



# The Corporation of the Town of Milton

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Report To: Council

From: Glen Cowan, Chief Financial Officer / Treasurer

Date: March 25, 2024

Report No: ES-002-24

Subject: 2024 Halton Court Services Business Plan and Budget

Recommendation: **THAT the 2024 Business Plan and Budget for Halton Court Services (attached as Appendix A), including the transfers to/from reserve as presented, be approved.**

## EXECUTIVE SUMMARY

- The 2024 Business Plan and Budget for Halton Court Services (HCS) reflects increases in both expenditures (2.2%) and revenues (3.1%) relative to 2023. The 2024 net budget of \$1.8 million is expected to result in a distribution to Milton of \$0.16 million.
- An update on the potential transfer of Part III POA prosecutions to municipalities is also provided. Although not recommended at this time, if a transfer is mandated additional resources and costs (at an estimated net cost of \$0.16 million) are anticipated for HCS.

## REPORT

### Background

In 2001 the administration of the Provincial Offences Act (POA) was transferred from the Province to the municipalities in the Region of Halton. At that time the following occurred:

1. The establishment of a Joint Management Board (comprised of the CAO's from the Halton municipalities including the Region) to oversee the management and operation of HCS.
2. An agreement on the funding formula whereby 50% of the net revenues generated by HCS are allocated to the Region of Halton. The remaining 50% of the net revenues are divided among local municipalities based on annual weighted regional assessment rates.

## Background

In 2007, the City of Burlington was named the Service Provider on behalf of HCS as part of the implementation of a two phase streamlining initiative, now referred to as the Growth Management Plan (GMP). The GMP along with the business plan and budget is reviewed annually by the Area Treasurers and the Joint Management Board. Milton Council policy number 90 outlines the Town's role as an equal partner with the Halton Court Services - Provincial Offences Office. That policy, along with the agreement with the municipal partners, includes a requirement for the business plan and budget to be approved by each Municipality in Halton on an annual basis.

## Discussion

The 2024 Budget and Business Plan was developed by HCS staff in 2023 based on the mid-year results available for 2023. The budget was reviewed and approved by the Area Treasurers and the Joint Management Board.

The 2024 Budget and Business Plan is included in full detail as Appendices A. Notable points include but are not limited to:

- Gross revenue for HCS in 2024 is budgeted at \$8.89 million as compared to the \$8.6 million budgeted for 2023.
- Total expenditures in 2024 are budgeted at \$7.0 million compared to the \$6.86 million budgeted for 2023.
- The 2024 net budget of \$1.8 million is expected to result in a distribution to Milton of \$0.16 million.

## Part III POA Prosecution

As outlined in further in the appendix, the Ministry of the Attorney General is going through a process of transferring the responsibility for the prosecution of Part III orders (i.e. those pertaining to more serious offences or by-law offences) to municipalities. At this time the ministry has provided a template Interim Transfer Agreement that outlines terms of a potential transfer. The agreement does not contemplate any form of financial reimbursement by the Province to municipalities for the costs associated with absorbing the additional responsibilities, and the no further opportunity to amend the template has been provided. As such it has been recommended that HCS not agree to voluntary assumption of Part III orders at this time. Should the transfer be mandated, additional staffing resources and costs will be incurred (currently estimated to be an additional \$158,845 per year). Further detail on these needs is provided in the appendix, and specifically include an additional prosecutor and an additional case administrator.



## Discussion

### Other Updates

Other updates provided in Appendix A (in Section 9) include advocacy related to the justice of the peace shortages, the backlog of court dates for Part I charges and Bill 177 impacts. A summary of the findings of the HCS's service delivery review is also provided (as Section 8).

In addition, following the presentation of the 2024 HCS budget to the Joint Management Board, the Board requested that a study be completed to assess the long term sustainability of the Provincial Offences Court given the reduced judicial resources provided by the Province to the Court and potential changes resulting from the Administrative Penalty Program. Authorization was provided by the Board to fund this work from the HCS reserves with results to be presented back to the Board once completed.

## Financial Impact

The projected distribution from HCS to the Town of Milton for 2024 is \$158,845. This amount has already been reflected in the Town's 2024 Budget and Business Plan.

Respectfully submitted,

Glen Cowan  
Chief Financial Officer / Treasurer

For questions, please contact:      Glen Cowan      Phone: Ext. 2151

## Attachments

Appendix A: Halton Court Services 2024 Budget and Business Plan

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

**ONTARIO COURT OF JUSTICE  
PROVINCIAL OFFENCES OFFICE**

**HALTON COURT SERVICES**

**2024 BUSINESS PLAN AND  
BUDGET**

**City of Burlington  
Town of Halton Hills  
Town of Milton  
Town of Oakville  
Regional Municipality of Halton**

**September 2024**

# **TABLE OF CONTENTS**

<b>RECOMMENDATIONS .....</b>	<b>3</b>
<b>OVERVIEW OF 2023 PERFORMANCE.....</b>	<b>4</b>
1. BUDGET PERFORMANCE.....	4
2. OPERATIONAL PERFORMANCE.....	4
3. AUDITS.....	6
4. REVENUE STABILIZATION FUND.....	6
5. REVENUE SHARING.....	7
6. WRITING-OFF OF UNCOLLECTABLE FINES.....	8
7. CAPITAL RESERVE FUND.....	8
8. EXTERNAL REVIEW.....	9
9. EMERGING ISSUES.....	13
<b>APPENDIX A – 2024 OVERALL BUDGET .....</b>	<b>20</b>

## **RECOMMENDATIONS**

1. **Recommendation:** Approve the 2024 Halton Court Services budget as revised to exclude the cost of the new costs related to the transfer of Part III prosecutions.
2. **Recommendation:** A contribution of \$50,000 from net revenues is to be made to the Capital Reserve Fund during 2024 to ensure that requirements of the Reserve Fund Policy are met.
3. **Recommendation:** Withdraw \$20,000 from the Capital Reserve Fund for courtroom computer hard/soft replacements for the computer renewal program.
4. **Recommendation:** Reject the transfer of Part III offences to Halton Court Services at this time.
5. **Recommendation:** That subject to a mandated transfer of Part III prosecution, Halton Court Services be delegated the authority to hire one additional full time Case Administrator and one Full Time Prosecutor, with any required 2024 funding provided from the net revenues before distributions (via an in-year variance) and future years via the annual budget process.
6. **Recommendation:** Area Treasurers recommend that HCS circulate to the JMB and Area Treasurers a comparison of annual expenditures using the same comparator group and benchmark year(s) as was utilized in the Service Delivery Review undertaken by KPMG if the data is available.

## OVERVIEW OF 2023 PERFORMANCE

### 1. BUDGET PERFORMANCE

#### Revenues to End of June

The Municipal Partners had budgeted gross revenues of \$8.6 million for 2023. The chart below summarizes results by end of June and projections for the remainder of the year.

There is an expected increase of approximately 12.3% in net revenue in 2023.

<b>COMPARISON OF OVERALL PERFORMANCE TO BUDGET for the year ending December 31, 2023</b>					
	<b>2023 Budget</b>	<b>Actual June 30/23</b>	<b>Actual % of Budget</b>	<b>Projection Dec 31/23</b>	<b>Projection % of Budget</b>
Gross Revenue	(\$8,617,109)	(\$4,286,781)	49.7%	(\$8,773,955)	<b>101.8%</b>
Operations	\$6,864,750	\$3,082,358	44.9%	\$6,805,218	<b>99.1%</b>
<b>Net Revenue</b>	<b>(\$1,752,359)</b>	<b>(\$1,204,422)</b>	<b>68.7%</b>	<b>(\$1,968,135)</b>	<b>112.3%</b>

<b>COMPARISON OF 2024 BUDGET TO 2023 BUDGET</b>						
	<b>REVENUE</b>			<b>EXPENSES</b>		
	<b>2023 Budget</b>	<b>2024 Budget</b>	<b>% Difference</b>	<b>2023 Budget</b>	<b>2024 Budget</b>	<b>% Difference</b>
Administration	(\$6,316,359)	(\$6,485,827)	<b>2.7%</b>	\$5,362,800	\$5,410,794	<b>0.9%</b>
Collections	(\$2,300,750)	(\$2,400,500)	<b>4.3%</b>	\$451,855	\$496,727	<b>9.9%</b>
Prosecution	0	0	<b>0.0%</b>	\$1,060,350	\$1,106,146	<b>4.3%</b>
<b>TOTAL</b>	<b>(\$8,617,109)</b>	<b>(\$8,886,327)</b>	<b>3.1%</b>	<b>\$6,874,995</b>	<b>\$7,013,667</b>	<b>2.0%</b>

### 2. OPERATIONAL PERFORMANCE

#### Provincial Offences Charges

Charge volumes are entirely driven by enforcement agencies and their initiatives, these charge volumes are the main influence on the revenues that are generated through HCS. At the end of Q2 2023 there were 23,477 (45%) charges filed of the projected 52,000 total for 2023. Filed charges are 2,584 short of Q2 projections. Therefore, the current projection for Q4 is that

charges may reach 47,000 (90% of projected total). HCS currently has a pre-paid rate of 40%, provincially the pre-paid rate is 47%.

The following chart provides the trend in number of filed charges since 2018 and includes totals for Q2 2023 and projected totals for the end 2023:

	2018	2019	2020	2021	2022	2023 Q2	2023 Projected
<b>PART I</b>	48,072	53,537	48,269	33,477	30,486	15,409	31,500
<b>PART III</b>	3,510	3,600	3,054	2,972	2,562	2,242	4,500
<b>RLC</b>	15,036	12,513	9,761	17,993	11,589	5,703	11,000
<b>TOTAL</b>	<b>63,577</b>	<b>66,618</b>	<b>69,650</b>	<b>61,084</b>	<b>54,442</b>	<b>23,477</b>	<b>47,000</b>

The following chart provides the number of charges by enforcement agency that were refused for filing with the reasons for refusal through Q2 2023:

AGENCY	REASON					TOTALS
	Late Filing	Date Error	Young Offender	Wrong Juris	Old/Wrong PON	
HRPS	58	98	1	0	3	160
OPP	14	0	0	0	0	14
MTO	80	0	0	0	2	82
OTHER	1	0	0	0	2	3
<b>TOTALS</b>	<b>153</b>	<b>98</b>	<b>1</b>	<b>0</b>	<b>7</b>	<b>259</b>

The following charts provide charge volumes for both Part 1 and Part 3 by enforcement agency through Q2 2023.

PART 1	JAN	FEB	MAR	APR	MAY	JUN	TOTALS
By-laws	7	3	4	5	2	4	25
OTHER ENF.	46	55	94	52	69	70	386
Halton Regional Police	2072	1739	1729	1544	2104	1554	10742
MTO	348	300	397	441	513	341	2340
OPP	304	390	376	347	378	244	2039
Red Light Camera	837	666	920	686	1114	1480	5703
<b>TOTALS</b>	<b>3614</b>	<b>3153</b>	<b>3520</b>	<b>3075</b>	<b>4180</b>	<b>3693</b>	<b>21235</b>

PART 3	JAN	FEB	MAR	APR	MAY	JUN	TOTALS
By-laws	44	7	9	28	4	3	95
OTHER ENF.	74	3	26	8	14	23	148
Halton Regional Police	252	262	182	207	286	266	1455
MTO	9	38	24	10	32	35	148
OPP	62	60	27	86	98	63	396
<b>TOTALS</b>	<b>441</b>	<b>370</b>	<b>268</b>	<b>339</b>	<b>434</b>	<b>390</b>	<b>2242</b>



### 3. AUDITS

#### External Audit

KPMG performed an audit of HCS for the period ended December 31, 2022. There were no items of concern to report to the Partnership by way of an auditors' management letter. KPMG maintains a practice of issuing qualified opinions for all of its POA court clients due to the inability to review cash procedures at other POA courts accepting fine payments on behalf of HCS, and to review controls of the provincial ICON system utilized by all POA courts across the province.

### 4. REVENUE STABILIZATION FUND

Following the request of the Area Treasurers, a Municipal Partner Revenue Stabilization Fund (MPRSF) was created in early 2014 to assist the partners in protecting against the impact of volatility in fine revenue, and to provide a source of funding to stabilize revenue sources annually, including the impacts related to the new court facility. Per policy, an annual review of the MPRSF is carried out by the Area Treasurers.

#### Flat-Lining Net Revenue Distribution

Net revenue surplus was transferred to the MPRSF between 2013 and 2017. Interest is allocated to the MPRSF on an annual basis.

The Area Treasurers directed that contributions to the MPRSF end as of 2018 given the healthy balance of the MPRSF. In 2021, the JMB directed to only distribute to the Partners the actual net revenue earned from operations going forward. The balance in the Stabilization Reserve Fund is \$835,292 at the beginning of 2023.

<b>Stabilization Fund</b>				
<b>Year</b>	<b>Net Revenue Over Budget</b>	<b>Use of Funds</b>	<b>Interest (net of Admin Fee)</b>	<b>Balance</b>
<b>Balance Forward</b>				\$835,292
<b>2023*</b>	\$0	\$100,000 (KPMG Service Review)	\$17,241	\$752,533
<b>2024*</b>	\$0	\$0	\$15,503	\$768,036
<b>2025*</b>	\$0	\$0	\$15,829	\$783,865
<b>2026*</b>	\$0	\$0	\$16,161	\$800,026
<b>2027*</b>	\$0	\$0	\$14,316	\$814,342

## 5. REVENUE SHARING

According to the established revenue-sharing agreement, the Region receives 50% while the Municipal Partners receive a percentage of the 50% balance based on assessment rates.

Following is a five-year overview of net revenue distribution since 2019 including the estimated annual distribution for 2023:

<b>Historical Annual Revenue Sharing % Based on Tax Assessment</b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023*</b>
Burlington	15.70%	15.60%	15.44%	15.32%	15.20%
Halton Hills	4.60%	4.60%	4.60%	4.57%	4.54%
Milton	8.35%	8.40%	8.55%	8.64%	8.72%
Oakville	21.35%	21.40%	21.43%	21.48%	21.55%
Region of Halton	50.00%	50.00%	50.00%	50.00%	50.00%
<b>TOTAL</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

<b>Historical Annual Revenue Distribution to Partnership</b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023*</b>
Burlington	730,935	726,280	443,960	246,235	291,557
Halton Hills	214,159	214,159	132,435	73,453	87,083
Milton	388,746	391,074	250,380	138,869	167,261
Oakville	993,979	996,307	622,472	345,243	413,358
Region of Halton	2,327,820	2,327,820	1,448,957	803,639	959,068
<b>TOTAL</b>	<b>\$4,655,640</b>	<b>\$4,655,640</b>	<b>\$2,898,203</b>	<b>\$1,607,439</b>	<b>\$1,918,327</b>

\*2023 budget to be realized

### Overall Revenues

The Municipal Partners are projecting gross revenues based current trends and although population continues to grow at a fair rate across Halton, the number of charges filed has not be reflected in the population growth for the last several years. A modest increase is projected to 50,000 charges for 2024 over the current projection of 47,000 for 2023. Gross revenue for

HCS in 2024 is budgeted at **\$8.89 million** as compared to the **\$8.6 million** originally budgeted for during 2023.

Total expenditures in 2024 are budgeted at **\$7 million** compared to the **\$6.87 million** originally budgeted for 2023.

*See Appendix A for a copy of the overall 2024 POA Budget.*

***Recommendation #1: Approve the 2024 Halton Court Services budget as presented.***

## **6. WRITING-OFF OF UNCOLLECTABLE FINES**

In accordance with the Write-Off Policy, the Municipal Partners are seeking approval from the Area Treasurers and the Joint Management Board to write-off those defaulted fines that have accumulated during 2023 where it has been determined there are no viable means of collection. Write-offs scheduled during 2023 will total approximately 190 cases with a total value of approximately \$85,763.

## **7. CAPITAL RESERVE FUND**

### **Expenditures During 2023**

Approximately \$69k was drawn for the 5 year computer refresh project to provide HCS with new laptops and docking stations.

### **Contribution During 2024**

The Municipal Partners regularly conduct an annual review of the Capital Reserve Fund to ensure that future capital cost requirements are reflected and that the required minimum balance of \$300,000 is maintained. The Municipal Partners are recommending that the minimum contribution of \$50,000 continue to be made to the Capital Reserve Fund during 2023.

### **Requirements for 2024**

HCS is scheduled to continue the Computer Renewal Program that started in 2023 and will be renewing 10 desktop computers in the courtrooms at an estimated cost of \$20,000.

**Reserve Fund Forecast**

Following is the Capital Budget Forecast over the next five years:

<b>Capital Budget Forecast</b>				
<b>Year</b>	<b>Requirements</b>	<b>Use of Funds</b>	<b>Annual Contributions Including Interest</b>	<b>Projected Year-End Balances</b>
	Balance Forward			<b>\$397,797</b>
<b>2023</b>	Computer Hard/Soft Replacements	(\$69,000)	\$57,756	\$386,552
<b>2024</b>	Courtroom Computer Hard/Soft Replacements	(\$20,000)	\$57,531	\$424,084
<b>2025</b>	TBD		\$58,282	\$482,365
<b>2026</b>	TBD		\$59,447	\$541,813
<b>2027</b>	TBD		\$60,636	\$602,449

***Recommendation #2:*** A contribution of \$50,000 from net revenues is to be made to the Capital Reserve Fund during 2024 to ensure that requirements of the Reserve Fund Policy are met.

***Recommendation #3:*** A withdrawal of \$20,000 from the Capital Reserve Fund for computer hard/soft replacements for the computer renewal program.

**8. EXTERNAL REVIEW SUMMARY OF KPMG RECOMMENDATIONS**

The external review of Halton Court Services was completed in June with the following recommendations:

**KPMG Recommendation #1.1: Review Revenue Sharing Agreement**

**Benefit:**

- Realigns revenue sharing agreement with current court services trends and Joint Management Board’s expectations

Implementation: 4-6 months

JMB should perform an assessment of the revenue sharing agreement

**Action:**

- Chief Financial Officer for COB has agreed to take this to the Area Treasurers

### **KPMG Recommendation #1.2: Enhance Reporting to JMB**

#### **Benefit:**

- Increases transparency and accountability
- Identifies trends impacting court operations and revenues

Implementation: 7-12 months

- Develop dashboards that analyze current data points on volume of charges and refusal rates
- Update annual reporting processes to include the trend analysis and revenue projections by filing agency
- Begin tracking court closures, revenues that may be transitioned to administrative penalty programs and other external factors impacting court operations
- JMB to request data from OPP and HRPS

#### **Action:**

- The business plan now includes a summary of refused charges
- The business plan now includes a summary of charges by filing agency
- Court closure tracking sheet has been created and will be updated with each court closure going forward

### **KPMG Recommendation #1.3: Strategic Vision and Mission**

#### **Benefit:**

- Provides direction and defines HCS's purpose to guide decision-making and goal setting
- Inspires and motivates employees by aligning purpose and values
- Enhances the reputation in the eyes of the public
- Focuses HCS's resources and efforts on a shared goal, rather than working on fragmented objectives

Implementation: +12 months

- Develop vision statement and guiding principles for HCS
- Ensure the vision and guiding principles are aligned with the JMB's overall vision
- Obtain approvals, as required
- Consider partnerships with other municipalities and MAG
- Communicate vision statement to staff and public through identified channels
- Update procedures and processes to align with strategic vision
- This recommendation will require staff time and effort for successful execution.

#### **Action:**

- HCS Staff will work on a Strategic Vision Statement throughout 2024

### **KPMG Recommendation #1.4: Review Burlington's Chargeback Costs**

#### **Benefit:**

- Realigns chargeback costs with the City of Burlington's actual costs

Implementation: 4 to 6 months

- The City of Burlington should perform an assessment of the chargeback cost model
- If changes are required, develop a new and consistent method for charging out costs to HCS
- Enter into service level agreement with HCS

#### **Action:**

- Chief Financial Officer for COB, has agreed to take this to the Area Treasurers

### **KPMG Recommendation #1.5: Increased MAG Advocacy**

#### **Benefit:**

- Educate MAG on the current limitations and impact on processes of the request form and allowing trials to be requested online
- Increases the likelihood of MAG considering and actioning plans to update ICON

Implementation: +12 months

- Collaborate with comparators to conduct an assessment documenting ICON's current limitation and required improvement areas
- Draft a letter outlining the key benefits of an upgraded system
- Continuously communicate these benefits to MAG through meetings, conferences, and written communication

#### **Action:**

- Staff will undertake collaboration with comparators and compile key benefits to prepare a letter to the Ministry.

### **KPMG Recommendation #2.1: Adjust Office Layout**

#### **Benefit:**

- Improves customer service by better-equipping staff to provide quick and timely information to customers
- Optimizes space and facilitates efficient process flows

Implementation: +12 months

- Assess the optimal design for the office layout
- Obtain financial estimates and necessary approvals
- In collaboration with HR and senior management, make changes to the office structure

#### **Action:**

- Although staff agree with the recommendation, staff are not seeking to move forward with an adjustment in the office layout at this time, as the cost of the implementation would not balance to the efficiencies gained.

### **KPMG Recommendation #2.2: Customer service metrics and Communication**

#### **Benefit 2.2.1:**

- Measures progress and identifies areas of strength and weakness
- Ability to benchmark performance against the historical data, industry standards (comparators), and legislative deadlines

Implementation: 4 to 6 months

- Identify key KPI's and establish a data collection plan
- Establish a process to monitor and report KPI's on a regular basis
- Train personnel in KPI monitoring, reporting and analyzing

#### **Action:**

- Staff will work to define KPI's and establish a data collection plan.

#### **Benefit: 2.2.2**

- Reduces reliance on staff to manually address public inquiries
- Increases inclusivity and reaches a wider audience

Implementation: 7 to 12 months

- Develop processes to review and update the City's website
- Update website with relevant information

- Coordinate with the IT department for website updates

**Action:**

- Staff will evaluate data from the KPI's to determine where additional information may be required on the HCS website. It is noted that at the time of the website upgrade in 2022 it was determined to simplify the data contained on the website to ensure accurate information is being provided, it should be further noted that the Ministry website itself is now a more simplified version as well.

**KPMG Recommendation #2.3: Implement Process Improvements**

**Benefit:**

- Reduced manual efforts and paper usage
- Elimination of waste in the process
- Culture of continuous improvement
- Foster collaboration and communication among different departments

Implementation: 7 to 12 months

- Identify key processes to be reviewed
- Encourage teams to identify and implement small, incremental improvements on an ongoing basis
- Conduct process mapping workshops to identify waste, duplicated and manual efforts
- This recommendation will require staff time and effort for successful execution.

**Action:**

- Staff will continue to evaluate processes to find improvements and efficiencies as outlined.

2.3.

1. Elimination of interpreter pink sheets – process is under review
2. Implement excel-based interpreter attendance process – process is under review
3. Implement an electronic interpreter invoice process – process is under review
4. Implement electronic filing of red-light camera certificates – process is in testing phase
5. Collaborate with HRPS to adopt electronic filing – process is in testing phase
6. Save the trial book in a cloud location – meetings with IT have commenced
7. Collaborate with HRPS to input officer schedules into ICON – preliminary discussions have started with HRPS and will continue, however initial concerns are that the time commitment may outweigh resources
8. Streamlining the review of failure to respond dockets – a pilot project is being considered and discussed to streamline the process
9. Acquire and utilize barcode scanners to view tickets in ICON – scanners will be implemented by end of 2023 – staff appreciate the benefits and efficiencies brought by implementing scanners
10. Encourage JP's to perform virtual docket reviews – discussions with the LAJP have been scheduled
11. Update Collection's Assignments on CAMs – a significant CAMs update is pending a review will be done once the update is implemented if this is a feasible ask

12. Forward Nimble emails/reports to Administration Supervisor – change in process has been implemented

## **9. EMERGING ISSUES**

### **1. Justice of the Peace shortages**

The shortage in judicial resources is anticipated to be ongoing throughout 2024. The most recent posting for justice of the peace applications did not include positions in Halton. The letter signed by Mayors in 2023 was sent to the Attorney General seeking appointments for Halton, the response however indicated that the Chief Justice of the Ontario Court of Justice and the Justice of the Peace Appointments Advisory Committee have the responsibility for appointing the Justice of the Peace. Burlington Mayor Ward further advocated for judicial resource in a meeting with the Attorney General in August of 2023.

### **2. Backlog**

There are currently approximately 19,000 Part I charges that require court dates. HCS Administration continues to collaborate with HCS Prosecution to make every effort to have matters scheduled in a timely fashion. These efforts include scheduling Early Resolution meetings outside of court sitting days which allow meetings to take place with prosecution and only those that require a justice of the peace for either plea resolution or trial to be scheduled into court sittings, thereby maximizing the limited court sittings allotted to HCS.

### **3. Bill 177 Implementation - Reopening's**

Bill 177, the Stronger, Fairer Ontario Act (Budget Measures), 2017, and Bill 46, the Less Red Tape, Stronger Ontario Act, 2023, introduced amendments to the Provincial Offences Act (POA) aimed at modernizing and streamlining POA court processes.

Effective September 22, 2023, clerks of the court will have the authority to grant, but not deny, applications to strike a conviction, if satisfied that the defendant, through no fault of their own, was unable to attend a meeting with a prosecutor, unable to appear for a hearing or did not receive delivery of a notice or document relating to the offence. If the clerk is not able to grant the application to strike the conviction, the clerk must forward the application to a justice of the peace who will make the determination whether to grant or deny the request for a reopening. In transitioning the process from the justice of the peace to the clerk of the court s.11(7) provides for a transition provision for the new clerk responsibilities. All applications to reopen a conviction, including those applications filed before September 22, 2023, are to be considered by the clerk of the court. These amendments to the reopening process will improve the customer experience and allow for quicker access to justice.

### **4. Transfer of Part III POA Prosecutions to Municipalities - Update**

As reported previously, the Municipal Partners were advised by Ministry of the Attorney General (MAG) in August 2017 that the province intends to transfer the responsibility for prosecution of Part III POA matters to municipalities.



Since last reporting on the topic, the Crown's office has provided the template Interim Transfer Agreement which contemplates the transfer of prosecution of the Part III POA Prosecutions to the partners. The key terms of the agreement are as follows:

- The agreement contemplates transfer of Part III and IX of provincial offences now prosecuted by the Criminal Law Division of the Ministry of the Attorney General to the municipal partners subject to some exemptions (e.g. matters against Young Persons as defined in POA, matters where criminal proceedings were commenced with same circumstances, proceedings involving sex offender registry);
- The agreement has a limited 2-year term;
- The Attorney General maintains right to intervene in prosecutions transferred in the agreement;
- The municipal partners are asked to agree to a number of covenants including:
  - That they provide timely disclosure to defendants;
  - That they make efforts to advise family members and other interested parties of significant developments in proceedings that involve fatalities;
  - Screen all private prosecutions for reasonable prospect of convictions;
  - Maintain reporting protocol with Crown Attorney and Attorney General respecting matters that appears likely to raise substantive legal issues at trial or appeal; and,
  - As required, provide the Attorney General workspace and courtroom technology.
- Municipal Partners are asked to indemnify and hold harmless the Crown and members of Executive Council of Ontario, from losses and proceedings arising out of performance of duties under the agreement or in connection with the agreement and to maintain insurance required under the agreement;
- Attorney General may terminate the agreement for cause or, without cause, on 90 day notice.

The agreement does not contemplate any form of financial reimbursement by the Province to the municipal partners on account of the costs associated with taking on the transfer of these prosecutions. There is no anticipation of any revenue to be generated by the program given that the municipalities already receive the revenue from Part III prosecutions. The communication from the Crown made it clear that the Province sees this template as final with no room to make any amendments or side agreements. Its effectively a 'take it or leave it' scenario.

At this time, it appears that the acceptance of the transfer and execution of this agreement remains voluntary. We have sought clarification from the Crown of what consequences, if any, would follow in the event the partners chose not to voluntarily accept the transfer. We specifically inquired whether the transfer would occur (possibly on short notice) in the event it is not taken on within mutually negotiated timelines. We have not received a reply despite multiple follow ups.

If the Municipal Partners chose to accept the transfer despite the recommendation to reject it, the date of the transfer being proposed is July 1, 2024. If transfer is mandated by the province, there may be no room to negotiate the date of acceptance, as it may occur on short notice.

Given the cost to the transfer to the municipal partners and no corresponding increase in revenues, at this time the Municipal Partners do not recommend that Halton Court Services agree to voluntarily assume Part III prosecutions. The following is the review of budgetary

staffing and resource needs in the event that the partners decide to accept the Part III transfer OR the transfer is mandated by the province.

## **Impact on Prosecution Resource Needs in the event of the Transfer**

### **Prosecutor Position:**

2021 Business Plan and Budget contemplated increase in staff complement of additional one full-time Prosecutor to absorb the additional work that was anticipated as a result of the transfer of Part III POA Prosecutions. Given the delay in the transfer, the Prosecutor position has not yet been filled. The required funding to fill this position remains in the 2024 Budget assuming a transfer date of no earlier than July 1, 2024.

If the transfer of Part III POA prosecutions is accepted by the municipal partners, the recruitment for this full-time role will commence early next year to ensure continuity of operations.

If the transfer is not accepted by the municipal partners, the province may still mandate it, on possibly short notice to Halton Court Services. If that occurs, the recruitment of the additional Prosecutor and the Case Administrator discussed below will occur without further notice to the partners in order to ensure continuity of operations.

If the transfer is not accepted and not mandated by the province, the recruitment will be put on hold until further notice.

### **Case Administrator Position:**

The transfer of Part III POA Prosecutions will see an expansion of prosecution services that will have an impact on other staff resources. As a result, Municipal Partners are seeking approval to recruit one additional Case Administrator, in addition to the Prosecutor position that was approved in the 2021 budget, but not yet recruited. The recruitment of the Case Administrator would coincide with the proposed transfer date. As a result, those positions will only be filled in the event of transfer of Part III prosecutions to the municipalities. The budget impact will vary depending on when transfer occurs.

### **Rationale for the staffing increase:**

The Prosecution Unit currently operates with a staff complement of five full time Prosecutors. With the transfer of Part III prosecutions, the Unit will see an immediate increased demand for prosecution resources.

It is expected that approximately **3,600** Part III charges will be filed and prosecuted annually in addition to the matters already in the system, with slight increases year over year as this has been the recent trend. As of the end of 2023 all OPP vehicles will be equipped with Automatic License Plate Readers (ALPR) devices. The OPP anticipate an increase in charges related to plate offences and drive under suspension offences in the coming years as the reader will find them more frequently than an officer on regular patrol.

Court attendances for prosecutors have already increased due to increased docket loading to help with the pandemic backlog. They will increase again to at least three additional days per week according to the existing court schedule for Part III matters.

There will also be a corresponding increase in the need for preparation time, as Part III first appearance lists are much larger than the average docket and each file must be reviewed prior to first appearance to ensure disclosure is ready and that a position with respect to the charge is taken including the determination as to whether jail time will be sought.

In addition, once training is completed it is anticipated that careless driving cause bodily harm and careless driving cause death cases will be transferred to the prosecution staff of HCS. Often these matters of more significance require more prosecution time as there is additional technical data, and involvement with victims and witnesses.

When transfer occurs, time will be required to be set aside for Crown pre-trial dates and Judicial pre-trial dates. These two processes require the prosecutor to have time to review the files and prepare for the meetings.

The Prosecution Unit currently operates with two full time Case Administrators. The Unit will see an increased need for case administrator support upon transfer of the Part III prosecutions to HCS. The 2021 Budget and Business Plan approved the conversion of one part-time Case Administrator to one full-time position to manage the transfer. That full position was filled last year with the retirement of a Case Administrator. It has now become clear that an additional Case Administrator position will be required should the transfer be accepted or mandated due to both transfer related pressures as well as technology developments which increase Case Administrator resource needs. The conversation of the case administrator position in 2023 budget allowed the prosecution unit to keep up with service demands. In 2022 in order to address the backlog in the court system due to the pandemic, it was agreed that the number of matters scheduled on trial and early resolution dockets would be increased. The increase in scheduled matters, combined with the removal of a court date to allow better access to disclosure, resulted in a significant increase in work volume for case administrators. This increase in workload led to the conversation of the part time (3 days a week) to a full-time position. When looking at the number of files, as well as other factors such as digital innovation, the proposed half a position previously approved for the transfer is not sufficient to maintain service levels currently being provided and to meet the increased service needs anticipated with the transfer. The increased demand in scheduling of part I matters coupled with the service demands for the transfer of Part III matters can be attributed to the following reasons:

- Disclosure processed annually will increase significantly as a result of the transfer of approximately 3,600 Part III charges annually. **This will represent over a 100% increase in the number of disclosure requests processed compared to 2022.**
- The number of other administrative responsibilities such as, loading documents into CAMS, summons preparation, and enquiries by the public and staff will all correspondingly increase with respect to these additional Part III charges.
- In 2022 Halton Regional Police commenced enforcement with dash cameras which resulted in two responses to each Part I disclosure request as the video footage must be sent separate from the notes portion of disclosure due to file size.
- In 2023 the OPP installed and commenced using dash camera and body worn cameras. This will result in an increase of disclosure responses required for each Part 1 offence in 2024 when those matters are scheduled for early resolution or trial.

- While disclosure obligations for part I matters are triggered upon request of the defendant, Part III matters require disclosure be provided at their first appearance meaning that all matters must be provided disclosure whether or not a request is made.
- First appearance is often a few weeks after the summons was issued on the roadside. This period allows for information's to be sworn and for the Prosecutions office to be made aware of the charges. There is very little time to prepare the disclosure. This includes tracking down any video that may be available for the offence so that it can be provided in a timely manner. Having disclosure ready at first appearance not only fulfills our obligation to provide it to the defendant, but it will also result in fewer adjournments and allow for matters to resolve at a quicker pace or be set for trial well within the time limits set out by caselaw; Rv. Jordan.
- It is anticipated that the Case Administrator will also be used to assist with early resolution to alleviate some of the time pressures the prosecutors will have to address when Part III matters are transferred.

In the event of the transfer, either voluntary or mandated by the province, the Municipal Partners are recommending the addition of a Case Administrator.

### **Benefits of the transfer of Part III Prosecutions**

- Efficiencies related to having greater control over how POA matters are scheduled and tailored to the needs of the local community
- Utilization efficiencies of blended Part I and Part III court schedules with one prosecution service deployed that will make more efficient use of court and prosecutor capacity
- Benefits of blended Part I and III court schedules, streamlined police court dates and associated savings to police services budgets
- Improvements to the overall efficiency of POA prosecutions and related case management and administrative functions
- Current hourly rate of \$109 charged by the province will be eliminated at the time of transfer (the total amount for 2022 was \$35k)
- The transfer streamlines complicated court processes in the community – one window prosecution service for public, police and justice stakeholders versus confusing split between municipal and provincial responsibility
- The ability to prepare and control when and how the transfer is rolled out. Provides time for Prosecutors to shadow Crown Attorney's on careless cause death and careless cause bodily harm cases to be prepared to serve the community

Jurisdictions who have taken the transfer and their staffing

Hamilton is an abutting jurisdiction with population and service area similar to the area serviced by HCS. Hamilton is in the process of accepting transfer of Part 3 charges without an increase in staffing as they currently have a staffing complement of 8 Prosecutors and 3 Prosecution Assistants for a total of 11 staff members.

The City of Brampton prosecutors' office with a charge volume 30% higher than HCS in 2022 has a total of 13 staff. Brampton has 8 full time Prosecutors, 4 full time Prosecution Coordinators (PC) who assist with early resolution and a one-year contract PC.

The charge volume in Durham Region is 53% higher than HCS charge volume with a total of 15 staff members. 8 full time prosecutors, an additional prosecutor on a 1-year contract and 7 Prosecution Assistants. In 2024 Durham plans to hire additional 2 Prosecution Assistants and convert 1 prosecutor contract position to full time to address their staffing needs. To provide effective service levels in 2023 Durham chose to pay current staff overtime to compensate for the increased demands on workload.

The City of Mississauga with a charge volume similar to the City of Brampton has 7 full time Prosecutors and 3 Full-time Assistants. To address increased demands on administrative services, the prosecutions office revived a part-time filing clerk position and is obtaining assistance from a law clerk from legal services department a couple days a week. There is an anticipated increase to 4 full time administrative staff in the next month, as a posting for a position closed recently.

For the transfer of Part 3 charges to be successful and for Halton Court Services to be able to provide the necessary service levels, one additional full time case administrator is required, in addition to the Prosecutor position that was already approved in the 2021 budget. This increase in resources would make the staffing complement in Halton Court Services at 6 prosecutors and 3 case administrators for a total of 9 staff members. This is consistent with the staffing resources in surrounding jurisdictions based on charge volume.

**The Anticipated Cost of the transfer of Part III Prosecutions:**

As set out above, it is anticipated that the transfer of Part III prosecutions will require the recruitment of a Prosecutor and a Case Administrator. The annual cost of the impact of the transfer is as follows (now pro-rated in the budget to July 1, 2024):

Prosecutor salary including benefits	107,720.02
Case Administrator salary including benefits:	\$79,894.86
Related resource and Equipment costs	\$6230
<b>TOTAL</b>	<b>193,844.88</b>

The assumption of the transfer will carry with it some savings. In 2022, approximately \$35,000 was paid to the province to cover the cost of the time in which the Part III prosecutor was actively in court. The cost paid to the province does not reflect time spent preparing for court, additional administrative support or the costs associated to the articling student that assist the prosecutor, which cost was assumed by the province.

The net cost of annual cost associated with the transfer of the Part III to the Municipal Partners (\$193,844.88-\$35,000.00) is **\$158,844.88** with no corresponding increase to revenue.

**Recommendation #4: Reject the transfer of Part III offences to Halton Court Services at this time.**

**Recommendation #5:** That subject to a mandated transfer of Part III prosecution, Halton Court Services be delegated the authority to hire one additional full time Case Administrator and one Full Time Prosecutor, with any required 2024 funding provided from the net revenues before distributions (via an in-year variance) and future years via the annual budget process.

**APPENDIX A – 2024 OVERALL BUDGET**

**HALTON COURT SERVICES**

**2024 OVERALL POA BUDGET**

9-Nov-23

OVERALL 2023 BUDGET	Projection to Dec 31/23	Expenditures	Cost Element	ADMINISTRATION		PROSECUTION	TOTAL	2024 vs 2023
				Admin/Court Support 461110	Collections 461113	461140		
2,438,652	2,513,403	F/T Salaries	11111	1,486,267	289,806	784,976	2,561,048	
-	8,386	Part-time/Temp	11122	-	-	-	-	
-	(14)	Overtime	11131	-	-	-	-	
-	1,006	Vacation Pay - PT	11248	-	-	-	-	
434,653	429,870	Fringe benefits - FT/PT	11300	259,736	51,292	130,336	441,363	
237,733	239,684	Additional Benefits - FT/PT	11302	150,286	31,076	69,125	250,487	
32,450	23,959	Professional development	11410	12,180	3,450	13,500	29,130	
10,400	8,820	Employee memberships	11412	1,600	300	8,000	9,900	
<b>3,153,900</b>	<b>3,225,115</b>	<b>Total Human Resources</b>		<b>1,910,068</b>	<b>375,924</b>	<b>1,005,937</b>	<b>3,291,929</b>	4.4%
8,944	8,372	Books and subscriptions	22220	1,100	200	7,979	9,279	
1,000	700	Meeting expenses	22223	1,000	-	-	1,000	
19,703	3,688	COVID-related expenses	22226	-	-	-	-	
45,200	64,439	Printing and reproduction	22233	64,180	1,200	1,000	66,380	
16,100	11,955	General office supplies	22242	9,000	800	2,400	12,200	
51,552	50,132	Hydro/Water/Heat	22511	51,707	-	-	51,707	
5,000	5,000	Furniture and office equipment	37102	5,000	-	-	5,000	
122,143	139,286	Comp Software/Hardware/Maintenance	37105	72,826	9,167	18,387	100,380	
1,604,138	1,604,000	Building facility lease	33115	1,606,388	-	-	1,606,388	
25,724	17,487	IT lines	33150	5,868	5,872	5,872	17,612	
11,812	11,349	Equipment rental	33172	8,100	972	2,822	11,894	
4,000	4,065	Bldg repair and maintenance	33210	4,000	-	-	4,000	
13,120	12,305	Equipment maintenance	33240	13,120	-	-	13,120	
45,370	44,580	Courier/Postage services	33250	33,843	11,000	800	45,643	
15,452	13,462	Telephones/Cell Phones	33253	9,992	3,692	2,513	16,197	
-	-	Corporate Communications	33255	-	-	-	-	
1,883	1,303	Travel Exp/Mileage	33320	900	100	883	1,883	
11,000	86,727	External audit	33359	9,000	-	-	9,000	
6,000	2,023	Security/Armoured car services	33366	2,400	-	-	2,400	
100,000	77,497	Interpreters	33367	80,000	-	-	80,000	
376,627	376,628	Cost recoveries	45701	361,773	-	50,313	412,086	
901,000	838,009	Provincial Recoveries	33369	881,500	-	-	881,500	
157,320	132,680	Contract/External services	33450	42,900	87,000	7,240	137,140	
85,730	89,844	Janitorial Services	33467	91,130	-	-	91,130	
2,000	337	Court Related Fees	33510	-	800	-	800	
9,000	5,000	Witness fees	33516	5,000	-	-	5,000	
140,000	155,952	Point of sale-service charges	36194	160,000	-	-	160,000	
(69,000)	(176,116)	Reserve Fund offset for expenses	96306	(20,000)	0	0	(20,000)	
<b>3,710,819</b>	<b>3,580,706</b>	<b>Total Other Expenditures</b>		<b>3,500,726</b>	<b>120,803</b>	<b>100,209</b>	<b>3,721,738</b>	0.3%
<b>6,864,719</b>	<b>6,805,820</b>	<b>TOTAL EXPENDITURES</b>		<b>5,410,794</b>	<b>496,727</b>	<b>1,106,146</b>	<b>7,013,667</b>	2.2%
(15,000)	(2,881)	Parking Fees	90852	0	-	-	0	
(6,300,000)	(6,361,380)	Fines (Gen)	91122	(6,400,000)	-	-	(6,400,000)	
(2,300,000)	(2,351,125)	Fines (Collections)	91122	-	(2,400,000)	-	(2,400,000)	
203,468	135,046	Bylaws Distributed	91124	135,000	0	-	135,000	
(750)	(395)	External recoveries	91410	-	(500)	-	(500)	
(10,400)	(2,019)	Miscellaneous Revenue	91154	(4,400)	0	0	(4,400)	
(10,000)	(12,202)	Transcripts	91207	(10,000)	-	-	(10,000)	
(184,427)	(179,000)	Federal subsidy	92705	(206,427)	0	-	(206,427)	
<b>(8,617,109)</b>	<b>(8,773,955)</b>	<b>TOTAL REVENUE</b>		<b>(6,485,827)</b>	<b>(2,400,500)</b>	<b>0</b>	<b>(8,886,327)</b>	3.1%
<b>(1,752,390)</b>	<b>(1,968,135)</b>	<b>Net Operating Budget before Reserve Fund</b>		<b>(1,075,033)</b>	<b>(1,903,773)</b>	<b>1,106,146</b>	<b>(1,872,660)</b>	6.9%
50,000	50,000	Contribution to Reserve Fund	45100	50,000	-	-	50,000	
-	-	Contribution to Stabilization Fund	45100	0	-	-	0	
<b>(1,702,390)</b>	<b>(1,918,135)</b>	<b>NET OPERATING BUDGET</b>		<b>(1,025,033)</b>	<b>(1,903,773)</b>	<b>1,106,146</b>	<b>(1,822,660)</b>	7.1%

**2024 Requisitions**  
(Partnership Sharing based on 2023 weighted average assessment)

Region	(911,330)
Burlington	(277,044)
Halton Hills	(82,749)
Milton	(158,845)
Oakville	(392,783)
<b>Total</b>	<b>(1,822,752)</b>