

Committee Report

To:	Warden Milne and Members of Grey County Council
Committee Date:	November 23, 2023
Subject / Report No:	CAOR-CW-21-23
Title:	Provincial Offences Court Annual Report
Prepared by:	Amanda Kokas
Reviewed by:	Kim Wingrove
Lower Tier(s) Affected:	
Status:	

Recommendation

That report CAOR-CW-21-23 regarding the Provincial Offences annual report be received for information.

Executive Summary

The purpose of this report is to provide council with an update regarding the County's Provincial Offences Court operations. Grey County is responsible to administer the Court for the area of both Grey and Bruce Counties. Administration includes the processing of tickets issued by law enforcement, court scheduling, in-court operations, fine payment processing, and defaulted fine collections and enforcement.

While the Provincial Offences Court continues to deal with a lack of Justices of the Peace, we continue to move forward and create new processes to help alleviate the lack of official court time we are provided. The court continues to operate many of its matters virtually while offering a new Early Resolution process that allows for defendants to discuss their matters with the prosecutor before going before a Justice of the Peace. The court continues to see a shift in defendants using online or telephone methods to deal with their matters rather than attending in person. While we continue to adapt to all legislative changes, we maintain our progress in operating more effectively and efficiently.

Background and Discussion

In 1998, the province enacted Bill 108 which amended the Provincial Offences Act ("POA"), thereby enabling it to transfer various responsibilities of the POA Court system to municipalities across Ontario. In 2001, responsibility was transferred from the Ministry of the Attorney General to Grey and Bruce Counties for the POA Court system collectively across both counties. Under

an agreement between the counties, Grey County is responsible to carry out the transferred responsibilities.

The transfer of POA responsibilities included court support and administration functions, the prosecution of most ticketed offences under Part I of the POA (with the more serious charges under Part III continuing to be prosecuted provincially), as well as the collection and enforcement of most fines. Part II matters (also known as parking tickets) are handled by each lower tier municipality. The POA Transfer did not include criminal matters, which continue to be processed and prosecuted in a court system managed by the province. The Provincial Offences Court is part of the Ontario Court of Justice (OCJ). While there are more than 100 separate pieces of provincial and federal legislation under which charges may be heard in the Court, and countless municipal by-laws, the most common ones with charges arising in the Grey-Bruce area are:

- the Highway Traffic Act
- municipal by-laws
- the Compulsory Automobile Insurance Act
- the Dog Owners Liability Act
- the Building Code Act
- Trespass to Property Act
- Compulsory Automobile Insurance Act
- the Liquor License Act.

The POA program continues to have responsibility for various POA court operations in Owen Sound and Walkerton. Our Owen Sound location at 595 9th Ave East has our administration office with a front counter to serve clientele, police agencies, and all other stakeholders. It also holds two courtrooms; one that is fully equipped to hold in-person, virtual, and hybrid court appearances. Our Walkerton site operates at two separate locations; the payment office is located inside the Bruce County administration office at 30 Park Street in Walkerton. The Walkerton courtroom is located at 215 Cayley Street and can hold in-person, virtual, and hybrid court appearances.



The POA program provides services and facilities to various stakeholders within the administration of justice system. These stakeholders include law enforcement officers, witnesses,

defendants and their legal representatives, victims, various provincial authorities, prosecuting authorities, and an independent and impartial judiciary. Operations of the POA program fall into four categories which constitute the operational aspects of the POA program:

1. Court Administration
2. Court Support
3. Fine Enforcement
4. Prosecution

The first three aspects are the responsibility of the County's Provincial Offences Court Administration Office. The fourth aspect, prosecution, is the responsibility of the County's Legal Services Department.

Ticket Volumes and Statistics

POA program's caseload is dependent upon charges laid by professional law enforcement personnel and agencies. The workflow of the POA Program commences with the initiation by Police and other Officers of legal proceedings against alleged violators of provincial legislation and municipal by-laws.

PART 1 TICKETS FILED BY MONTH IN Year 2023													
Agency	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTALS
Collingwood	91	43	111	132	75	118	76	67	54				
Grey County OPP	360	242	287	347	453	299	580	309	268				
Mount Forest Ride													
Hanover P.S.	56	38	57	36	30	34	18	8	25				
Owen Sound P.S.	169	181	134	142	160	131	83	129	111				
Saugeen Shores P.S.	171	226	195	138	213	149	168	180	130				
South Bruce O.P.P.	254	122	160	202	255	188	283	174	224				
West Grey P.S.	52	101	98	127	139	135	106	120	72				
Miscellaneous	47	34	36	32	64	57	75	78	44				
TOTAL by MONTH	1200	987	1078	1156	1389	1111	1389	1065	928	0	0	0	0
QUARTER			3265			3656			3382			0	
MONTHLY TOTAL 2022	514	567	737	891	1192	984	1499	1573	1025	834	908	768	
Difference 2023/2022	686	420	341	265	197	127	-110	-508	-97	-834	-908	-768	-1189
Difference Quarterly			1447			589			-715			-2510	

Recent Impacts

One of the challenges the POA court continues to deal with is the lack of Judicial resources which has resulted in a reduction of court days by 50% in Owen Sound and created a large back log of matters in the system. There has also been an increase on the workload of staff to organize, coordinate and manage the impacts of the backlog.

Due to recent amendments to the POA, certain administration functions have been downloaded to the Court administration office at the County. These amendments to the POA are aimed at modernizing and streamlining POA court processes; however, it is important to note that these duties were previously the responsibility of Justices of the Peace only. These transfers, although providing efficiencies, have resulted in further responsibilities to be placed on the court administration staff and a heavier workload.

Court administration staff can now do the following without the involvement of a Justice of the Peace:

- Grant, but not deny an extension of time to pay a fine.
- Review the fail to respond dockets, entering a conviction or quashing a ticket based on certain criteria.
- Grant, but not deny, applications to for a hearing by defendants who, through no fault of their own, were convicted without a hearing.

Grey/Bruce Wins

While the County continues to face system pressures such as the lack of Judicial Resources and reduced court dates, we are continuing to move forward with new and innovative solutions to deal with matters in the system. Our priority was creating a program that would reduce the time a matter was in court before a Justice of the Peace. In the spring of 2023, we designed a new way for defendants in the Part 1 stream who selected the Early Resolution option to have a meeting with the prosecutor outside of their official court day; on what we are referring to as an "Early Resolution Day." In an Early Resolution meeting, the prosecutor and defendant discuss whether the defendant's ticket(s) can be resolved in a matter that is acceptable to both the prosecutor and defendant. Previously these conversations could take anywhere from 2-5 minutes of active court time; therefore, our goal was to reduce or eliminate these conversations when a Justice of the Peace was present.

For this new process, we schedule matters on "Early Resolution days" and send notice to the defendant to indicate they have a chance to appear virtually or in person to have a conversation with the prosecutor to decide how their matter should proceed. From there, the matter could be:

- adjourned to a court day where a Justice of the peace could take a plea from an agreed resolution.
- pay the ticket "as is" immediately over the phone with a clerk to complete it; or
- set administratively for trial if the defendant does not reach a resolution or pay the ticket.

If the defendant did not appear for their scheduled meeting time, the clerk of the court could review the ticket and enter a conviction if satisfied the ticket is regular and proper on its face.

From this new process, our court immediately noticed a drastic reduction in conversations consuming court time on court days. This has allowed us to increase how many matters are heard on a court date in front of a Justice of the Peace. We have also been able to keep matters that have paid, do not appear, or are set for trial out of the court system all together. Our court will continue to monitor these statistics for success moving forward.

CAO Kim Wingrove also had the opportunity to have a delegation with the Ministry of the Attorney General at the most recent AMO conference and reiterated the problems being faced with the lack of Justices and court closures that are creating a significant backlog of trial matters. It was also important to note that although Owen Sound's last Judicial appointments were in 2014 and Walkerton's were in 2017, neither jurisdiction were included in the recent appointments.

Court Operations: Post Pandemic

Both courts in Owen Sound and Walkerton are continuing to offer in person or virtual court appearances with most people choosing to do virtual. We continue to take safety precautions by

monitoring the air quality in both Owen Sound and Walkerton and have installed HEPA filters in all courtrooms.

One of the trends that court services have noticed is the increased use of online and telephone services such as payments and forms. We are continuing to have a steady flow of defendants attend our counter in Owen Sound, however, traffic has not yet returned to pre-pandemic levels. Walkerton on the other hand has seen a drastic decrease in counter attendants and some days do not have any persons attend for POA matters. In the past, we used to have many defendants attend in Walkerton court in person and they would then attend at the counter the Bruce County administration building to pay. However now that most defendants are attending virtually, they are primarily making all their payments online or over the phone.

Financial Process and Results

Through the POA, the Memorandum of Understanding (between the Attorney General, Bruce and Grey Counties) and the service agreement between the Counties, fines for offences against provincial statutes collected by Provincial Offences court are handled as follows:

1. Mandatory payments to the province related to the POA court – examples:
 - a. judicial salaries,
 - b. provincial prosecution costs
 - c. software licensing costs
 - d. provincial surcharges
 - e. specialized provincial fines (e.g., Occupational Health and Safety Act, Environmental Protection Act)
 - f. fines payable to Canada for federal offences (e.g., Fisheries Act)
2. Payment of internal County expenses for POA operations (e.g., staff salaries and expenses)
3. Split remaining funds/shortfall between Grey and Bruce counties based on population.

Fines arising under municipal by-laws (ex: Short-Term Accommodation, Noise, Parking, Property Standards, etc.) are handled slightly differently. 25% of each fine is retained and used to defray the costs noted above. The remaining 75% of that fine is remitted to the municipality whose by-law the fine originated under.

In 2022, Provincial Offences continued to provide a revenue source to the County and included a net departmental operating requirement of (\$308,021). This is made up of a total of \$2,501,144 in Revenue and \$2,193,123 in Expenses. Staff are projecting a Provincial Offences net operating surplus estimate of \$206,200 for 2023, made up of an estimated \$2,177,300 in Revenue and \$1,971,100 in Expenses.

Under the transfer agreement with MAG, the responsibility of the County includes the collection and enforcement of POA Fines for our area. We recognize the fact that the POA department has no control over changing volumes and therefore considerable efforts and resources are directed towards different collection methods for unpaid fines that have gone into default. These include using a 3rd party collection agency, license suspension, plate denial and internal collection efforts.

Regardless of how effective the active collection efforts are, there remains a significant number of outstanding fines. Approximately 55% of our fines end up in default and at collections.

As of September 30, 2023, there was approximately 24,625 records of unpaid fines for a total outstanding amount of \$12,491,026.00. So far in 2023 between all collection efforts we have collected \$14,509.85 on Pretransfer cases (prior to 2001) and \$580,079.55 for anything post transfer (after 2001). Many of these are older fines (ex. Pretransfer) that have been scrubbed multiple times and reasonable measures to collect have been made.

It should be noted this trend is not specific just to Grey and Bruce Counties but is experienced province wide. For example, fines for driver's license offences (e.g., driving without a license) and mandatory automobile insurance (e.g., driving without insurance) represent more than 50% of all defaulted fines under the POA, and the accumulated defaulted fines for those offences represent more than 10 years' worth of the fines imposed for them annually. These numbers show that offences like this are much harder to collect than for other offences, and many may be ultimately uncollectable.

In an extremely challenging economic environment and recognizing that many of the most significant fine amounts provided in provincial statutes have not changed since the transfer in 2001, the POA program is a successful self-funding model delivering a net positive budget.

Relevant Consultation

☒ Internal; Finance, Legal

Appendices and Attachments

None.