customer service numbers in 2020 compared to 2019. This is due to emergency orders extending timelines for defendants to respond to charges, the overall reduced number of charges filed with the court and the closure of front-counter operations from March to September 2020.

	Front Counter	Telephone	Total Customers Served
Newmarket Court Location	13,609	29,077	42,686
Richmond Hill Court Location	15,413	22,573	37,986
<b>Total</b>	<b>29,022</b>	<b>51,650</b>	<b>80,672</b>

## Dispute Rate

High dispute rates within York Region continue to put pressure on Court Services. While dispute rates have decreased since the suspension of the Early Resolution Program in 2017, half of the tickets issued within the Region were filed for trial. A notable jump in dispute rate from 2019 to 2020, is largely due to Option 2 - Walk-In Guilty, which provides defendants the opportunity to reduce a fine without going to trial, being unavailable for defendants in 2020. Without a remote process, defendants were only provided with payment or trial options.



Note: The remaining percentage of workload is Fail to Respond convictions

## Time to Disposition

All matters scheduled between March 2020 and December 2020 were adjourned by a Chief Justice of the Ontario Court of Justice order. Therefore, York Region will not be reporting on days to disposition in 2020 as the data is not an accurate representation and does not provide a statistically valid comparative. Over 59,600 matters were addressed in Trial Courts in 2020, only accounting for matters from January to March of 2020. Approximately 100,000 matters were impacted, including 49,000 trial requests received. This has put additional pressure on trial scheduling and limited judicial resources already operating at maximum capacity. York Region's limited judicial resources were further reduced as part of the provincial pandemic response and will remain at these levels throughout 2021.

Although Court Services is working to increase access to justice and making services more responsive, some of the court functions are within the purview of the Chief Justice. Court Services continues to work with judicial executives to find effective and efficient solutions to these challenges.

Appearance Room	Grand Total
R3 - Traffic and Municipal Parking and Bylaws	13,985
R4 - Part One Traffic Court	15,664
T1 - Part One Traffic Court	10,011
T2 - Ministry and Municipal Parking and Bylaw Court	4,409
T3 - Part Three Provincial Court	10,700
T4 - Part One Traffic Court	4,831
A1 - Part Three Provincial Court	3,717
A2 - Part One Traffic Court	9,136
A6 - Ministry and Municipal Parking and Bylaw Court	2,065
A7 - Part One Traffic Court	5,863
<b>Total Number of Matters on Trial Dockets</b>	<b>59,600</b>

\*\*R3 and R4 = Richmond Hill

T1 to T4 = Newmarket - old location (460 Davis Dr.)

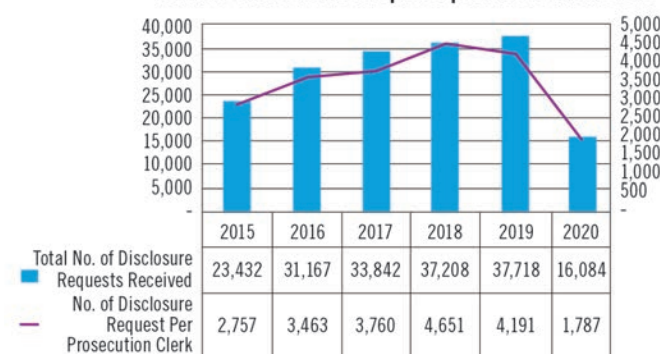
A1, A2, A6, and A7 = Newmarket - new location (17150 Yonge St.)

## Increasing Requests for Disclosure

In recent years, requests for disclosure have increased due to penalties for POA tickets becoming more severe. Due to increased fine amounts, demerit points and potential licence suspensions, an increasing number of defendants' resort to hiring legal representatives, who are required to request disclosure. Additionally, the increase in requests may be due to providing more accessible information to obtain disclosure. Since disclosure is free of charge and Court Services includes a disclosure request form with all notices of trial, more requests are submitted. Although streamlining the disclosure request process has resulted in a higher number of requests, it fulfils the prosecutor's duty of advising defendants of their right to disclosure, thus ensuring that every defendant's right to a fair trial is protected.

For pandemic-related reasons, requests for disclosure declined in 2020. This could be due to fewer charges filed, the court closure in March and no new trial notices being issued. However, Prosecutions did review over 57,000 charges and provided disclosure when required to reduce the backlog. This data is not captured in the disclosure requests received data since this was a proactive action.

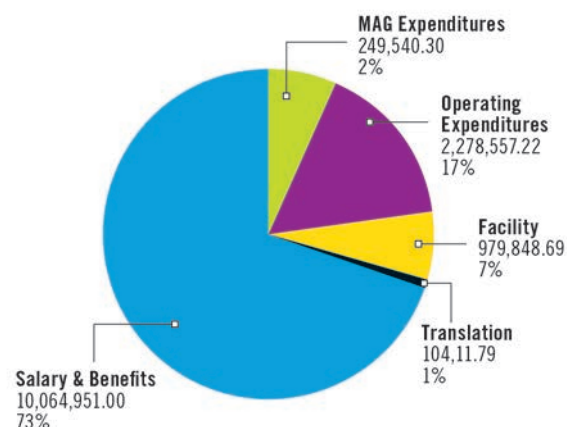
**Number of Disclosure Requests per Prosecution Clerk**



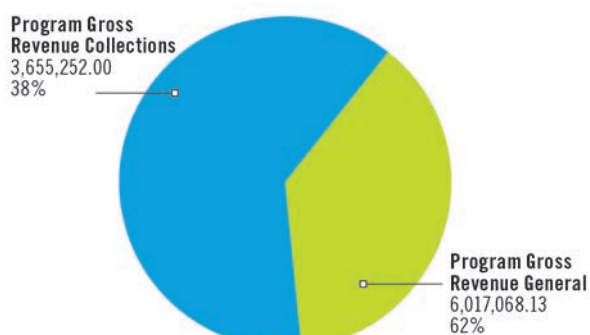
\*No provincial standards exist for the number of disclosure requests per prosecution clerk

## EXPENDITURE AND REVENUE ANALYSIS

**2020 Operating Budget by Expenditure Category**



**2020 Revenue Source<sup>1</sup>**



<sup>1</sup>2019 Revenue Source calculations include both internal and external collections efforts.

**Expenditure Salary and Benefits** - includes all staffing expenses related to Court Administration, Prosecution and Collections including permanent, casual and temporary staffing in addition to overtime and benefits.

**MAG Expenditures**- total cost of expenses paid to the Ministry of Attorney General includes Judicial and ICON related costs. Victim Fine Surcharge and Dedicated fines are not included.

**Operating Expenditures** - total cost of general operating expenses includes the purchase of charging documents, witness fees, general office supplies, postage expenses and other minor operating expenses.

**Facility** - total cost of facility expenses.

**Translation** - total is the cost of providing interpreter services to court users.

## 2020 AUDITORS REPORT

An independent audit of the consolidated financial statements of the Regional Municipality of York for the year ending December 31, 2020 was completed by KPMG International. Accordingly, the scope of the audit included information about the results of the Region's Provincial Offences Office presented in the notes of the consolidated financial statement.

### Excerpt from the Region's Audited Financial Statements

#### Provincial Offences Administration

The Region administers prosecutions and the collection of related fines and fees under the authority of the *Provincial Offences Act* ("POA"). The POA is a procedural law for administering and prosecuting Provincial Offences, including those committed under the *Highway Traffic Act*, *Compulsory*

*Automobile Insurance Act*, *Trespass to Property Act*, *Liquor License Act*, municipal by-laws and minor federal offences. Offenders may pay their fines at any court office in Ontario, at which time their receipt is recorded in the Integrated Courts Offences Network system ("ICON"). The Region recognizes fine revenue when the receipt of funds is recorded by ICON regardless of the location where payment is made.

Gross revenue is comprised primarily of fines levied under Part I, II and III (including delay penalties) for POA charges. The total revenue for 2020 amounts to \$11,956,394 (2019 - \$23,828,277) and the net surplus/(deficit) amounts to \$(4,203,175) (2019 - \$3,253,472). Balances arising from operations of POA offices are consolidated with these financial statements.



# The Regional Municipality of York

## Provincial Offences Office Statement of Receipts and Expenses

Year ended December 31, 2020

(Unaudited)

	Budget	2020	2019
<b>Revenue</b>			
Fines	\$ 21,049,204	\$ 11,541,676	\$ 23,398,247
Other Revenue	340,000	414,718	430,031
	21,389,204	11,956,394	23,828,278
<b>Expenses and Disbursements</b>			
Salaries and Benefits	10,333,921	10,064,951	9,888,567
General Administration	1,774,226	1,507,428	1,815,496
Progreem Related Services	1,711,753	540,572	1,668,610
Professional Services	895,463	470,201	852,321
Occupancy Expenses	1,096,270	979,737	976,212
Amortization	-	17,792	17,082
Asset Acquisitions	111,602	96,331	33,893
	15,923,235	13,677,012	15,252,181
Income before disbursements to Area Municipalities and Others	5,465,969	(1,720,618)	8,576,097
Disbursements to Area Municipalities and others	(5,496,790)	(2,482,558)	(5,322,625)
<b>Net Surplus (Deficit)</b>	(30,821)	<b>(4,203,176)</b>	3,253,472
<b>Contribution from Reserves</b>	530,446	<b>198,484</b>	93,793
<b>Contribution to Reserves</b>	(111,000)	<b>(111,000)</b>	(1,111,000)
<b>Net Surplus (Deficit) after Contribution to/from Reserves</b>	\$ 388,625	<b>\$ (4,115,692)</b>	\$ 2,236,265



**The Regional Municipality of York**  
**Notes to the Sinking Fund Financial Statements**  
December 31, 2020  
*(Unaudited)*

The Regional Municipality of York (the Region) administers prosecutions and the collection of related fines and fees under the authority of the Provincial Offences Act ("POA"). The POA is a procedural law for administering and prosecuting provincial offences, including those committed under the Highway Traffic Act, Compulsory Automobile Insurance Act, Trespass to Property Act, Liquor Licence Act, Municipal By-laws and minor federal offences. The POA governs all aspects of legal process from serving notice to a defendant, to conducting trials, including sentencing and appeals.

**1. Significant Accounting Policies**

The statement of financial activities for the Region's Provincial Offences Office is prepared by management in accordance with generally accepted accounting policies for local governments as recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada. Significant aspects of the accounting policies are as follows:

**(a) Revenue**

Revenues are accounted on cash basis. The revenues of the court office consist of fines levied under Parts I, II and III (including delay penalties) for POA charges filed at the courts located at 17150 Yonge St., Newmarket and 50 High Tech Road, Richmond Hill. Offenders may pay their fines at any court office in Ontario, at which time their receipt is recorded in the Integrated Courts Offences Network system ("ICON") operated by the Province of Ontario. The Region recognizes fine revenues when the receipt of funds is recorded by ICON regardless of the location where payment is made.

The Region also recognizes revenues that are collected on behalf of Area Municipalities and the Ministry of the Attorney General. These revenues include payments recovered with respect to local area municipal By-laws, Dedicated Fines related to various statutes, licence plate denial fees and the Province's portion of parking fees as well as the Victim Fine Surcharge.

Partial payments received for fines are automatically applied in the ICON system in the following order:

- Victim fine surcharge
- Fine
- Costs
- Administrative Fees
- Collection agency costs

**(b) Expenses**

Expenses are recorded on the accrual basis of accounting which recognizes expenses as they are incurred and measurable as a result of the receipt of goods or services and creation of a legal obligation to pay.

**(c) Use of Estimates**

The preparation of the financial statement in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of revenues and expenditures and disclosure of contingencies at the date of the financial statement and for the period being reported on. Actual results could vary from these estimates.

**(d) Reserve**

In 2015, a reserve was established to assist in planning and managing costs, which can vary significantly each year. The reserve will be funded through any net surplus in the prior year, after allocations, with an established upset limit.

## COURT SERVICES: PRIORITIES FOR 2021

### Performance Focused:

Continue POA streamlining and modernization efforts by onboarding MNP LLP to analyze the current legislative landscape and Court Services department to create a Digital Roadmap and Administrative Monetary Penalty System Business Model.

- The Digital Roadmap will identify strategic priorities and provide guidance to transform the current Court Operation systems and platforms to be accessible, efficient, and scalable and therefore meet public expectations for service excellence
- The Administrative Monetary Penalty System Business Model will help to address the pending caseload, better utilize resources, improve access to justice and customer experience, and further drive efficiencies through the automation and digitization of processes

### Customer Services:

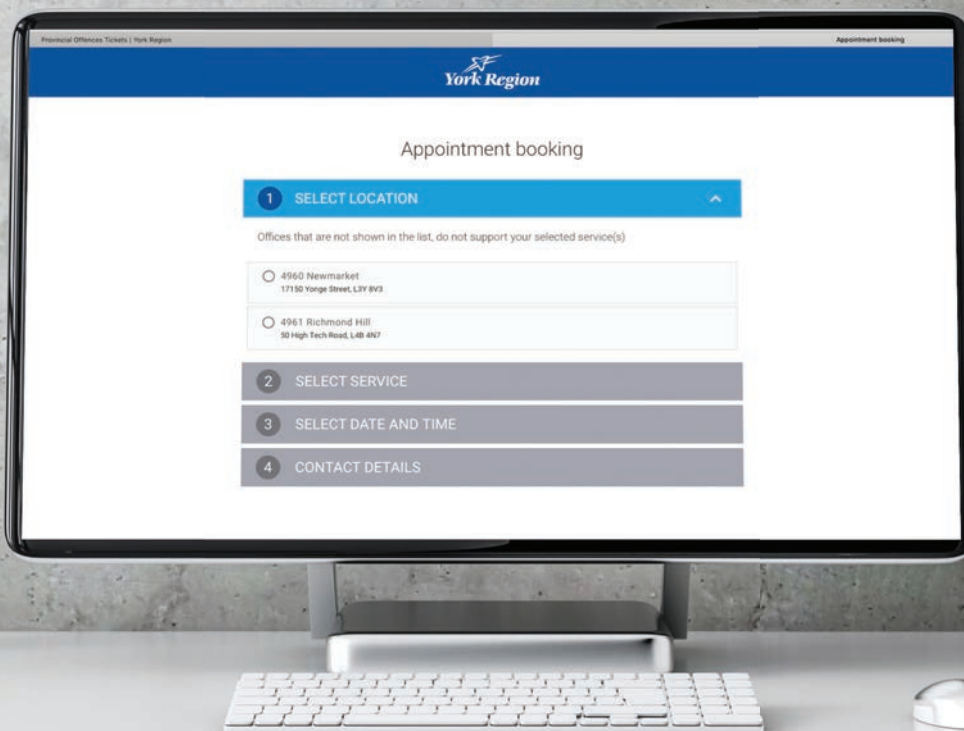
Onboard an appointment booking system, to establish a front-line customer service model that supports York Region's customer centric approach by providing efficient and timely access to justice.

Work with the Ministry and other impacted stakeholders to prepare for and respond to the resumption of Provincial Offence Act timelines.

### Process Improvement:

Continue participation in the Part III Transfer Working Group to finalize amending agreements to the Memorandum of Understanding and Local Side Agreements to implement the transfer of Part III prosecutions.

Analyze and implement process improvement opportunities made in the *Provincial Offences Act* as a result of the proclamation of *Bill 177, Stronger, Fairer Ontario Act (Budget Measures)*, 2017.



#### Training and Development:

Provide training and wellness opportunities to help staff manage their health and well-being, while equipping staff with tools and resources that focus on their continued development.

Ongoing training on enhanced and new technology and change management to support staff through York Region's digital transformation of Court Services, including the transition to remote hearings and appointment-based services.

#### Technology:

Continue to expand the remote hearing solution for non-trial and trial court proceedings and the related processes to reduce pending caseload and ensure health and safety precautions are followed.

Continue to process charges and analyze data for the Automated Speed Enforcement Pilot.

#### Capital Improvements:

Working alongside Property Services and other Corporate partners, execute the redesign workspace project at the Richmond Hill court location to improve customer flow and available office space for employees.



RESOLUTION OF THE REGIONAL MUNICIPALITY OF YORK

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Subject: Date: Moved by: Seconded by: 

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1. Whereas the impacts of COVID-19 on municipally administered Provincial Offences Court have resulted in a higher volume of pending *Provincial Offence Act* trial matters.
2. Whereas immediate regulatory and legislative changes are critical to delivering services to the public by putting in place the most modern, efficient, and effective justice system attainable.
3. Whereas the proposed Early Resolution reforms in Bill 177 *Stronger, Fairer Ontario Act (Budget Measures) 2017* do not fully support the objectives of the Ministry of the Attorney General pertaining to creating a modernized and efficient justice system.
4. Therefore, Be it Resolved, that Council requests the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177 *Stronger Fairer Ontario Act (Budget Measures), 2017* and take immediate action to streamline and modernize this section of the legislation by making it easier and more convenient for the public and prosecutors to engage in resolution discussions and by making it more effective and efficient to administer early resolution proceedings for Part I and Part II offences in the Provincial Offences Court.
5. And furthermore, that Council requests the Attorney General of Ontario to enact changes to the *Provincial Offences Act* and any related regulations to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I or Part II of the *Provincial Offences Act* and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a justice of the peace.

## **ATTACHMENT 2**

6. And furthermore, that Council requests the Ministry of Transportation in consultation with Municipalities give consideration to suspending (temporarily) the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions.