

**ONTARIO COURT OF JUSTICE  
PROVINCIAL OFFENCES OFFICE  
HALTON COURT SERVICES**

**2022 BUSINESS PLAN AND  
BUDGET**

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

**October 2021**

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## **RECOMMENDATIONS**

1. **Recommendation:** Approve the 2022 Halton Court Services budget as presented.
2. **Recommendation:** Contribute \$50,000 from net revenues to the Capital Reserve Fund during 2022 to ensure that requirements of the Capital Reserve Fund Policy are met.
3. **Recommendation:** Approve the draft Terms of Reference with respect to an external review of Halton Court Services including, but not limited to, development of operations and recommendations related to service delivery, long-term financial sustainability and governance to a maximum of \$100,000 be provided from the Stabilization Reserve Fund.

## **OVERVIEW OF 2021 PERFORMANCE**

### **1. BUDGET PERFORMANCE**

#### **Revenues to End of June**

The Municipal Partners had budgeted gross revenues of \$11.1 million for 2021. This was based on the assumption that the pandemic would have ended by 2020 and operations would return to normal. The chart below summarizes results by end of June and projections for the remainder of the year.

There is an expected shortfall of approximately \$1.76 million in net revenue in 2021. This shortfall reflects an approximate reduction in gross revenue of \$1.9 million which is offset by an approximate \$806k decrease in expenditures. The shortfall in gross revenues is primarily due to:

- A decrease in number of charges (pandemic-related);
- A backlog in matters being heard compounded by a lack in judicial resources
- the temporary suspension of all deadlines related to the payment of new fines and enforcement resuming in March 2021, but on hold again due to lack of judicial resources.

#### **COMPARISON OF 2022 BUDGET TO 2021 BUDGET**

	<b>REVENUE</b>			<b>EXPENSES</b>		
	<b>2021 Budget</b>	<b>2022 Budget</b>	<b>% Difference</b>	<b>2021 Budget</b>	<b>2022 Budget</b>	<b>% Difference</b>
Administration	(\$8,421,530)	(\$7,301,349)	-13.3%	\$5,631,400	\$5,290,100	<b>-6.1%</b>
Collections	(\$2,696,100)	(\$2,700,750)	0.2%	\$429,150	\$441,100	<b>2.8%</b>
Prosecution	0	0	0.0%	\$1,000,200	\$1,025,250	<b>2.5%</b>
<b>TOTAL</b>	<b>(\$11,117,630)</b>	<b>(\$10,002,099)</b>	<b>-10.0%</b>	<b>\$7,060,740</b>	<b>\$6,756,450</b>	<b>-4.3%</b>

**COMPARISON OF OVERALL PERFORMANCE TO BUDGET**  
for the year ending December 31, 2021

	<b>2021 Budget</b>	<b>Actual June 30/21</b>	<b>Actual % of Budget</b>	<b>Projection Dec 31/21</b>	<b>Projection % of Budget</b>
Gross Revenue	(\$11,117,630)	(\$4,076,649)	36.7%	(\$9,196,334)	<b>82.7%</b>
Operations	\$7,060,750	\$2,879,441	40.8%	\$6,248,421	<b>88.5%</b>
<b>Net Revenue</b>	<b>(\$4,056,880)</b>	<b>(\$1,197,208)</b>	<b>29.5%</b>	<b>(\$2,947,913)</b>	<b>72.7%</b>

## 2. OPERATIONAL PERFORMANCE

### Provincial Offences Charges

By end of June, there were 25,466 (36.4%) charges filed of the projected 70,000 total for 2021. Filed charges fell short of projections due to the continued imposed provincial lockdowns throughout the first half of the year and decreased further over the summer months. Therefore it is projected that charges will reach 50,892 (73% of projected total) by year end.

The following chart illustrates the trend in number of filed charges since 2016:

<b>Charges Filed by Major Enforcement Agencies</b>							
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021 Projected</b>	<b>% Difference '16 to '21)</b>
<b>BY-LAWS</b>	232	215	228	231	271	466	<b>100.9%</b>
<b>HRPS</b>	49,940	43,759	42,850	46,104	43,870	35,008	<b>-29.9%</b>
<b>MTO</b>	4,378	2,466	2,783	2,484	1,070	982	<b>-77.6%</b>
<b>OPP</b>	7,960	5,496	5,011	7,709	5,824	5,698	<b>-28.4%</b>
<b>RED LIGHT CAMERA</b>	8,322	11,205	15,415	12,509	9,590	8,484	<b>1.9%</b>
<b>MINISTRIES/HALTON REG</b>	485	435	394	613	459	254	<b>-47.6%</b>
<b>TOTAL CHARGES</b>	<b>71,317</b>	<b>63,577</b>	<b>66,681</b>	<b>69,650</b>	<b>61,084</b>	<b>50,892</b>	<b>-28.6%</b>

## 3. AUDITS

### External Audit

KPMG performed an audit of HCS for the period ended December 31, 2020. 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 and long-term projections of little impact on net revenue. Due to the pandemic in 2020, the budgeted net revenue was not reached by operations alone and a drawing from the reserve fund was necessary in order to eliminate any variance in the budgeted distribution. At the end of 2019, the balance in the Stabilization Reserve Fund was just under \$4.89 million. In order to meet the \$4.65 million distribution, a total of \$4,099,660 was drawn from the fund in 2020. As a result, the balance in the Stabilization Reserve Fund is now \$847,150 at the beginning of 2021. Due to the status of the current health situation, it is expected that 2021 budgeted net revenue will not be realized, and the Municipal Partners are recommending to only distribute net revenue earned from operations in 2021 (currently projected at \$2.89 million).

Stabilization Fund				
Year	Net Revenue Over Budget	Use of Funds	Interest (net of Admin Fee)	Balance
2020	\$0	(\$4,099,660)	\$52,957	\$847,151
2021*	\$0	\$0	\$17,000	\$864,151
2022*	\$0	(\$240,397)	\$15,662	\$639,416
2023*	\$0	\$0	\$10,943	\$650,359
2024*	\$0	\$0	\$11,173	\$661,531
2025*	\$0	\$0	\$11,407	\$672,939

## 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 2017 including the estimated annual distribution for 2021:

Historical Annual Revenue Sharing % Based on Tax Assessment					
	2017	2018	2019	2020	2021*
Burlington	16.00%	15.85%	15.70%	15.60%	15.44%
Halton Hills	4.65%	4.55%	4.60%	4.60%	4.60%
Milton	8.20%	8.30%	8.35%	8.40%	8.55%
Oakville	21.15%	21.30%	21.35%	21.40%	21.43%
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>

Historical Annual Revenue Distribution to Partnership					
	2017	2018	2019	2020	2021*
Burlington	618,997	963,448	730,935	726,280	447,293
Halton Hills	179,896	276,573	214,159	214,159	133,159
Milton	317,236	504,518	388,746	391,074	247,627
Oakville	818,237	1,294,728	993,979	996,307	621,023
Region of Halton	1,934,367	3,039,267	2,327,820	2,327,820	1,448,957
<b>TOTAL</b>	<b>\$3,868,733</b>	<b>\$6,078,534</b>	<b>\$4,655,640</b>	<b>\$4,655,640</b>	<b>\$2,897,913</b>

\*2021 budget to be realized.

### Overall Revenues

The Municipal Partners are projecting gross revenues based on the budgeted revenue for 2019, rather than actual revenue, given that 2020 and 2021 were anomalies.

Although population continues to grow at a fair rate across Halton, the number of charges filed by local enforcement agencies has remained steady for the last several years. This is contrary to the experience of other regions, where there was a strong correlation between population

growth and increased local enforcement. An increase over the projected total for 2021 (50,892) of 60,000 charges is projected for 2022 with the expectation that enforcement practices will increase from pandemic lows. Gross revenue for HCS in 2022 is budgeted at **\$10.0 million** as compared to the **\$11.1 million** originally budgeted for during 2021.

Total expenditures in 2022 are budgeted at **\$6.7 million** compared to the **\$7 million** originally budgeted for 2021. This represents an overall decrease of 2.4% in expenditures.

*See Appendix A for a copy of the overall 2022 POA Budget.*

**Recommendation #1: Approve the 2022 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 2021 where it has been determined there are no viable means of collection. **Write-offs scheduled during 2022 will total approximately 920 cases with a total value of approximately \$317,765.**

## **7. CAPITAL RESERVE FUND**

### **Expenditures During 2021**

The Remote Interpretation initiative was completed in 2021 and upgrades to equipment in courtrooms to accommodate Zoom proceedings was completed at a cost of \$33,064.

### **Contribution During 2022**

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 2021.

### **Reserve Fund Forecast**

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

Capital Budget Forecast				
Year	Requirements	Use of Funds	Annual Contributions Including Interest	Projected Year-End Balances
	Balance Forward			<b>\$321,085</b>
<b>2021</b>	Virtual Courts Equipment	(\$33,064)	\$56,422	\$344,443
<b>2022</b>	None		\$56,889	\$401,331
<b>2023</b>	TBD		\$58,027	\$459,358
<b>2024</b>	Computer Hard/Soft Replacements	(\$80,000)	\$59,187	\$438,545
<b>2025</b>	TBD		\$58,771	\$497,316
<b>2026</b>	TBD		\$59,946	\$557,262

**Recommendation #2:** *A contribution of \$50,000 from net revenues is made to the Capital Reserve Fund during 2022 to ensure that requirements of the Reserve Fund Policy are met.*

## 8. EXTERNAL REVIEW

The Joint Management Board supported an external review of Halton Court Services with respect to development of operations and recommendations related to service delivery, long-term financial sustainability and governance to a maximum of \$100,000 be provided from the Stabilization Reserve Fund. A draft Terms of Reference for the review be prepared for consideration and approval by the JMB inclusive of project management structure and timing.

**Recommendation #3:** *Approve the draft Terms of Reference with respect to an external review of Halton Court Services including, but not limited to, development of operations and recommendations related to service delivery, long-term financial sustainability and governance to a maximum of \$100,000 be provided from the Stabilization Reserve Fund.*

## **9. EMERGING ISSUES**

### **1. Ongoing Pandemic Recovery**

The pandemic continued to effect court operations across the province and the impact is anticipated to be ongoing throughout 2022 and with the possibility of extending into future years to accommodate the backlog of cases needing to be scheduled into court. Further impacting the recovery process are the drastically reduced judicial resources in the Central West Region (CWR) which has an impact on operations with:

- Unprecedented court closures leaving limited days to schedule matters.
- Hold on convictions for Fail to Respond (FTR) dockets – since June 2021

Currently due to the justice of the peace shortage HCS is permitted to schedule courts with half of the normal judicial compliment with a further cutback in August 2021 when additional dates from September to December were closed so that judicial resources could be shared within the CWR. HCS has a backlog of over 20,000 charges that need to be scheduled for court dates as a result of the pandemic delays and lack of judicial resources.

The FTR convictions that were put on hold at the onset of the pandemic were able to resume in March of 2021 and therefore a revenue stream was generated when fines once again became due and payable, however due to the justice of the peace shortage these matters have not been reviewed since June 11, 2021 leaving over 2000 matters waiting to be reviewed for conviction. Without convictions the revenue stream is impacted as notices of due date are not generated which prompt payment or move to enforcement if not paid.

Given the ongoing impacts of the pandemic it is anticipated that the recovery process could affect operations for a minimum period of 5 years. Therefore the 10 year Revenue and Cost Projection (RCP) that was based on pre-pandemic operations was reevaluated as it is no longer a realistic outlook post-pandemic. The 5 year projection provides projections based upon 2021 numbers with an anticipation that 2022 will be the starting point of a post-pandemic turnaround and a 2% increase in charge volumes thereafter. In the pre-pandemic plan there was an anticipation to have an increase in Administration staff in 2022 and Court Support staff in 2029 based on charges filed, however in the 5 year RCP the anticipated charges filed are not projected to meet the required threshold to increase staff. Although we can only project potential charge volumes it is anticipated that culture changes brought on by the pandemic may continue to have an effect on charge volumes province wide which is reflected in the 5 year RCP.

See Appendix C for a copy of the HCS Revenue and Cost Projection.

### **2. Bill 177 Implementation**

The Ministry of the Attorney General (MAG) has advised that portions of Bill 177 will be proclaimed as of November 1, 2021 if proclaimed as advised there will be impacts to several process;

- Extension for Time to Pay Applications – HCS can approve but not deny applications for more time to pay removing this process from the justice of the peace, unless it is a denial.
- Fail to Respond Docket Review – HCS will review Certificates to ensure they are proper on their face and register convictions removing this process from the justice of the peace.
- Early Resolution Process Adjustments – Moving the majority of the process away from the justice of the peace, however in the proposed current format it is cumbersome on administration and confusing to the defendants. The Municipal Partners are in consultation with MAG to seek amendments to the legislation that would eliminate the processes that have made the new legislation cumbersome and confusing and are offering suggestions and solutions to MAG before implementation

At this time, it is uncertain if the adjustments to the Early Resolution process will go forward or if MAG will revisit the legislation to allow for the efficiencies that the Municipal Partners recommend. It is further unknown if the new legislation under Bill 177 will be for matters going forward from the date of proclamation or if the legislation will allow for the pandemic backlog matters to also be managed through the new legislation processes.

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

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

A Transitional Planning Working Group (TPWG) was formed in early 2020 to bring together municipalities across Ontario and MAG to ensure essential components are put in place for an effective transition from planning to implementation stage. Burlington and Oakville staff have attended meetings on behalf of the Municipal Partners. In March 2021 MAG advised that it will need additional internal approvals in order to achieve consistency among the current MOUs, the proposed interim agreement and amending transfer agreement to facilitate certain requirements of the Criminal Law Division and the Provincial Offences Act. Since then, a further meeting of the TPWG has been scheduled for October 5, 2021 to discuss the download process going forward.

Given the delay in the download of Part III POA Prosecutions provincially, the additional one full-time Prosecutor and one part-time Case Administrator support were not added mid-2021 as was contemplated in the 2021 Business Plan and Budget. The required funding to fill these two positions remains in the 2022 Budget assuming a transfer date of no earlier than July 1, 2022. The proposed transfer date is contingent on successful discussions with MAG and a report back to the Joint Management Board.

HCS staff will report back to the Joint Management Board in 2022 as to the status of the following:

- (i) amending the Memorandum of Understanding and Local Side Agreement to reflect the transfer of Part III POA prosecutions from MAG to the municipal partnership with a transfer date no earlier than July 1, 2022,
- (ii) the staffing implications required to manage the download of responsibility from the province for the prosecution of Part III offences, and

- (iii) the financial implications of the transfer of the prosecution of Part III offences including mitigation opportunities.

#### **4. Automated Speed Enforcement - Update**

As previously reported, the *Safer School Zones Act, 2017* created a framework allowing municipalities to use Automated Speed Enforcement (ASE) camera technology to enforce speeding offences in school zones and community safety zones on roads with speed limits under 80 km/h. Under *Getting Ontario Moving Act, 2019*, the government has also created the legislative framework to establish Administrative Monetary Penalties (AMPs) for vehicle-based offences (such as ASE and red-light camera offences). The framework does not yet contain the required amendments to allow municipalities to implement AMPs for ASE.

Evaluation of data from various municipalities, including Oakville and Burlington, has identified that ASE would not be a revenue generating program, especially if operated through the Provincial Offences Court system. The number of charges from a single camera location has been assessed to be significant, resulting in anticipated adverse immediate impacts on staffing, judicial resources and capacity of the POA court schedule, which has already been impacted by the court closures and backlogs relating to COVID-19. It is for that reason that Ontario Traffic Council's Automated Speed Enforcement Steering Committee, comprised of various municipalities and government organizations across Ontario, has been working closely with the Ministry of Transportation to implement legislative and regulatory amendments to allow municipalities to administer the ASE program through AMPs.

On August 12, 2021, the Honourable Caroline Mulroney, Minister of Transportation, responded to the Committee confirming the province recognizes that the creation of an AMPs framework for vehicle-based offences holds significant benefits for municipalities, and affirmed that the ministry is committed to working with the road safety partners and municipalities to continue to develop a policy framework for municipally operated red light, automated speed enforcement, school bus and streetcar camera AMP programs. In that correspondence the Minister further confirmed that regulatory changes will be developed to support the implementation of AMPs for these vehicle-based offences in the near future. Based on the Committee discussions with the province, while the timing for these required legislative amendments has not been finalized, the target date of mid-2022 has been discussed.

As the ASE has been identified as a net cost program, its implementation will raise financial risks of levy impact to participating Municipal Partners, risk of impact on POA net fine revenues, and other practical concerns which have been intensified by challenges created by COVID-19. If implemented by any of the partnering municipalities in advance of the establishment of AMPs, the number of offences generated by ASE could overwhelm the court system leading to significant negative impacts. The Municipal Partners recommend a period to allow for an assessment of the impact of COVID-19 on court operations and resources before implementation of the ASE program. The Municipal Partners will report back as new information becomes available.

#### **5. 2022 COVID-19 Impacts**

Additional contract service costs for per diem prosecutor services due to the pandemic is budgeted in the amount \$12,600.00 in anticipation of more staff absences due to compliance with public health directions and the need to self-isolate for 14 days from symptom onset, close contact or travel. This model is built on the assumption that of the 14-day self-isolation period, staff would be able to work seven of the fourteen days remotely from home.

**APPENDIX A – 2022 OVERALL BUDGET**  
**APPENDIX B – TERMS OF REFERENCE – HALTON COURT SERVICES REVIEW**  
**APPENDIX C – HCS REVENUE AND COSTS PROJECTIONS**