

Region of Waterloo
Planning, Development, and Legislative Services
Council and Administrative Services

To: Administration and Finance Committee
Meeting Date: November 7, 2023
Report Title: Judicial Shortages – Provincial Offences Court

1. Recommendation:

That the Regional Municipality of Waterloo contact the Ministry of the Attorney General to identify the lack of judicial resources provided to the Region's Provincial Offences Court and to request adequate judicial resources as per the Memorandum of Understanding as set out in report PDL-CAS-23-015 dated November 7, 2023.

2. Purpose / Issue:

To identify the significant reduction in judicial resources provided by the Ministry of the Attorney to the Region's Provincial Offences Court resulting in an adverse impact on the administration of justice.

3. Strategic Plan:

Equitable Services and Opportunities

Report Highlights:

- The Court Master Plan is developed and administered by the Ministry of the Attorney General's Regional Senior Justice of the Peace (RSJP) and governs the scheduling of Provincial Offences Act (POA) court sittings in the West Region. In July 2022, a temporary reduction of 30% was directed. As a result, the number of court sittings per week reduced from ten to seven and this reduction is still in place.
- The Office of the RSJP has indicated that more unexpected closures are likely in the coming months and effective September 2023 there was a further cancellation of one court per week bringing the total court master plan reduction to 40%.
- Lack of judicial resources limits access to justice to the public who reside within the Region of Waterloo and across the Province.

4. Background:

- The Provincial Offences located at 77 Queen St. N in Kitchener is responsible for the administration, courtroom support and prosecution of Provincial Offences Act offences as well as municipal by-laws within the Region of Waterloo. The most common violations fall under the Highway Traffic Act, Liquor Licence and Control Act, and Compulsory Automobile Insurance Act to name a few. Other violations include, but are not limited to, offences enforced by the Ministry of Transportation, Ministry of Labour, and Ministry of the Environment.
- There are 52 Municipal POA Courts across Ontario and the province is divided into seven Regions. The Region's POA Court is located in the West Region. The West Region as well as the other six regions are currently experiencing a shortage of Justice of the Peace appointments which hinders the efficient and effective operation of the Provincial Offences Court.
- The full complement of the judiciary in the West Region to preside in criminal and POA courts is 48 positions. In 2021 the complement was reduced to 44 and in September 2023 it was further reduced to 32 Justice of the Peace positions.
- POA has a backlog of almost 1,900 trials and 3,800 early resolution meetings waiting to be set. The backlog continues to grow as new requests are filed.
- Court staff have implemented new strategies to utilize closed court time and have held early resolution meetings resulting in almost 1,600 cases waiting to be heard before a Justice of the Peace. The court has increased the number of matters scheduled on each court docket to maximize the judicial resources that are being provided.
- The lack of judicial resources and unexpected court closures will substantially increase the backlog of cases waiting to be set for a trial or early resolution meeting. This has led to charges being withdrawn or stayed due to the unreasonable delay in these charges being brought to trial and this trend is expected to continue.
- There are 70 closed court dates over 17 weeks in 2023 due to judicial conferences and vacations.
- It is expected that by year-end there will be 21 unplanned court closures with the POA Court receiving minimal notification that court is closed due to judicial shortages. As a result, all cases are either stayed or adjourned by a Clerk of the Court to another court date further burdening an already limited court system and impacting members of our community. On one such closure, over 450 docket lines had to be adjourned resulting in over 400 people including members of the public, agents, and other stakeholders being inconvenienced.

5. Communication and Engagement with Area Municipalities and the Public

Regional Staff have communicated with other Regional Governments, and these governments have expressed their concerns over the Judicial Shortages with the Ministry of the Attorney General. Additionally, Regional Staff have engaged in several communications with various levels of Ministry staff regarding the same concern.

6. Financial Implications:

Revenue is realized when a conviction has been registered and the defendant pays the court ordered fine. Convictions not being registered in a timely manner and using court time for adjournments will result in decreased fine revenue as cases are left in a state of uncertainty awaiting court dates. Charges may be withdrawn or stayed due to the lack of judicial resources. General revenue pre-pandemic in 2019 was 4.6M and general revenue expected in 2023 will be 3.2M.

7. Conclusion / Next Steps:

A letter signed by Council to the Ministry of the Attorney General with a follow-up meeting with Ministry staff to discuss judicial shortages.

8. Attachments:

Nil

Prepared By: Patti McCauley, Manager, Provincial Offences Court Administration

Reviewed By: Will Short, Director, Council & Administrative Services

Graham Walsh, Director, Legal Services

Approved By: Rod Regier, Commissioner, Planning Development & Legislative Services