

**ONTARIO COURT OF JUSTICE  
PROVINCIAL OFFENCES OFFICE**

**HALTON COURT SERVICES**

**2023 BUSINESS PLAN AND  
BUDGET**

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

**September 2022**

## TABLE OF CONTENTS

<b>RECOMMENDATIONS</b> .....	<b>3</b>
<b>OVERVIEW OF 2022 PERFORMANCE</b> .....	<b>4</b>
1. BUDGET PERFORMANCE .....	4
2. OPERATIONAL PERFORMANCE .....	5
3. AUDITS .....	5
4. REVENUE STABILIZATION FUND .....	6
5. REVENUE SHARING .....	6
6. WRITING-OFF OF UNCOLLECTABLE FINES .....	8
7. CAPITAL RESERVE FUND .....	8
8. EXTERNAL REVIEW .....	9
9. EMERGING ISSUES .....	9
<b>APPENDIX A – 2023 OVERALL BUDGET</b> .....	<b>14</b>

## RECOMMENDATIONS

1. **Recommendation:** Approve the 2023 Halton Court Services budget as presented.
2. **Recommendation:** A contribution of \$50,000 from net revenues is to be made to the Capital Reserve Fund during 2023 to ensure that requirements of the Reserve Fund Policy are met.
3. **Recommendation:** Withdraw \$69,000 from the Capital Reserve Fund for computer hard/soft replacements for the computer renewal program.
4. **Recommendation:** Authorize the Mayors and Clerks of the respective municipal partners, being The Corporation of the City of Burlington, the Corporation of the Town of Oakville, The Corporation of the Town of Halton Hills, and the Corporation of the Town of Milton, to execute any required documents and/or agreements to give effect to the transfer of Part III Provincial Offences Act prosecutions subject to the satisfaction of the Joint Management Board.

## OVERVIEW OF 2022 PERFORMANCE

### 1. BUDGET PERFORMANCE

#### Revenues to End of June

The Municipal Partners had budgeted gross revenues of \$10 million for 2022. This was based on the assumptions that the pandemic impacts would have ended by 2021 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 \$1.59 million in net revenue in 2022. This shortfall reflects an approximate reduction in gross revenue of \$1.8 million which is offset by an approximate \$242k decrease in expenditures. The shortfall in gross revenues is primarily due to:

- A decrease in number of charges which continues to be pandemic related
- A backlog in matters being heard compounded by a lack in judicial resources

Revenues received from the temporary lease agreement with the Ministry of the Attorney General totaled \$296,055 with \$109,727 being paid in 2021 and \$186,328 being paid in 2022.

<b>COMPARISON OF OVERALL PERFORMANCE TO BUDGET for the year ending December 31, 2022</b>					
	<b>2022 Budget</b>	<b>Actual June 30/22</b>	<b>Actual % of Budget</b>	<b>Projection Dec 31/22</b>	<b>Projection % of Budget</b>
Gross Revenue	(\$10,002,099)	(\$3,826,826)	38.3%	(\$8,171,824)	<b>81.7%</b>
Operations	\$6,756,450	\$3,012,795	44.6%	\$6,514,546	<b>96.4%</b>
<b>Net Revenue</b>	<b>(\$3,245,649)</b>	<b>(\$814,030)</b>	<b>25.1%</b>	<b>(\$1,657,278)</b>	<b>51.1%</b>

## COMPARISON OF 2023 BUDGET TO 2022 BUDGET

	REVENUE			EXPENSES		
	2022 Budget	2023 Budget	% Difference	2022 Budget	2023 Budget	% Difference
Administration	(\$7,301,349)	(\$6,316,359)	-13.5%	\$5,290,100	\$5,362,800	1.4%
Collections	(\$2,700,750)	(\$2,300,750)	-14.8%	\$441,100	\$441,600	0.1%
Prosecution	0	0	0.0%	\$1,025,250	\$1,060,350	3.4%
<b>TOTAL</b>	<b>(\$10,002,099)</b>	<b>(\$8,617,109)</b>	<b>-13.8%</b>	<b>\$6,756,440</b>	<b>\$6,864,750</b>	<b>1.6%</b>

## 2. OPERATIONAL PERFORMANCE

### Provincial Offences Charges

By end of June, there were 23,345 (39%) charges filed of the projected 60,000 total for 2022. Filed charges fell short of Q2 projections with the probable cause being due to the ongoing pandemic impact on enforcement staffing resources and the higher amount of public working from home. Therefore, it is projected that charges may reach 50,000 (83% of projected total) by year end.

The following chart illustrates the trend in number of filed charges since 2017:

	2017	2018	2019	2020	2021	2022 Q2	2022 Projected
<b>PART I</b>	48,564	48,072	53,537	48,269	33,477	16,774	35,158
<b>PART III</b>	3,808	3,510	3,600	3,054	2,972	1,353	3,206
<b>RLC</b>	11,205	15,036	12,513	9,761	17,993	5,218	11,636
<b>TOTAL</b>	<b>63,577</b>	<b>66,618</b>	<b>69,650</b>	<b>61,084</b>	<b>54,442</b>	<b>23,345</b>	<b>50,000</b>

## 3. AUDITS

### External Audit

KPMG performed an audit of HCS for the period ended December 31, 2021. 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. 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. In 2021, the JMB directed to only distribute to the Partners the actual net revenue earned from operations in 2021. The balance in the Stabilization Reserve Fund is now \$854,703 at the beginning of 2022.

Stabilization Fund				
Year	Net Revenue Over Budget	Use of Funds	Interest (net of Admin Fee)	Balance
2021	\$0	\$0	\$7,553	\$854,703
2022*	\$0	(\$136,211)	\$15,464	\$733,956
2023*	\$0	\$0	\$12,928	\$746,884
2024*	\$0	\$0	\$13,200	\$760,084
2025*	\$0	\$0	\$13,477	\$773,561

#### 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 2018 including the estimated annual distribution for 2022:

<b>Historical Annual Revenue Sharing % Based on Tax Assessment</b>					
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022*</b>
Burlington	15.85%	15.70%	15.60%	15.44%	15.32%
Halton Hills	4.55%	4.60%	4.60%	4.60%	4.57%
Milton	8.30%	8.35%	8.40%	8.55%	8.64%
Oakville	21.30%	21.35%	21.40%	21.43%	21.48%
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>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022*</b>
Burlington	963,448	730,935	726,280	443,960	246,235
Halton Hills	276,573	214,159	214,159	132,435	73,453
Milton	504,518	388,746	391,074	250,380	138,869
Oakville	1,294,728	993,979	996,307	622,472	345,243
Region of Halton	3,039,267	2,327,820	2,327,820	1,448,957	803,639
<b>TOTAL</b>	<b>\$6,078,534</b>	<b>\$4,655,640</b>	<b>\$4,655,640</b>	<b>\$2,898,203</b>	<b>\$1,607,439</b>

\*2022 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 been impacted by the pandemic for the last several years. While other regions show a strong correlation between population growth and increased local enforcement, many regions continue to show similar impacts from the pandemic. An increase over the projected total for 2022 (50,000) of 52,000 charges is projected for 2023, having taken into consideration the ongoing pandemic waves and with the hope that enforcement practices will increase from pandemic lows. Gross revenue for HCS in 2023 is budgeted at **\$8.6 million** as compared to the **\$10 million** originally budgeted for during 2022.

Total expenditures in 2023 are budgeted at **\$6.8 million** compared to the **\$6.7 million** originally budgeted for 2022.

*See Appendix A for a copy of the overall 2023 POA Budget.*

**Recommendation #1: Approve the 2023 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 2022 where it has been determined there are no viable means of collection. Write-offs scheduled during 2022 will total approximately 172 cases with a total value of approximately \$95,102. This is made up of older cases with an enforcement date from January 1994-December 2003.

## **7. CAPITAL RESERVE FUND**

### **Expenditures During 2022**

There were no expenditures in 2022.

### **Contribution During 2023**

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 2023**

HCS is scheduled for new computers under the Computer Renewal Program and will be renewing with laptops and docking stations to support the Hybrid Workforce. The estimated cost for 31 laptops, 11 additional docking stations and 7 power cords is \$69,000 which will outfit Administration, Court Support, Collections and Prosecution and leave 10 desktop computers in the courtrooms to be renewed in 2024.

### **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>\$340,455</b>
<b>2022</b>	None	\$0	\$56,809	\$397,264
<b>2023</b>	Computer Hard/Soft Replacements	(\$69,000)	\$57,945	\$386,210
<b>2024</b>	Courtroom Computer Hard/Soft Replacements	(\$20,000)	\$57,724	\$423,934
<b>2025</b>	TBD		\$58,479	\$482,412
<b>2026</b>	TBD		\$59,648	\$542,061

***Recommendation #2: A contribution of \$50,000 from net revenues is to be made to the Capital Reserve Fund during 2023 to ensure that requirements of the Reserve Fund Policy are met.***

***Recommendation #3: A withdrawal of \$69,000 from the Capital Reserve Fund for computer hard/soft replacements.***

## **8. EXTERNAL REVIEW**

The external review of Halton Court Services is currently in the RFP process. The RFP was issued in September 2022 and will have the successful candidate selected by December 2022. The consultant will commence the review in January 2023, completing the process with a report to the Joint Management Board and the Area Treasurers by end of June 2023. Up to \$100,000 is to be provided from the Stabilization Reserve Fund as approved in the 2022 Budget and Business Plan.

## **9. EMERGING ISSUES**

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

The pandemic continued to effect court operations across the province as staffing resources were affected across all aspects including judicial resources, enforcement and within HCS, which affected not only charge volumes but also court proceedings. As the pandemic continues in waves those impacts are expected to continue. While every effort is made to manage the backlog of matters to be scheduled the drastically reduced judicial resources in

the Central West Region (CWR) continues to impact the number of matters that can be scheduled. HCS is permitted to schedule two courts daily which is only half of the pre-pandemic resources allotted to HCS as the priority for judicial resources is given to the Criminal Courts which results in additional last-minute closures of HCS proceedings requiring matters to be rescheduled. The shortage in judicial resources is anticipated to be ongoing throughout 2023. To make every effort to manage the backlog, HCS Administration has collaborated with HCS Prosecution Unit to provide notice to defendants of an opportunity to discuss their matters with a prosecutor prior to it being scheduled for trial. This has provided the opportunity for resolutions of matters instead of requiring trials to be scheduled, freeing up valuable court time. However, there are still approximately 23,000 Part I charges that require court dates to be scheduled.

## **2. Bill 177 Implementation**

The Ministry of the Attorney General (MAG) proclaimed some portions of Bill 177 on November 1, 2021, which allowed for the HCS Administration staff to assume processes formerly performed by the justice of the peace which has allowed for backlogs to be eliminated in:

- Extension for Time to Pay Applications – HCS now approves applications for more time to pay fines which eliminates the wait times for review by a justice of the peace and improves customer service. Applications for extensions of time are now reviewed by the justice of the peace only in cases where the application cannot be approved by Administration due to the circumstances within.
- Fail to Respond Docket Review – HCS Administration now holds the responsibility of reviewing Certificates of Offence to ensure they are proper on their face and registers convictions daily removing all delays in this process and ensuring timely convictions of matters that are without a response from the defendant.

Still waiting to be proclaimed are:

- Early Resolution Process Adjustments – Moving much of the process away from the justice of the peace, however in the proposed current format it is cumbersome on administration and confusing to 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.
- Reopening Applications – HCS Administration will be able to review and approve these applications similar to the Extension of Time to Pay Applications which will remove the process from the justice of the peace and remove delays and provide better customer service.

At this time, it is unknown if the adjustments to the Early Resolution process will go forward in 2023, Municipal Partners have made recommendations for efficiencies in the process and are currently working with MAG to enhance the process. 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 Ministry of the Attorney General (MAG) in August 2017 that the province intends to transfer the responsibility for prosecution of Part Three 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.

In March 2021 MAG advised that it would need additional internal approvals in order to achieve consistency among the current MOU, the proposed interim agreement and amending transfer agreement to facilitate certain requirements of the Criminal Law Division and the Provincial Offences Act.

In January of 2022 three smaller municipalities accepted transfer of Part 3 matters. In anticipation of a more widespread transfer of the Part III matters, in April of 2022 MAG provided materials and high-level training to prosecutors with respect to Part III matters. The sessions were recorded and since then access has been provided to those who attended the session, as well as provided to the Prosecutors' Association so that their membership has access to the materials. The prosecutions team at Halton Court services participated in the training. Following the training the City of Kingston accepted transfer of the Part III matters, the City of Guelph and Durham region are in negotiations currently and the City of Mississauga is anticipated to accept transfer in November of 2022.

While Halton Court Services staff received contact from the Crown's office with the indication the Agreement amending the Memorandum of Understanding and Local Side Agreement will be shared with its shortly, to date we await its receipt. For that reason, the anticipated earliest date for the transfer of Part III matters is being moved from July 2022 to no earlier than July 1, 2023, with corresponding shift in the budget to the funding of the additional prosecutor position required to prosecute those charges.

HCS staff will report back to the Joint Management Board in 2023 as to the status on 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, 2023,
- (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.

To facilitate the transfer of the Part III prosecutions once the arrangement is negotiated, authority is sought for execution of any corresponding agreements to effect the transfer.

***Recommendation #4: Authorize the Mayors and Clerks of the respective municipal partners, being The Corporation of the City of Burlington, the Corporation of the Town of Oakville, The Corporation of the Town of Halton Hills, and the Corporation of the Town of Milton, to execute any required documents and/or agreements to give effect to the transfer of Part III Provincial Offences Act prosecutions subject to the satisfaction of the Joint Management Board.***

#### **4. Conversion of one part-time Case Administrator to full-time position**

Halton Court Services currently employs one full-time and one part-time Case Administrator.

The 2021 Business Plan and Budget approved the conversion of the existing one part-time Case Administrator to one full-time position to manage the transfer of responsibility from the province for the case administration of Part III offence, subject to a report back to the Joint Management Board respecting staffing implications to manage the transfer. Given the delay in the transfer of Part III offences, the staffing implications have not yet been reported on and the recruitment to fill this part-time role has not yet occurred. The exact date for the transfer remains unknown.

The current part-time Case Administrator has indicated her intention to retire at the end of the year 2022, and therefore an opportunity arose to fill this role with one full-time Case Administration (representing the existing part-time role and an additional part-time role addressed in the 2021 budget which remains unfilled). The recruitment for this full-time role will commence once the retirement date is set, which is anticipated to be this fall, in order to ensure continuity of operations. This recruitment will occur in advance of reporting back on the staffing implication of the Part III transfer required under section 4 above.

#### **5. COVID19 Backlog efforts**

Prosecutions in coordination with Court Administration is working together to help address the current backlog of cases. The coordination of efforts is key as the number of courts has reduced and continues to be further reduced due to lack of Judicial resources.

To mitigate the further delay caused by lack of resources, Court Administration increased the number of matters on trial dockets, and additional prosecution resources were committed to allow for increased numbers of matters to be scheduled for early resolution.

During the weeks where there are closures, case management courts have been utilized to reach out to defendants whose matters are waiting to be scheduled for trial to offer them an opportunity to resolve their matter prior to trial.

Withdrawal of charges is an unavoidable consequence of the pandemic. In an effort to use court time effectively, tickets issued by officers who are no longer employed for various reasons by Halton Region Police or the OPP are being withdrawn so that matters with officers who are available to attend are set in a priority sequence based on the age of the offence and the type of offence. In addition, a select number of matters largely of administrative nature are also being withdrawn. This measure is being taken in order to decrease the time to trial for more serious matters. This step will allow courts administration to focus on scheduling more serious matters and will aid in saving court time for charter 11 (b) arguments and matters being dismissed due to prolonged delay. These measures combined with our lack of judicial resources will ensure that Halton Court Services time to trial falls within the acceptable limits established in case law.

#### **6. 2022 COVID-19 Impacts**

As the Covid 19 pandemic continues through waves, prosecution team is experiencing and has budgeted for additional contract service costs for per diem prosecutor services. In April of 2022 direction from MAG provided that all matters that are currently not scheduled, are to be scheduled for in-person proceedings with requirement to accommodate virtual proceedings if the defendant requests to attend virtually. Effective April 2022 defendants have the option on how they wish to attend, either in-person or virtual via Zoom when they file their matter with the court. As a result, scheduling currently requires all prosecutors to be in the Halton Court Services Building on all days on which Court is in session. In anticipation of more staff absences due to more frequent contact with the public and to comply with public health directions and the directions of the City of Burlington, this additional resource is required to ensure coverage of court for the 5-day self-isolation period.

## **7. New Regulations Permit Municipal Use of Administrative Penalties for Automated Speed Enforcement**

In April of 2022, the provincial government filed Ontario Regulation 355/22 under the *Highway Traffic Act* which will permit the municipal use of Administrative Monetary Penalties (AMPs) for Automated Speed Enforcement. It also includes the use of AMPs for other camera bases systems such as red lights, streetcars, and school buses. The extension of AMPs for these vehicle based offences will significantly broaden the tools available to help enforce speed limits and improve road safety.

Municipalities are permitted to use speed cameras in school safety zones or where a council has designed a community safety zone. The use of Administrative Monetary Penalties provides an alternative to the use of the *Provincial Offences Act* (POA) and the POA court system. Administrative Monetary Penalties will be administered in the same way as they are for parking offences. The penalties are the same and as they exist within the *Provincial Offences Act*.

The introduction of AMPs for ASE is not expected to have a revenue impact for HCS as it represents an additional system that operates aside and apart from the regular enforcement conducted by the police.

## **8. Articling Student Program**

In July of 2022 the City of Burlington commenced participation in an articling student program. Halton Region is covering the hiring costs of the four articling students which are being shared on a rotational basis between Halton Region, City of Burlington, Halton Police and the Town of Oakville. The City of Burlington rotation for each student opens the window to litigation experience as students will obtain hands on practical court experience as they learn about Provincial Offences and engage in the everyday activities of the prosecution office.

## APPENDIX A – 2023 OVERALL BUDGET