

**ONTARIO COURT OF JUSTICE
PROVINCIAL OFFENCES OFFICE**

HALTON COURT SERVICES

**2021 BUSINESS PLAN AND
BUDGET**

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

November 2020

TABLE OF CONTENTS

RECOMMENDATIONS	3
SECTION I	5
OVERVIEW OF 2020 PERFORMANCE	5
1. BUDGET PERFORMANCE.....	5
2. OPERATIONAL PERFORMANCE	6
3. AUDITS	6
4. REVENUE STABILIZATION FUND.....	6
5. REVENUE SHARING	7
SECTION II	8
2021 OPERATING BUDGET AND PROGRAM CHANGES	8
1. 2021 BUDGET	8
2. WRITING-OFF OF UN-COLLECTABLE FINES	10
3. REVENUE STABILIZATION FUND.....	11
4. CAPITAL RESERVE FUND	11
5. EMERGING ISSUES	13
APPENDIX A – 2021 OVERALL BUDGET	18

RECOMMENDATIONS

1. **Recommendation:** Approve the 2021 Halton Court Services budget as presented.
2. **Recommendation:** Approve a cost-recovery collections fee of \$30.00 to be added to all defaulted fines effective January 1, 2021, and the collections fee to be reviewed every three years thereafter.
3. **Recommendation:** Contribute \$50,000 from net revenues to the Capital Reserve Fund during 2021 to ensure that requirements of the Capital Reserve Fund Policy are met.
4. **Recommendation:** Approve \$40,000 for additional A/V equipment to deliver virtual court and remote interpretations solutions as per provincial recommendations due to the pandemic. Costs are to be funded through the Capital Reserve Fund.
5. **Recommendation:** Amend the Memorandum of Understanding and Local Side Agreement to reflect the transfer of Part III POA prosecutions from the Ministry of Attorney General to the municipal partnership.
6. **Recommendation:** Approve the hiring of one Prosecutor to manage the download of responsibility from the province for the prosecution of Part Three offences.
7. **Recommendation:** Approve the conversion of one part-time Case Administrator to one full-time position to manage the download of responsibility from the province for the case administration of Part Three offences.

That recommendations 5, 6, and 7 be subject to the terms of the transfer of Part III Prosecution being determined/clarified by the Province and its Municipal Partners, and HCS staff reporting back to the Joint Management Board on the following:

- (i) Amending the Memorandum of Understanding and Local Side Agreement to reflect the transfer of Part III POA prosecutions from the Ministry of Attorney General to the municipal partnership.
 - (ii) The staffing implications required to manage the download of responsibility from the province for the prosecution of Part III offences.
 - (ii) The financial implications of the transfer of the prosecution of Part III offences including mitigation opportunities.
8. **Recommendation:** The HCS staff report back to the Joint Management Board following Q1 2021 on the status of the budget, and the Area Treasurers be directed to review the current cap that is in place for annual revenue distribution (\$4.665m) resulting in a continued annual draw on the Stabilization Reserve Fund and report back to the JMB in advance of the preparation of the proposed 2022 HCS budget.

9. **Recommendation:** The JMB supports an independent 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; and

Funding for the review to a maximum of \$100,000 be provided from the Stabilization Reserve Fund; and

A draft Terms of Reference for the review be prepared for consideration and approval by the JMB inclusive of project management structure and timing.

SECTION I

OVERVIEW OF 2020 PERFORMANCE

1. BUDGET PERFORMANCE

Revenues to End of June

The Municipal Partners had budgeted gross revenues of \$10.9 million for 2020. The chart below summarizes results by end of June and projections for the remainder of the year.

There is an expected **shortfall of approximately \$2.0 million in net revenue in 2020**. This shortfall reflects an approximate **reduction in gross revenue of \$2.3 million** which is offset by an approximate **\$305,000 decrease in expenditures**. The shortfall in gross revenues is primarily due to:

- an approximate **17% decrease in number of charges** (pandemic-related);
- a decision to cease defaulted fines collection;
- the suspension of all court hearings since March 15th; and
- the suspension of all deadlines related to the payment of new fines at the outset of the COVID pandemic.

Impact of COVID-19 on Collection of Defaulted Fines

There was agreement to cease all Collections activities due to the unprecedented situation. As a result, only voluntary payments from customers were accepted and the pursuit of outstanding fines was put on hold. Collections staff were redeployed to other departments at the City.

It is estimated that the Collections Unit will recover up to 40% of budgeted revenues per month from April to end of the year. The plan is to have collection activities resume in phases starting in late fall with an expectation that all collection activities will be in place by end of March 2021.

Comparison of Overall Performance to Budget for the year ending December 31, 2020

	2020 Budget	Actual June 30/20	Actual % of Budget	Projection Dec 31/20	Projection % of Budget
Gross Revenue	(\$10,903,048)	(\$3,294,244)	30.2%	(\$8,605,211)	78.9%
Operations	\$6,216,150	\$2,983,486	48.0%	\$5,911,610	95.1%
Reserve Fund Contribution	\$50,000	\$25,000	50.0%	\$50,000	100.0%
Net Revenue	(\$4,636,898)	(\$285,758)	6.2%	(\$2,643,601)	57.0%

2. OPERATIONAL PERFORMANCE

Provincial Offences Charges

By end of June, there were 29,384 (42.5%) charges filed of the projected 69,200 total for 2020. Filed charges exceeded projections by 26.4% during January and February, but the onset of the pandemic in March, and subsequent closure of court operations, saw an approximate 44.5% drop in number of charges between March and June. There has been an upswing during June and it is projected that charges will reach 57,800 (83.5% of projected total) by year end.

The following chart illustrates the trend in number of filed charges since 2015:

Charges Filed by Major Enforcement Agencies							
	2015	2016	2017	2018	2019	2020 Projected	% Difference ('15 to '20)
Municipal By-laws	212	232	215	228	231	180	-15.1%
HRPS	48,350	49,940	43,759	42,850	46,104	42,416	-12.3%
MTO	4,242	4,378	2,466	2,783	2,484	1,356	-68.0%
OPP	8,707	7,960	5,496	5,011	7,709	5,580	-35.9%
Red Light Camera	7,586	8,322	11,205	15,415	12,509	7,768	2.4%
Ministries/Halton Reg	601	485	435	394	613	500	-16.8%
Total Charges	69,698	71,317	63,577	66,681	69,650	57,800	-17.1%

3. AUDITS

External Audit

KPMG started their audit of HCS during March 2020 for the period ended December 31, 2019 but the Halton POA court closed within two days of arrival. The audit has been paused until the courthouse reopens during late fall which will align with the reopening of other City facilities.

Internal Audit

An internal audit was not conducted during 2019.

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. It is expected that 2020 budgeted net revenue will not be realized due to the impact of the pandemic, and the Municipal Partners are recommending that the Area Treasurers' original direction to draw funds from the MPRSF during 2019 and 2020 be extended to 2021. This will ensure that the minimum net revenue budget of \$4,655,640 is realized again.

Refer to Section II for the MPRSF chart which includes the amounts to be transferred during 2020 and 2021 and outlines the MPRSF status for the next five years.

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 2016 including the estimated annual distribution for 2020:

Historical Annual Revenue Sharing % Based on Tax Assessment					
	2016	2017	2018	2019	2020 ¹
Burlington	16.10%	16.00%	15.85%	15.70%	15.60%
Halton Hills	4.65%	4.65%	4.55%	4.60%	4.60%
Milton	8.15%	8.20%	8.30%	8.35%	8.40%
Oakville	21.10%	21.15%	21.30%	21.35%	21.40%
Region of Halton	50.00%	50.00%	50.00%	50.00%	50.00%
TOTAL	100.00%	100.00%	100.00%	100.00%	100.00%

Historical Annual Revenue Distribution to Partnership					
	2016	2017	2018	2019	2020 ¹
Burlington	622,866	618,997	963,448	730,936	730,936
Halton Hills	179,896	179,896	276,573	214,159	214,159
Milton	315,301	317,236	504,518	388,746	388,746
Oakville	816,303	818,237	1,294,728	993,979	993,979
Region of Halton	1,934,367	1,934,367	3,039,267	2,327,820	2,327,820
TOTAL	\$3,868,733	\$3,868,733	\$6,078,534	\$4,655,640²	\$4,655,640²

¹ 2020 budget to be realized

² Total net revenue includes transfer of funds from the MPRSF to meet budget and to provide a stabilized source of funding to the Partnership (referenced above)

SECTION II

2021 OPERATING BUDGET AND PROGRAM CHANGES

1. 2021 BUDGET

The following chart provides a summary of total revenues and expenditures budgeted for 2021 as compared to the 2020 budget:

COMPARISON OF 2021 BUDGET TO 2020 BUDGET

	REVENUE			EXPENSES		
	2020 Budget	2021 Budget	% Difference	2020 Budget	2021 Budget	% Difference
Administration	(\$8,352,298)	(\$8,421,530)	0.8%	\$4,927,600	\$5,631,400	14.3%
Collections	(\$2,550,750)	(\$2,696,100)	5.7%	\$420,850	\$429,150	2.0%
Prosecution	0	0	0.0%	\$867,700	\$1,000,200	15.3%
TOTAL	(\$10,903,048)	(\$11,117,630)	2.0%	\$6,216,140	\$7,060,750	13.6%

Overall Revenues

The Municipal Partners are projecting gross revenues based on the budgeted revenue for 2020, rather than actual revenue, given that 2020 was an anomaly.

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. A slight increase over the projected total for 2020 (69,200) of 70,000 charges is projected for 2021 with the expectation that enforcement practices will continue similarly to Q1 of 2020. Gross revenue for HCS in 2021 is budgeted at **\$11.1 million** as compared to the budgeted **\$10.9 million** during 2020.

The **2.0% increase in revenue** can be attributed primarily to the slight increase in projected number of charges and to the recommendation by the Municipal Partners for the implementation of a \$30.00 collections fee for defaulted fines.

Proposal to Implement a Collections Fee

A collections fee is being proposed to offset a portion of the operating costs within the Collections Unit. This process has been successfully implemented in a number of POA court locations across Ontario including every POA court in the GTA.

Below is a sample of other municipalities that have implemented a collections fee for defaulted fines at their POA courts:

Municipality/County/Region	Current Collections Fee
Barrie	\$ 25
Brampton	\$ 20
Brantford	\$ 30
Caledon	\$ 30
Guelph	\$ 40
Hamilton	\$ 60
Mississauga	\$ 30
Norfolk	\$ 30
Niagara	\$ 40
Northumberland	\$ 30
Peterborough	\$ 25
St. Thomas	\$ 25
York	\$ 22

Over the last three years there has been an average of 8,500 defaulted fines transferred each year to the Collections Unit. Based on 2018 statistics, approximately 57% of defaulted fines will be paid in full the same year of default and another 13% during the following year. Staff estimate that approximately \$173,000 of operating costs will be recovered annually if a Collections fee of \$30 is levied on each defaulted fine.

The proposed collections fee will help to offset approximately 35% of the total operating costs of the Collections Unit. The work performed by the Collections Unit is solely for the purpose of collecting defaulted fines and therefore it is reasonable that some of the costs associated with this program should be recovered by debtors.

The above estimates and the proposed collections fee are based on:

- A study of actual collections performance during 2017-2019;
- The percentage of completed cases from the current and previous year of default;
- The average number of defaulted cases over the last three years; and
- A survey of collections fees that other POA courts have implemented.

It is proposed that staff will conduct a review of the collections fee every three years to ensure it is at an appropriate level that balances the need for cost recovery while not placing an excessive burden on debtors.

Overall Expenditures

Total expenditures in 2021 are budgeted at **\$7.0 million** compared to the **\$6.2 million** budgeted for 2020. This represents an overall **increase of 13.6% in expenditures**. Most of this increase can be attributed to COVID-related expenses, the download of Part III prosecutions and a significant increase in facility-related expenses as per the following:

COVID-Related Expenses:

- Additional \$310,000 for judicial resources due to minimum courtroom capacities resulting in longer delays between hearings;

- Contract services of three part time Court Ambassadors to manage screening and crowd control functions at public entry, courtrooms and public areas at an estimated cost of \$132,300;
- Contract services of an Operations Attendant to assist with the daily cleaning and sanitizing of public areas and courtrooms as per City health and safety policies at total cost of \$37,000; and
- Contract service costs of approximately \$17,000 for per diem prosecutor services in anticipation of more staff absences due to compliance with public health directions to self-isolate for 14 days from symptom onset, close contact or travel. There is an assumption that staff will work remotely for 7 of the 14 days from home.

Download of Part III Prosecution:

- Hiring of one Prosecutor to prosecute Part III offences. The annual net budget increase will be \$89,000 although the net budget impact for 2021 will be \$44,500 assuming a transfer date of July 1, 2021; and
- Addition of one part time Case Administrator to create one full time complement. The net budget impact will be \$28,065 per year although the net budget impact for 2021 will be \$14,032 assuming a transfer date of July 1, 2021.

Increase in Property Operations and Property Taxes:

- In early 2020 the landlord provided a reconciliation for costs related to property operations and property taxes for 2019 resulting in a balance owing of over \$138,000 to the landlord. The Municipal Partners were advised that the actual monthly operating and property taxes had increased by \$11,570 per month going forward.
- Following is the budget impact for 2020 which is reflected in the 2021 budget:

Property Operations, Insurance and Taxes				
		2019	2020	% Diff
Rent	\$	91,667	\$ 91,667	0%
Operations	\$	4,200	\$ 15,772	276%
Property Taxes	\$	12,500	\$ 19,535	56%

See Appendix A for a copy of the overall 2021 POA Budget.

Recommendation #1: Approve the 2021 Halton Court Services budget as presented.

Recommendation #2: Approve a cost-recovery collections fee of \$30.00 to be added to all defaulted fines effective January 1, 2021, and the collections fee to be reviewed every three years thereafter.

2. WRITING-OFF OF UN-COLLECTABLE 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 2020 where it has been determined there are no viable means of

collection. **Write-offs scheduled during 2021 will total approximately 988 cases with a total value of approximately \$412,636.**

3. REVENUE STABILIZATION FUND

The Area Treasurers drafted a Municipal Partner Revenue Stabilization Fund (MPRSF) and Policy in 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.

Net revenue in excess of budget for the years 2013 to 2017 was transferred to the MPRSF. Interest is allocated to the MPRSF on an annual basis. The Area Treasurers directed that contributions to the MPRSF end as of 2018. Per policy, an annual review of the MPRSF will continue to be carried out by the Area Treasurers.

The Area Treasurers directed that funds be drawn from the Stabilization Fund during 2019 and 2020 when there is a shortfall of actual net revenues as compared to the 2018 net revenue budget. Assuming a similar direction for 2021, the following chart provides an overview of the MPRSF for 2021 and over the next five years:

Stabilization Fund				
Year	Net Revenue Over Budget	Use of Funds	Interest (net of Admin Fee)	Balance
2013	\$359,155			\$359,155
2014	\$1,186,072		\$23,229	\$1,568,456
2015	\$766,402		\$26,513	\$2,361,371
2016	\$1,031,976		\$39,123	\$3,432,470
2017	\$1,456,422		\$58,743	\$4,947,636
2018	\$0		\$99,931	\$5,047,567
2019	\$0	(\$275,156)	\$121,443	\$4,893,854
2020*	\$0	(\$2,012,040)	\$100,286	\$2,982,100
2021*	\$0	(\$645,860)	\$60,139	\$2,396,379
2022*	\$0	(\$300,897)	\$47,839	\$2,143,322
2023*	\$0	(\$298,510)	\$42,525	\$1,887,337
2024*	\$0	(\$214,309)	\$37,149	\$1,710,176
2025*	\$0	(\$267,061)	\$33,429	\$1,476,544
*Projected				

4. CAPITAL RESERVE FUND

Expenditures During 2020

Approval was received in the 2020 Business Plan for a total of \$27,000 in expenditures during 2020 for the ICON Server Upgrade project and implementation of the Remote Interpretation

Initiative. The Remote Interpretation initiative is deferred to 2021 and will become part of the virtual court system. The ICON Server Upgrade project was completed at a total cost of \$27,488.

Contribution During 2021

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.

Expenditures During 2021

The Municipal Partners are recommending that a total of \$40,000 in expenditures during 2021 be approved for the additional equipment required to finalize a virtual court/remote interpretation solution in all courtrooms.

For the most part, the infrastructure required for operating virtual court hearings was included in the design of the courtrooms at the new courthouse. A review of current equipment in relation to proposed provincial technology guidelines has been conducted and there is a requirement to add some minor upgrades, software and licencing to ensure compatibility with stakeholders' systems and to meet the City's and province's strict security parameters. In addition to streamlining the courtroom process and a cost savings in travel, this solution will ensure compliance with the provincial directive to limit public access to courtrooms and to the courthouse as a result of the pandemic.

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	Budgeted Year-End Balances
	Balance Forward			\$296,942
2020	Server Upgrade	(\$27,488)	\$55,939	\$325,393
2021	Virtual Courts Equipment	(\$40,000)	\$56,508	\$341,901
2022	TBD		\$56,838	\$398,739
2023	TBD		\$57,975	\$456,713
2024	Computer Hard/Soft Replacements	(\$80,000)	\$59,134	\$435,848
2025	TBD		\$58,717	\$494,565
2026	TBD		\$59,891	\$554,456

Recommendation #3: A contribution of \$50,000 from net revenues is made to the Capital Reserve Fund during 2020 to ensure that requirements of the Reserve Fund Policy are met.

Recommendation #4: Approve \$40,000 for additional A/V equipment to deliver virtual court and remote interpretation solutions as per provincial recommendations. Costs are to be funded through the Capital Reserve Fund.

5. EMERGING ISSUES

1. Proposed Recommendations to Offset Increasing Cost of Court Operations

The Municipal Partners have raised concerns about the ongoing increase and long-term cost implications related to the operation of the Halton POA court. This concern is shared by all POA courts across the province as overhead costs, including significant increases in cost recoveries by the province, continue to rise while the majority of POA fines and fees have not increased since 1994.

The Municipal Court Managers Association (MCMA) representing all POA Court Managers formed a POA Costs and Fees Working Group to review fees set out in Section 1 of Ontario Regulation 945 and to investigate and consider collections related fees that are not currently covered by regulation. The MCMA forwarded a report to the Ministry of the Attorney General (MAG) in January 2017 which:

- highlighted these shared concerns;
- stressed the need for current fees to be increased to align with the actual and current costs of operating the POA program;
- provided recommendations for adjusting court fees;
- identified the actual and current costs for administering POA collection processes;
- included recommendations for the addition of new fees related to the collection of defaulted POA fines.

All recommendations were supported by detailed analysis and rationale. After several follow ups and a transfer to the MAG's constitutional lawyers for review and completion of a Eurig analysis on the costs and recommendations, the MCMA Board was advised that in early 2020 that the Report had been rejected in its current form.

The MCMA Board President followed up with MAG and was advised that only current fees had been analyzed to date and that the proposed increase in various fees (seeking full cost recovery) was considered to be too high and not reasonable. The proposal for additional fees also contained in the Report have not yet been considered by MAG. As a result, and in consideration of the pending Bill 177 reforms which will likely alter or have an impact on cost recovery analysis, the only fee being reviewed by MAG is the fee for sentence in absentia convictions. MAG has advised that the report will need to be updated, reformatted and re-presented for consideration. In other words, back to 'square one' for this initiative. Work on this initiative has been temporarily paused by the WG due to the COVID-pandemic.

2. Transfer of Part III POA Prosecutions to Municipalities

As reported in the 2018, 2019 and 2020 Business Plans, the Municipal Partners were advised by the Ministry of the Attorney General (MAG) in August of 2017 that the Province intends to transfer the prosecution of Part III POA matters to municipalities. The transfer of the Part III POA prosecutions by MAG to the Municipal Partners will have an impact on the overall HCS budget. At the beginning of 2020, a Transitional Planning Working Group (TPWG) was formed to bring together municipalities across Ontario and MAG to ensure the essential components are put in place for an effective transition from planning to implementation stage. The TPWG held two meetings and further meetings have been paused due to the emergence of COVID. City of Burlington and Town of Oakville staff attended on behalf of the Municipal Partners.

In July, in response to feedback and advice from the TPWG, MAG provided drafts of an amended Memorandum of Understanding and Local Side Agreement (collectively the Amending Agreements). The municipalities, including City of Burlington staff on behalf of the Municipal Partners, are currently reviewing the proposed Amending Agreements, and will provide TPWG with feedback and any follow up questions which will be collectively communicated to MAG.

The Municipal Partners recommend entering into the Amending Agreements with a transfer date no earlier than July 1, 2021. The proposed transfer date is contingent on successful discussions with MAG and normal resumption of court services. The Municipal Partners will report back in 2021 once the Part III download date is finalized.

Recommendation #5: The Memorandum of Understanding and Local Side Agreement be amended to reflect the transfer of the Part III POA prosecutions from the Ministry of Attorney General to the municipalities.

Proposal to Increase Prosecution Staffing

The expansion of prosecution services will have an impact on staff resources. The Municipal Partners are seeking approval to recruit one additional Prosecutor and to convert the part time Case Administrator position to fulltime. Recruitment would take place in 2021 with the view that new staff would be brought on board no earlier than July 1st to coincide with the proposed transfer date. As a result, the 2021 budget includes the additional cost for one full time Prosecutor and one fulltime Case Administrator pro-rated to reflect a hire date mid year.

i. Increase in Prosecutor Support for 2021

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 increased demand for prosecution resources midyear assuming a transfer date of July 1, 2021. It is expected that approximately 3,600 Part III charges will be filed and prosecuted annually with slight increases year over year as has been the recent trend. Court attendances will increase 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 trial preparation time. The current complement of Prosecutors will be significantly challenged to meet those demands.

The Municipal Partners are recommending the addition of one Prosecutor to the Prosecution Unit, bringing the Unit's total staff complement of Prosecutors to six. The yearly net budget

increase in human resources costs for the additional Prosecutor is \$89,000 although the net budget impact for 2021 will be \$44,500 assuming a transfer date of July 1, 2021.

Recommendation #6: The hiring of one Prosecutor to manage the download of responsibility from the province for the prosecution of Part Three offences.

ii. Increase in Case Administrator Support in 2021

The Prosecution Unit currently operates with one full time and one part-time Case Administrator. The Unit will see an increased need for case administrator support upon transfer of the Part III prosecutions to HCS. The increased demand for this support can be attributed to the following reasons:

- The number of disclosure requests processed annually will increase significantly as a result of the transfer of approximately 3500 Part III charges annually. This will represent an approximate 86% increase in the number of disclosure requests processed compared to 2018 and 2019.
- The number of other administrative responsibilities such as public counter coverage, document preparation and enquiries by the public will correspondingly increase with respect to these additional Part III charges.

The Municipal Partners are recommending the addition of one part-time Case Administrator to create one full time complement, bringing the total number of Case Administrators within the unit to two. The net budget impact on human resources costs will be \$28,065 per year although the 2021 impact will be \$14,032 assuming a transfer date of July 1, 2021.

Recommendation #7: Convert one part-time Case Administrator to one full time position to manage the download of responsibility from the province for the case administration of Part Three offences.

3. Upcoming Legislation Affecting Court Administration

As reported in the 2019 and 2020 Business Plans, *Bill 177* received Royal Assent in December 2017 which is part of the *Modernization of POA Courts Initiative*. *Bill 177* includes a proposal to amend current legislation to allow for the transfer of authority and scope of administrative functions from the local judiciary to court administration including: administering and entering convictions for all cases where defendants have failed to select an option; reviewing and granting of all applications for extension of time to pay; and the reviewing and granting of applications for re-openings.

It is expected that these additional responsibilities will require a review of workload distribution to ensure that the Court Administration Unit continues to manage and deliver efficient and effective court services.

The Halton Manager of Court Administration participated in a Working Group that was struck in early 2020. Some progress was made on developing a proposal and recommendations for regulatory amendments and additions related to POA reforms regarding administration functions, forms and responsibilities, but all activity was paused in March due to the pandemic. Work will resume in September and it is expected that the passing and implementation of the regulations will occur sometime during spring 2021. The Municipal Partners will report back

when further details become available along with any proposed changes to administrative processes at HCS as a result.

4. Recent Passing of Bill 197 – COVID-19 Economic Recovery Act, 2020.

On July 21, 2020, Bill 197, the *COVID-19 Economic Recovery Act, 2020*, received Royal Assent. As a result, the amendments to the *Provincial Offences Act (POA)* are now in effect. These include:

- Allowing defendants to request a trial, in Early Resolution courts by mail or other electronic method permitted by the court house;
- Allowing defendants and prosecutors to conduct Early Resolution meetings remotely in all cases;
- Allowing any participant, including a Clerk of the Court, witness or Justice of the Peace, to attend any proceeding remotely by audio or video, unless the presiding judicial official orders otherwise;
- Allowing the judiciary to order in-person attendance where the interests of justice or a fair trial require it;
- Permitting provincial offences officers to seek search warrants remotely in all cases; and
- Allowing defendants to provide credible and trustworthy information upon applying for a re-opening without the need to attend court to have an affidavit commissioned.

These amendments will enable Halton Court Services, in consultation with the judiciary, to make greater use of technology to deliver justice services remotely. This is critical to the POA court system given the current pandemic situation.

At this time the Municipal Partners are planning to operate remote court hearings for the following courts:

- Early Resolution Court
- Guilty Pleas
- Judicial Pre-trials
- Intake Court

The province is developing a support booklet which will contain a variety of materials to support the transition to offering more electronic proceedings and processes. Guidelines and minimum technology requirements will also be included in the booklet. The Municipal Partners will refer to this resource for any equipment upgrades and software installation for undertaking video court hearings at HCS.

The Municipal Partners will explore various options and gather information from other courts that have implemented this solution with a view to implement in early 2021.

5. Automated Speed Enforcement

On May 30, 2017, the *Safer School Zones Act, 2017* received Royal Assent, 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.

Since then, the 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 establish the protocols, procedures and provincial legislation to operate ASE cameras.

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 by the Committee 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 relating to COVID-19. The province has not yet responded to requests for legislative and regulatory amendments to allow municipalities to administer the ASE program through the Administrative Monetary Penalty System.

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.

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.

APPENDIX A – 2021 OVERALL BUDGET