

MEMORANDUM

To: Members of Committee of the Whole

From: Dan Kuzmyk
Regional Solicitor and General Counsel

Date: March 9, 2023

Re: Interim Transfer of Part III *Provincial Offences Act* Charges

This memorandum updates Council on the recent successful transfer of responsibility for prosecuting *Provincial Offences Act* (POA) Part III charges from the Province to York Region. This is a significant change from the status quo, which was in place since 1999, as described in this memo.

***Provincial Offences Act* (POA) was amended to facilitate the transfer of Part III POA charges to municipalities**

In 1999, the Province entered into a Memorandum of Understanding (MOU) and Local Side Agreements (LSAs) with York Region and the nine local municipalities for the transfer of Provincial Offences Court administration and prosecution of Part I and II POA charges (tickets and parking tickets, respectively) from the Province to York Region. Under the 1999 MOU, the Ministry of the Attorney General (MAG) retained prosecution of Part III POA charges, except certain Part III POA charges that were already prosecuted by municipalities.

As opposed to simply issuing a POA ticket for Part I and II POA offences, Part III charges are commenced by swearing an Information before a Justice of the Peace and serving a summons requiring a defendant to appear in Court. Part III charges are also generally more serious, and may potentially involve significant fines and potentially incarceration. The Part III charges retained by the MAG were predominately *Highway Traffic Act* (HTA) charges, including Careless Driving Causing Death and Bodily Harm. On [December 14, 2017](#), Bill 177 (*Stronger Fairer Ontario Act (Budget Measures) 2017*) amended the POA to allow the Province to enter into agreements with municipalities for the transfer of Part III responsibilities to municipalities.

On, [April 30, 2020](#) Council authorized the execution of amending agreements between the Province, York Region, and the nine local municipalities for the transfer of the Part III charges to York Region. The transfer, however, was delayed due to the COVID pandemic. In order to

accelerate the transfer, the Province signalled its intention in March 2022 to facilitate the transfer of Part III charges by way of an Interim Transfer Agreement rather than the more onerous process of amending the MOU and LSA.

In anticipation of the transfer of Part III prosecutions, five positions were created in 2019. As Court and Tribunal Services currently retains the revenue for Part III charges, there is no new revenue stream to offset the costs.

York Region accepted the interim transfer of Part III charges on January 3, 2023

York Region is the largest jurisdiction in Ontario thus far to accept transfer of the Part III charges. This transfer, however, was not without unique and significant challenges that needed to be addressed by Court Services staff. First and foremost was the sheer volume of Part III charges. For example, in 2022, there were approximately 11,000 Part III charges filed in York Region. This volume was further compounded by the backlog of Part III charges that resulted from the court closures and subsequent judicial shortages related to the COVID pandemic. Further complicating the transfer was the fact that MAG and York Region had completely different case management systems, screening practices, and filing protocols. The negotiation and execution of the Interim Agreement itself was challenging, given the diverging and sometimes conflicting interests as between York Region and MAG. These and other issues needed to be addressed in less than ten months time to ensure the transfer in January 2023, as previously committed by staff to Council. Given that York Region was the largest jurisdiction to have accepted the interim transfer, Court Services staff could not fully leverage the experience of other smaller municipalities in their respective transfers. Accordingly, Courts staff were effectively required to begin transfer planning from scratch.

To meet these challenges, Court Services staff formed a working group with representatives from MAG, York Regional Police and Ontario Provincial Police with a goal of developing a comprehensive transition plan. This group met extensively in the months prior to the execution of the Interim Transfer Agreement and ultimately developed a transition plan that covered such issues as eliminating the COVID backlog of Part III charges, digitizing existing Part III files from MAG, developing new protocols with YRP and OPP for the electronic transfer of files, the training of York Region prosecutors, and the implementation of a communications campaign.

Due to these efforts, the Interim Transfer Agreement was executed by the Regional Solicitor and General Counsel on December 15, 2022. Not only was York Region well-positioned to receive the transfer of Part III charges on January 3, 2023, but the service delivery of Part III charges and POA services in general have been enhanced. The transition continues to be seamless.

York Region will continue working towards amending the MOU and improving service delivery

Court Services staff expect that efficiencies will continue to be identified and operationalized as a result of the interim transfer, including improved trial and officer scheduling, streamlined service

delivery, and improved disclosure process. Court Services staff will monitor the scope of these efficiencies and examine whether further efficiencies can be implemented.

The Interim Transfer Agreement is set to expire on January 3, 2025. IN advance of that expiry, Court Services staff will initiate discussions with MAG for amendment of the MOU and LSAs which will make the transfer of the Part III charges permanent. Additionally, amending the MOU and LSAs will potentially provide an opportunity for York Region to update and re-negotiate those provisions which may be dated or could be improved. The most recent success of the interim transfer and the collaboration achieved with MAG will no doubt assist in this respect.

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