

Clause 20 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 23, 2016.

20

Court Services Annual Report 2015

Committee of the Whole recommends adoption of the following recommendation contained in the report dated May 31, 2016 from the Regional Solicitor.

1. It is recommended that Council receive this report for information.
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Report dated May 31, 2016 from the Regional Solicitor now follows:

1. Recommendation

It is recommended that Council receive this report for information.

2. Purpose

This report provides Council with an overview of the Court Services 2015 Annual Report (Attachment 1) submitted to the Attorney General. It provides a summary of Court Services 2015 workload activity, key accomplishments, and planned initiatives for 2016. The Annual Report is required under the Memorandum of Understanding with the Province of Ontario.

3. Background

Court Services administers the *Provincial Offences Act* program under strict legislative and legal constraints

Responsibility for the administration and prosecution of certain charges under the *Provincial Offences Act* (POA) was transferred to the Region on July 12, 1999. The Ministry of the Attorney General retains overall responsibility for the integrity of the justice program. The program is subject to strict constraints through legislation, regulations, case law, and ministry directives.

York Region operates the second largest *Provincial Offences Act* court program in Ontario based on the number of charges filed. It is our mission to provide timely, quality and cost-effective access to Justice.

Court Services provides two distinct functions of Court Operations and Prosecution

Court Operations is responsible for the administration and court support services at two court locations and is responsible for the administration of all *Provincial Offences Act* charges issued in York Region. Court Operations provide a variety of legislated services to the general public while maintaining York Region's customer service standards.

Prosecutions is responsible for providing a wide range of legal services including the prosecution of cases before the Ontario Court of Justice, and appeals and judicial reviews in the Ontario Superior Court, the Ontario Court of Appeal, and the Supreme Court of Canada.

The majority of charges filed in the Region's POA courts are traffic offences filed under Part I of the *Provincial Offences Act*

The majority of charges filed in the Region's courts are offences under Part I of the *Provincial Offences Act*. Part I charges include many of the offences under the *Highway Traffic Act* and carry a maximum penalty up to \$1,000. A ticket is issued to the defendant and the defendant has the option to pay the ticket, request an early resolution meeting with a prosecutor, or request a trial. Parking offences are filed under Part II of the *Act*. Part III charges include more serious offences (such driving without insurance and stunt driving). The defendant receives a summons and is required to appear in court. Maximum penalties under Part III are more severe and may include incarceration up to 2 years.

4. Analysis and Options

Uncontrollable factors continue to create pressure on resources, court capacity, and budget

2015 Key Workload Drivers and Activity Statistics

- 8,516 charges were filed per court administration clerk, which is 52 per cent higher than the provincial average standard at program download
- 2,757 disclosure requests were processed per prosecution clerk, representing a 36 per cent increase from 2014

- 59 per cent of all Part I charges are disputed, resulting in a 2 per cent increase from 2014
- Over 170,000 customers served through in-person and telephone service, representing a 2 per cent increase from 2014
- Over 130,000 dispute cases were dealt with by way of early resolution or trial which is a 7 per cent increase from 2014

Court Services implemented a number of initiatives in 2015 in response to workload pressures

Court services continued to identify innovative ways in response to increased workload while maintaining operational standards. Initiatives focused on continuous improvement through leveraging technology and partnering with stakeholders to improve service delivery.

2015 Key Initiatives:

- Conducted a comprehensive review of trial scheduling procedures to maximize efficiency for Court Services and the York Regional Police
- Partnered with the York Regional Police for the implementation of an electronic ticket uploading to create significant cost savings
- Facilitated two *Provincial Offences Act* stakeholder meetings to engage local municipal partners and enforcement agencies to provide relevant updates including *Provincial Offences Act* Modernization
- Expanded the Court Administration Management System, a case management software, to support a stronger management and enhance customer service
- Obtained approval for the Annex court facility
- Completed a feasibility study of the Richmond Hill location for additional courtrooms
- Successfully argued a number of precedent setting cases

Court Services has developed a strategic business plan for 2016 to drive operational efficiency in the area of court operations, prosecutions, and collections

In 2016, Court Services will continue to identify areas for process improvement to create efficiencies and maintain performance measures. A focus on developing key performance measurements and improving reporting capabilities will support the goal of a long-term, cost-effective and sustainable justice program. Court staff will continue to monitor legislative changes and emerging trends for operational efficiencies.

2016 strategic goals:

- Expand the Court Administration Management System into the Prosecution office to manage disclosure request preparation and improve case management
- Explore the opportunity for electronic disclosure with the York Regional Police
- Expand electronic ticket upload to Red Light Camera offences
- Improve on the Integrated Court Offences Network (ICON) performance in consultation with the Ministry of Attorney General
- Implement a collection strategy to maximize collection of defaulted fines and increase fine revenue
- Participate in Access York Customer Service Leadership Group to lead York Region's customer experience transformation
- Conduct a systematic review of the effectiveness, efficiency, and economic impact of key workload processes
- Lead a *Provincial Offences Act* Best Practice Committee to create efficiencies and maintain performance standards for stakeholders within York Region

Link to key Council-approved plans

The Region's 2015-2019 Strategic Plan includes a priority area of Good Government, focusing on fiscal responsibility, accountability, and reliability of Regional government and its related programs and services.

Court Services will continue to monitor its financial position to ensure a fiscally prudent and efficient Region.

5. Financial Implications

There are no financial implications directly associated with this report. The performance measures set out in the Annual Report will be reflected in the 2017 operating budget.

6. Local Municipal Impact

There is no local municipal impact directly associated with this report. The Region's POA courts provide court administration and prosecution for all nine local municipalities.

7. Conclusion

This report provides an overview of the activities and services provided by the Legal & Court Services Department, Court Services Branch, as outlined in the 2015 Annual Report. The Branch continues to balance its responsibilities and obligations to provide an efficient and effective service to the residents of York Region, the local municipalities, the province of Ontario, the judiciary, and over 30 law enforcement and regulatory agencies operating within the Region.

For more information on this report, please contact Harry Fok, Director of Court Operations at ext. 73302

The Senior Management Group has reviewed this report.

May 31, 2016

Attachment (1)

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Accessible formats or communication supports are available upon request.



Annual Report

For the Year Ended December 31, 2015

Legal & Court Services
Court Services Branch

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Court Services Mandate

Court Services provides two distinct functions: Court Operations and Prosecution. York Region operates the second largest *Provincial Offences Act* court program in Ontario.

Provides Services to:

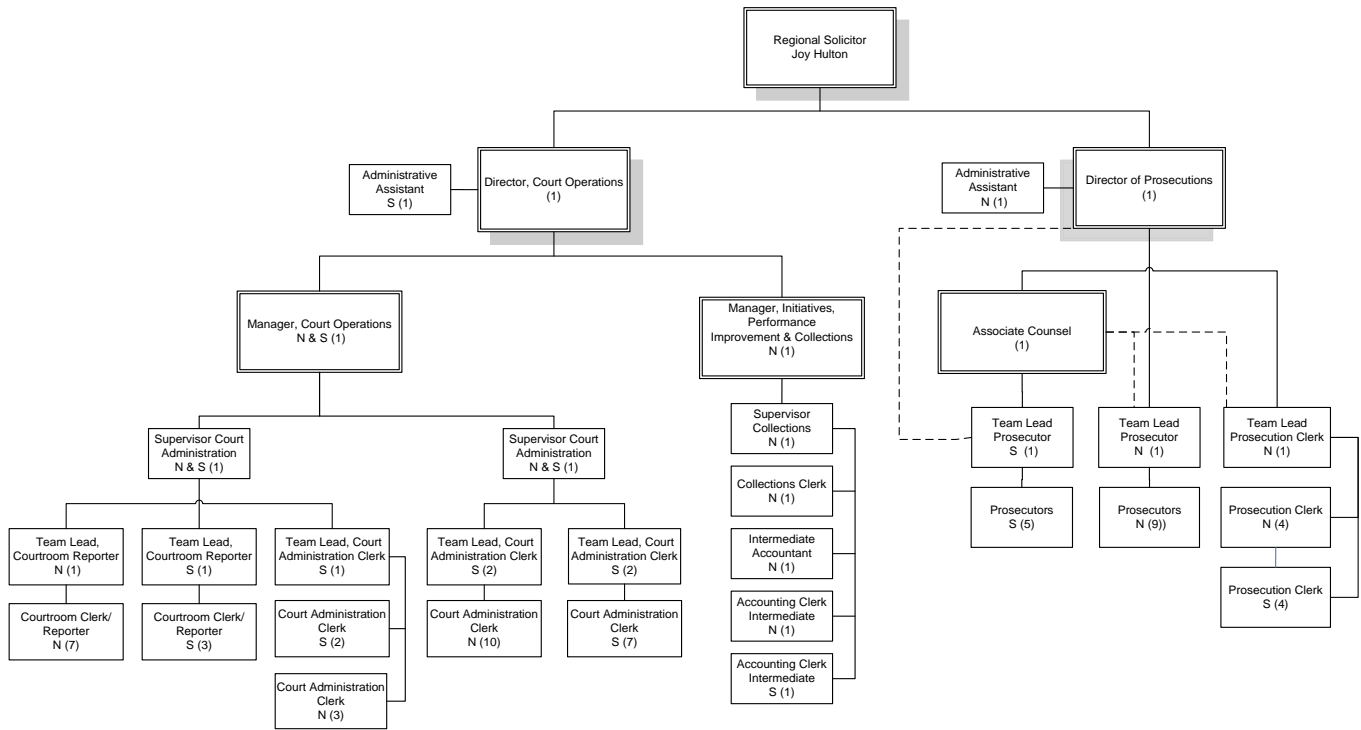
- Members of the Public
- York Region Local Municipalities
- Over 30 Law Enforcement and Regulatory Agencies
- Ministry of the Attorney General
- Judiciary

Operates:

- 2 Court Locations
Newmarket and Richmond Hill
- 6 Trial Courtrooms
(4 in Newmarket, 2 in Richmond Hill)
- 2 Intake Courtrooms
(1 in Newmarket, 1 in Richmond Hill)
- 3 Early Resolution Meeting Rooms
(2 in Newmarket, 1 in Richmond Hill)

Court Services Mission: To provide timely, quality and cost-effective access to justice.

Organization Chart at December 2015



(78 FTE's)

Notable Changes:

In 2015, there was an organizational review of the Court Services Branch. The most significant change made was the separation of the Court Operations and Prosecution Units. Each unit is now under the leadership of a Director who reports to the Regional Solicitor in the Legal & Court Services Department.

Message from the Director of Court Operations Harry Fok

Court Services is committed to business and service excellence in the administration of justice. In 2015, Court Operations developed a new organizational structure designed to drive operational efficiency in the area of operations and collections. We continued to collaborate and work with stakeholders to develop process improvements and maintain a positive working relationship. In 2016, Court Operations will focus on identifying opportunity to leverage relationships, creating a cost-effective and sustainable program.

Message from the Director of Prosecutions Hans Saamen

Prosecutions is responsible for providing a wide range of legal services including the prosecution of cases before the Ontario Court of Justice, and appeals and judicial reviews in the Ontario Superior Court, the Ontario Court of Appeal, and the Supreme Court of Canada. In 2015, we continued to focus on responding to an increased workload due to the rising dispute rate and a significant increase in disclosure requests while upholding the integrity of justice. We continued to liaise with internal York Region Departments and our Municipal Partners to ensure effective prosecution of all by-law charges. As we move into 2016, we will continue to refine practices and procedures to create efficiencies and identify areas to leverage technology to deliver service in the area of prosecution.

2015 Key Initiatives and Achievements

Customer Service

York Region Court Services is committed to delivering high quality customer service to all users of the court system. Court Services initiated a review of the customer service process identifying opportunities to enhance the customer experience. We continued to make changes and identify areas for improvement.

Effective Scheduling

In 2015, a comprehensive review of the trial scheduling practice was completed in partnership with the York Regional Police (YRP). The review focused on the scheduling of York Regional Police officers to maximize efficiency for both York Region Court Services and the YRP. Accessibility to the York Regional Police scheduling software has ensured real-time scheduling of officers to reduce pre-trial motions and adjournment rates in court.

As trial requests increase, additional pressure is put on court space and the scheduling of trials within the court mandated time frames. Court staff reviewed the distribution of cases at each court location and redistributed workload to maximize court space and meet scheduling targets.

Stakeholder Meetings

In response to the Ministry of the Attorney General's announcement on the "Modernization of the Provincial Offences Act" – consultation paper, York Region Court Services facilitated a session with all stakeholders on April 1, 2015. The meeting provided an overview of the consultation process and an opportunity to give feedback on how it would impact local municipalities and stakeholders.

In addition, York Region Court Services hosted a stakeholder meeting on November 27, 2015. The following updates were provided: POA modernization update, collection of POA default fines, Best Practice Committee, and 2016 Court Services goals and objectives.

Technology Improvements

The Court Administration Management System (CAMS), caseload management software created by Niagara Region, has expanded from collections to court operations to support case management and enhance customer service levels.

In 2015, York Region Court Services partnered with York Regional Police to successfully implement an electronic ticket uploading process. Approximately 95% of all York Regional Police Part 1 (ticket) charges are issued through the e-ticketing process and, as a result, Court Services has recognized significant cost savings in the range of \$70,000 to \$75,000.

Court Capacity and Accommodation Plan

Court Services obtained judicial approval and finalized floor plans for the new Regional Annex Court Facility. Court capacity will increase from four courtrooms, currently in use at the Tannery, to six and provide enhanced security for the judiciary and staff. It is anticipated that the court facility will be completed in 2020.

In 2015, a study was completed at the Richmond Hill location to determine the feasibility of an additional courtroom to manage increased workload. Court Services will review recommendations and present to Council as part of the 2017 budget process.

Accomplishments

Harry Fok, Director of Court Operations presented to the Municipal Court Managers' Association during annual conference on Court Statistical Performance Benchmark.

Sandra Garand, Supervisor Court Administration, delivered a presentation to the York Region Accessibility Advisory Committee focused on accessibility services provided at York Region POA courts.

Hans Saamen, Director of Prosecutions, and Chris Bendick, Associate Counsel Prosecutions, delivered presentations at both The Federated Press (on drafting by-laws) and to The Prosecutors' Association of Ontario (on Ethical Issues for Prosecutors).

Notable Precedent Setting Cases

Prosecutions successfully argued a number of precedent setting cases:

- Ontario Court of Appeal
 - R. v. Wai-On A. Chair - The Ontario Court of Appeal confirmed that for speeding offences, it is only necessary for the prosecution to tender evidence that a radar speed measuring device was tested to confirm functionality, not to tender evidence regarding the specific tests used. In this case, the officer could not recall the specific tests, but only that the device was tested beforehand. There was conflicting decisions in the lower courts regarding this issue.
- The Superior Court
 - R. v. Newhook et al – The Superior Court of Justice ordered that a Justice of the Peace render a decision in a timely manner, after the Justice of Peace reserved her decision for almost a year on whether to accept a guilty plea for a speeding offence. This is one of the first cases where a higher court ordered a lower court to render a decision in a timelier manner.
 - R. v. Lorman – The Superior Court of Justice overturned a decision of a Justice of the Peace who decided on her own motion to quash a ticket on the basis that it did not list the local municipality in which the offence occurred. The Superior Court of Justice confirmed that this not a basis to quash a ticket.

- The Ontario Court of Justice
 - R. v. Martingrove Properties Ltd. – The Ontario Court of Justice overturned a decision of a Justice of Peace that multiple Orders to Comply issued by a municipality pursuant to the *Building Code Act* constituted an abuse of process. This is the first case in Ontario that considers the law of abuse of process in relation to administrative orders under provincial legislation. The multiple orders were upheld.
 - R. v. Dave – The Ontario Court Justice overturned a decision of a Justice of the Peace who refused to impose the statutory minimum fine for a red light camera offence. In so holding, the Court found that there was a reasonable apprehension of bias on behalf of the Justice of Peace, a rare finding.

Key Workload Drivers

Total Charges Filed (by Agency) in 2015

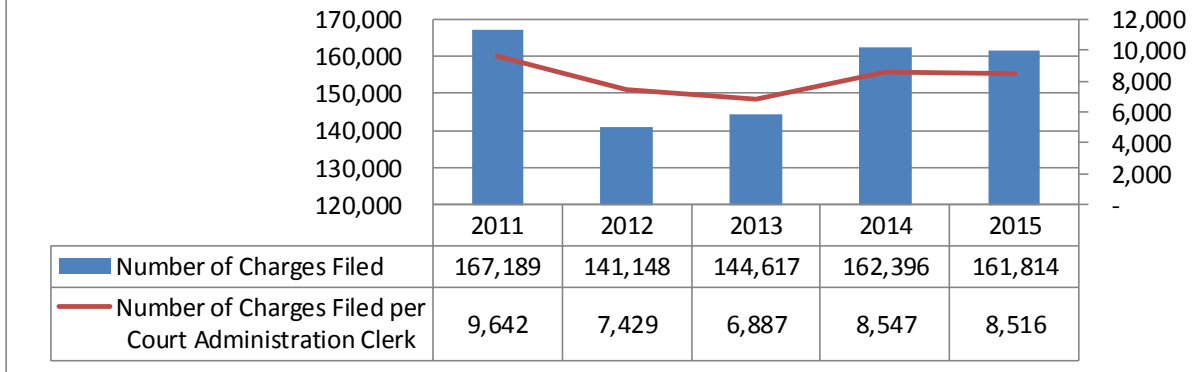
	Number of Charges	Percentage of Caseload
York Region Police	122,369	75.62%
Ontario Provincial Police	17,288	10.68%
Ministries and Other Agencies	12,378	7.65%
York Region	6,317	3.90%
Town of Aurora*	1,291	0.80%
City of Markham	524	0.32%
City of Vaughan	511	0.32%
Town of Whitchurch-Stouffville*	382	0.24%
Town of East Gwillimbury*	244	0.15%
Town of Richmond Hill	189	0.12%
Township of King*	178	0.11%
Town of Georgina	115	0.07%
Town of Newmarket	28	0.02%
Total Charges Filed	161,814	100.00%

*These municipalities have not yet “opted in” under section 18.6(1)(a) of the *Provincial Offences Act*. This means that their Parking Tickets are still being processed through the ICON computer system and are automatically included in the total number of charges filed. For other municipalities (those that have “opted in”), parking charges are not included in the statistics above.

In 2015, charges filed in York Region remained stable with less than a 1% decrease in total charges filed.

Act Type	Number of Charges Filed
A1 - Accidents Certificate of Offence (i.e. Motor Vehicle)	3,729
F1 - Federal Certificate of Offence	286
F3 - Federal Information	23
P1 - Certificate of Offence	142,988
P2 - Parking Infraction Notice	2,904
P3 - Information	11,884
Grand Total	161,814

Number of Charges Filed per Court Administration Clerk



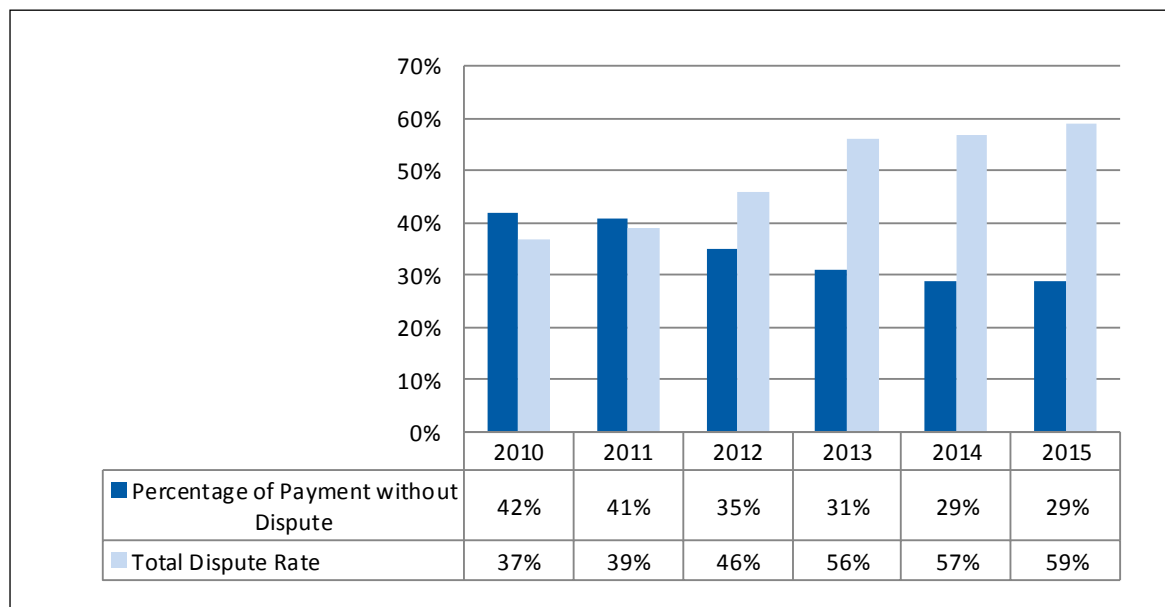
The Provincial standard for number of charges filed per court administration clerk is in the range of 5,000 - 6,000. In 2015, the number of charges filed per court administration clerk was 8,516. We continue to look for innovative ways to manage workload while providing high quality of work and customer service.

York Region continues to provide 174,000 in-person and telephone services to all court users at both court locations.

	Front Counter	Telephone	Total Customers Served
Newmarket Court Location	46,702	34,302	81,004
Richmond Hill Court Location	65,727	27,262	92,989
Total	112,429	61,564	173,993

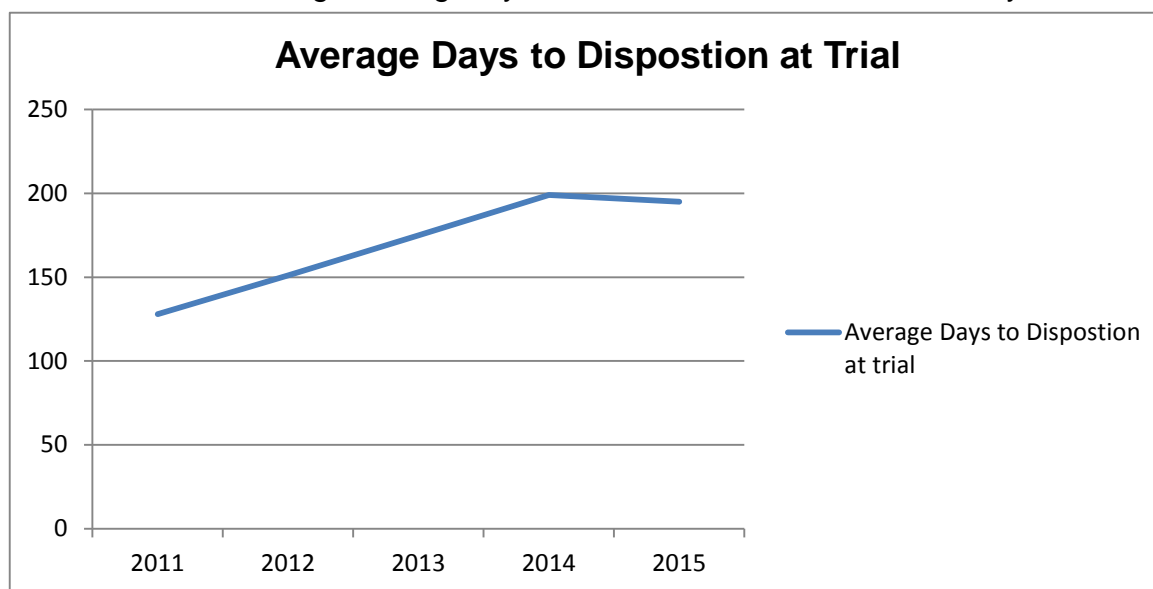
Rising Dispute Rate

York Region continues to experience an increasing dispute rate since the implementation of early resolution in 2012. As a result, we have seen a decrease in pre-paid fines and an increase in expenditures associated with higher dispute rates.



Note: The remaining percentage of workload is Fail to Respond convictions.

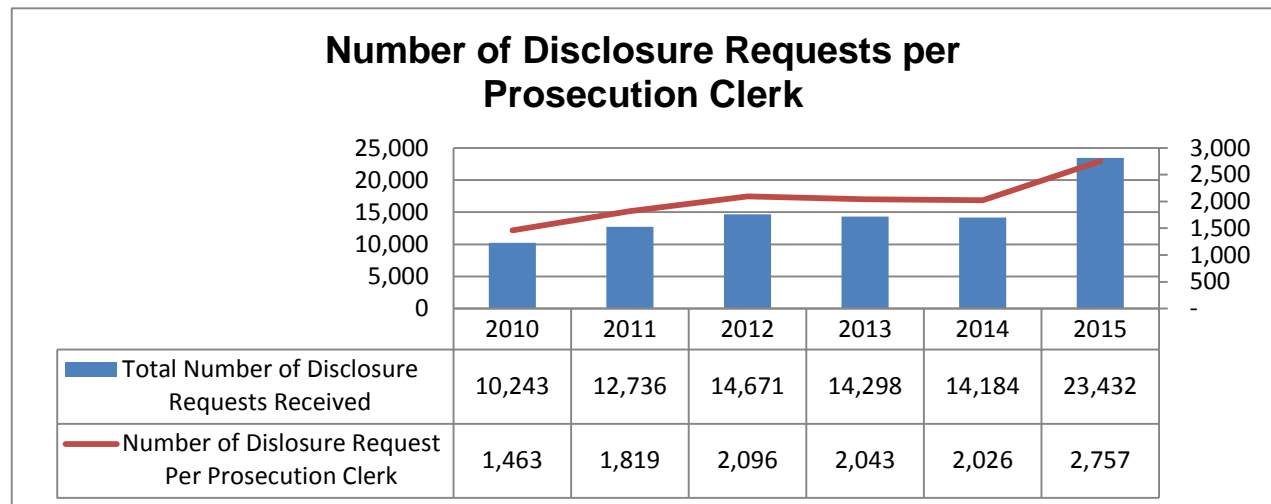
The increase in dispute rate has had a direct effect on York Region's time to trial for all Part 1 offences. An inability to schedule matters within the 8 to 10-month guideline set by the Supreme Court of Canada in *R. v. Morin* will lead to an increase in s.11(b) Charter Motions filed and charges being stayed or withdrawn as a result of delays.



Over 135,000 matters were addressed in court between Early Resolution and Trial Courts. This represents a 7% increase from 2014.

Appearance Room	Grand Total
Early Resolution	
ERM - Early Resolution Meeting Room	30,690
ERM2 - Early Resolution Meeting Room	4,394
Total Number of Early Resolution Matters	35,084
R3 - Traffic and Municipal Parking and Bylaws	22,655
R4 - Part One Traffic Court	17,304
T1 - Part One Traffic Court	16,829
T2 - Ministry and Municipal Parking and Bylaw Court	8,282
T3 - Part Three Provincial Court	20,770
T4 - Part One Traffic Court	11,695
Total Number of Matters on Trial Dockets	97,535

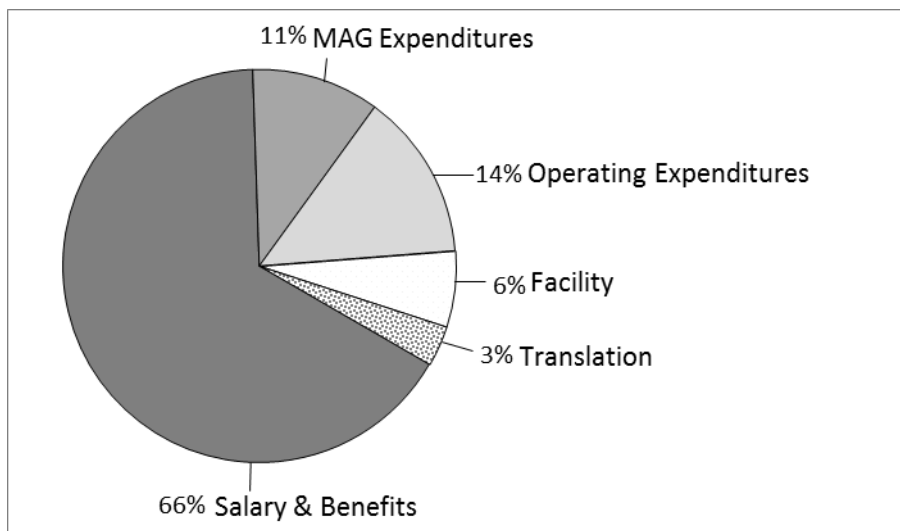
Changes to legislation have increased the number of disclosure requests received by Prosecutions. In addition to the current dispute rate trends, it is estimated that the disclosure rate may continue to increase.



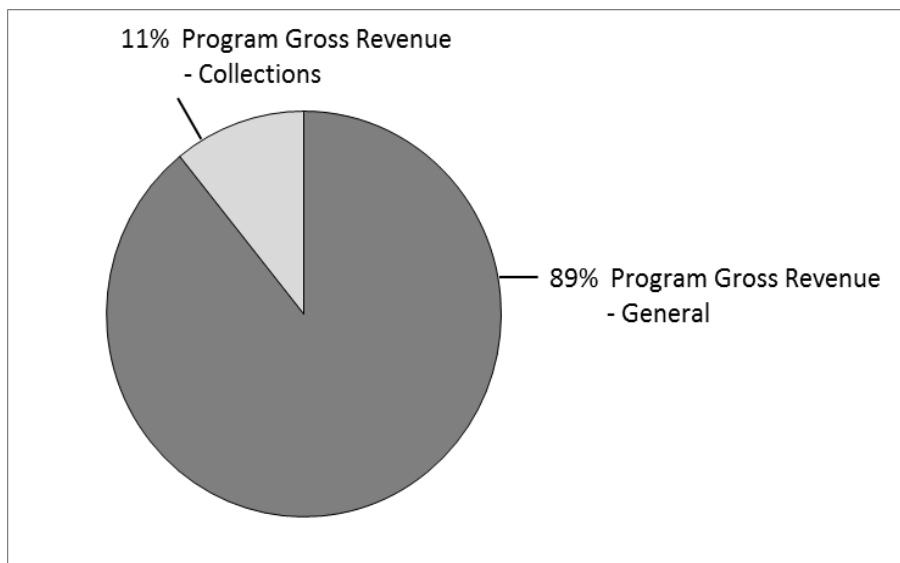
Note: No provincial standards exist for the number of disclosure requests per prosecution clerk.

2015 Expenditure and Revenue Analysis

2015 Operating Budget by Expenditure Category



2015 Revenue Source



Expenditure

Salary and Benefits

Includes all staffing expenses related to Court Administration, Prosecution and Collections. Includes all permanent, casual and temporary staffing in addition to overtime and benefits.

MAG Expenditures

Total cost of expenses paid to the Ministry of Attorney General including Judicial and ICON related costs. Victim Fine Surcharge and Dedicated fines are not included.

Operating Expenditures

Total cost of general operating expenses.

Facility

Total cost of facility expenses.

Translation

Total cost of providing interpreter services to court users.

Excerpt from the Regional Auditor's Report

PROVINCIAL OFFENCES ADMINISTRATION

The Region administers prosecutions and the collection of related fines and fees under the authority of the *Provincial Offences Act* ("POA"). The POA is a procedural law for administering and prosecuting provincial offences, including those committed under the *Highway Traffic Act*, *Compulsory Automobile Insurance Act*, *Trespass to Property Act*, *Liquor Licence Act*, Municipal By-laws and minor federal offences. Offenders may pay their fines at any court office in Ontario, at which time their receipt is recorded in the Integrated Courts Offences Network system ("ICON"). The Region recognizes fine revenue when the receipt of funds is recorded by ICON regardless of the location where payment is made.

The gross revenue is comprised primarily fines levied under Part I, II and III (including delay penalties) for POA charges. The total revenue for 2015 amounts to \$18,646,456 (2014- \$17,797,480). Balances arising from operation of the POA offices are consolidated with these financial statements.

THE REGIONAL MUNICIPALITY OF YORK

Provincial Offences Office

Statement of Receipts and Expenses

For the year ended December 31, 2015

	Budget <u>2015</u> (Unaudited) \$	Actual <u>2015</u> \$	Actual <u>2014</u> (Revised) \$
Revenue			
Fines and Miscellaneous Revenue Collected	17,380,060	18,646,456	17,797,480
Expenses and Disbursements			
Salaries and Benefits	8,036,848	8,291,097	8,052,770
General Administration	1,581,118	1,581,012	1,642,469
Program Related Services	1,366,200	1,578,411	1,453,441
Professional Services	955,100	952,421	945,128
Occupancy Expenses	899,115	827,233	931,207
Amortization	0	27,870	111,234
Asset Acquisitions	47,000	86,150	53,267
	<u>12,885,381</u>	<u>13,344,194</u>	<u>13,189,515</u>
Income before disbursements to area municipalities and others	4,494,679	5,302,263	4,607,965
Disbursements to Area Municipalities and Others	<u>(5,268,260)</u>	<u>(5,075,918)</u>	<u>(4,981,660)</u>
Net Revenue/(Deficit)	<u>(773,582)</u>	<u>226,345</u>	<u>(373,695)</u>
Contribution to Reserves	<u>0</u>	<u>1,000,000</u>	<u>0</u>

The accompanying notes are an integral part of the financial statement

December 31, 2015

The Regional Municipality of York (the Region) administers prosecutions and the collection of related fines and fees under the authority of the *Provincial Offences Act* ("POA"). The POA is a procedural law for administering and prosecuting provincial offences, including those committed under the *Highway Traffic Act*, *Compulsory Automobile Insurance Act*, *Trespass to Property Act*, *Liquor Licence Act*, Municipal By-laws, and minor federal offences. The POA governs all aspects of legal process from serving notice to a defendant, to conducting trials, including sentencing and appeals.

1. SIGNIFICANT ACCOUNTING POLICIES

The statement of financial activities for the Region's Provincial Offences Office is prepared by management in accordance with generally accepted accounting policies for local governments as recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada. Significant aspects of the accounting policies are as follows:

a) Revenues

Revenues are accounted on cash basis. The revenues of the court office consist of fines levied under Parts I, II and III (including delay penalties) for POA charges filed at the courts and located at The Tannery Mall, 465 Davis Drive, Newmarket, and 50 High Tech Road, Richmond Hill. Offenders may pay their fines at any court office in Ontario, at which time their receipt is recorded in the Integrated Courts Offences Network system ("ICON") operated by the Province of Ontario. The Region recognizes fine revenues when the receipt of funds is recorded by ICON regardless of the location where payment is made.

The Region also recognizes revenues that are collected on behalf of Area Municipalities and the Ministry of the Attorney General. These revenues include payments recovered with respect to local area Municipal By-laws, Dedicated Fines related to various statutes, licence plate denial fees, and the Province's portion of parking fees as well as the Victim Fine Surcharge.

Partial payments received for fines are automatically applied in the ICON system in the following order:

- Victim fine surcharge
- Fine
- Costs
- Administrative fees
- Collection agency costs

b) Expenses

Expenses are recorded on the accrual basis of accounting which recognizes expenses as they are incurred and measurable as a result of the receipt of goods or services and creation of a legal obligation to pay.

c) Use of estimates

The preparation of the financial statement in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of revenues and expenditures and disclosure of contingencies at the date of the financial statement and for the period being reported on. Actual results could vary from these estimates.

d) Reserve

In 2015, a reserve was established to assist in planning and managing costs, which can vary significantly each year. The reserve will be funded through any net surplus in the prior year, after allocations, with an established upset limit.

Goals and Objectives for 2016

Improve Technology

- Expand implementation of the Court Administration Management System (CAMS) into the prosecution office to assist with disclosure preparation and case management
- Explore the opportunity for electronic disclosure with the York Regional Police
- Expand electronic ticket upload to red light camera offences
- Improve Integrated Court Offence Network (ICON) performance in consultation with the Ministry of Attorney General

Collection of Unpaid Fines

- Implement collection policy to maximize default collection efforts and increase fine revenue
- Finalize agreements with local municipalities for the collection of POA fines through property tax roll

Business Continuity Plan

- Revise, test and implement the emergency management and business continuity plan

Customer Service

- Participating in Access York Customer Experience Leadership Group to lead York Region's customer experience transformation

Efficiency Review

- Complete a systematic review of the effectiveness, efficiency and economic impact of key workload processes
- Lead a POA Best Practice Committee composed of various stakeholders to create efficiencies and maintain performance standards within York Region