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COURT SERVICES - ANNUAL REPORT 2010

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report dated August 23, 2011, from the Commissioner of Corporate Services.

1. RECOMMENDATION

It is recommended that this report be received for information.

2. PURPOSE

The Court Services Annual Report is required for the Attorney General and it provides Council with an overview of the accomplishments, events and successes of the Corporate Services Department - Court Services Branch, during 2010.

3. BACKGROUND

The Region administers the *Provincial Offences Act* Program under strict controls

The Court Services Branch provides two separate functions of Court Administration and Prosecution. It operates six trial courtrooms and two intake courtrooms at two separate locations (Tannery, Newmarket and South Services Centre, Richmond Hill) and serves the residents of York Region, the local municipalities, the Judiciary and over thirty law enforcement and regulatory agencies operating within the Region.

The work of the Court Services Branch is heavily constrained and controlled by statutes, regulations, case law and provincial directives. Although certain functions were transferred to York Region from the Province of Ontario on July 12, 1999, the Attorney General of Ontario retains overall responsibility for court administration and prosecution functions throughout the Province. The program is, therefore, subject to regular audit by provincial and federal auditors as well as York Region's own internal and external auditors.

The "Transfer Agreement" that forms the basis for the Ministry's transfer of POA Court administration to York Region in 1999 was actually based on two agreements. A Memorandum of Understanding between the Region and the Ministry of the Attorney General sets out the service expectations of the Ministry. An "Intermunicipal Agreement" is stipulated in the Memorandum of Understanding and includes, as parties, all nine local

municipalities and the Region of York. The Intermunicipal Agreement, among other things, sets out:

- Revenue distribution
- Reporting requirements
- Prosecuting obligations
- First Attendance obligations (i.e. local municipal responsibility for parking)
- Budgeting and staffing
- Dispute resolution, etc.

The new Intermunicipal Agreement was finalized and signed off by each of the local municipalities and York Region

On December 16, 2009 through the adoption of Clause No. 7 of Report No. 9 of the Finance and Administration Committee, Regional Council directed staff to negotiate the terms of a new York Region Court Intermunicipal Agreement with local municipalities in 2010. Upon execution of the new Intermunicipal Agreement, by all the local municipalities and the Region of York, funding distributed to local municipalities was to be increased from \$2.9 million to \$4.3 million in 2010 and the increased amount was to be transferred from the Region to the local portion of the property tax bill starting in 2011.

The new Intermunicipal Agreement was agreed to and signed off by each of the local municipalities and York Region. Payments totalling \$4.3 million have been distributed to the local municipalities and the increased amount (\$4.3 million) is being transferred from the Region to the local portion of the property tax bill starting in 2011.

4. ANALYSIS AND OPTIONS

Court administration provides a wide range of in-court and out-of-court administrative functions

York Region Court administration provides a wide range of in-court and out-of-court administrative functions for charges filed under the *Provincial Offences Act* and *Federal Contraventions Act*. These functions include customer service counters, telephone inquiries, trial scheduling, transcript production, collections, enforcement and business and accounting processes.

Prosecutions provide a variety of services

Prosecutions reviews prosecution briefs from enforcement agencies and conducts prosecutions of a wide range of offences under numerous statutes. It also provides

disclosures to defendants, conducts early resolution negotiations, prosecutes at trials and provides advice and education to police and other enforcement agencies.

Major highlights of the year are as outlined in the 2010 Annual Report (see Attachment 1)

- **\$4.3 million** in “shareable” revenue was distributed to local municipalities
- **\$491,584** in by-law revenue was distributed to local municipalities
- **163,608** charges were filed (1.06% increase from 2009)
- Implemented a new Intermunicipal Agreement and revenue sharing arrangement with the local municipalities pursuant to Council direction of December 16, 2009
- Held two stakeholder meetings (June 10, 2010 and November 16, 2010) and obtained high participation rate and positive feedback from court users
- Director of Court Services was a speaker at a conference of the Municipal Court Managers Association (MCMA) and was the Municipal Courts representative on Ontario’s POA Streamlining Working Group
- Senior Counsel, Prosecutions was a speaker at spring and fall conferences of Prosecutors’ Association of Ontario (PAO), Federated Press conference on Creating and Enforcing Municipal By-laws, Paralegal course put on by the Law Society of Upper Canada, Fire Marshall's Conference regarding Admissibility of Statements, and York Regional Police and municipal training sessions
- Supervising Prosecutor was a speaker at a conference of the Ontario Building Officials Association, Ontario Society for Prevention of Cruelty to Animals, Ontario Association of Property Standards Officers
- Entered into detailed architectural planning stage for proposed new court facility in Newmarket as part of the Central Service Centre complex
- Revised administrative processes and implemented legislative changes made to the *Provincial Offences Act* pursuant to the *Good Government Act 2009*
- Continued to provide leadership to other justice stakeholders in the province-wide roll out and adoption of major legislative change

5. FINANCIAL IMPLICATIONS

There is no direct financial implication associated with this report.

In accordance with the audited financial statements for 2010, the gross revenue was \$15.6 million and expenditures totalled \$10.6 million (comprised of \$8.9 million in direct operating costs and \$1.7 million in interdepartmental allocation costs).

In addition to the \$10.6 million in expenditures, the Region was also required to pay \$5.1 million in mandatory disbursements (e.g. Dedicated Fines to various ministries, Victim Fine Surcharge and other third party costs) as well as the increased amount of \$4.3 million to local municipalities in 2010. The Region also paid local municipalities \$491,584 in by-law revenue collected in 2010. The subsequent net deficit in 2010 was \$4.9 million.

The impact of the new Intermunicipal Agreement has resulted in reducing the projected net deficit in 2011 to approximately \$1.1 million (which includes the impact of \$1.9 million in interdepartmental allocation costs).

6. LOCAL MUNICIPAL IMPACT

The new Intermunicipal Agreement between the Region and the local municipalities was agreed to and signed off. Accordingly, funding distributed to local municipalities was increased from \$2.9 million to \$4.3 million in 2010. The increased amount (\$4.3 million) is being transferred from the Region to the local portion of the property tax bill starting in 2011.

7. CONCLUSION

This report provides an overview of the activities and services provided by the Corporate Services Department - Court Services Branch. The Branch continues to successfully balance its responsibilities and obligations and provide an efficient and effective service to the residents of York Region, the local municipalities, the Province of Ontario, the Judiciary and over thirty law enforcement and regulatory agencies operating within the Region.

For more information on this report, please contact Norman Scarratt, Director, Court Services at Ext. 3250.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the September 8, 2011 Committee meeting.)

2010

Annual Report

FOR THE YEAR ENDED DECEMBER 31, 2010

Corporate Services Department
Court Services Branch

Table of Contents

Our Mission.....	Page 3
Organization Chart.....	Page 4
Revenue Distribution	Page 5
Highlights of the Year 2010.....	Page 6
Total Charges Filed (by Agency) in 2010	Page 7
Introduction to the External Auditor's Report.....	Page 8
Excerpt from the Regional Auditor's Report.....	Page 9
Statement of Receipts and Expenditures	Page 10
Notes to the Financial Statement	Page 11
Goals for 2011.....	Page 13



Our Mission

To provide quality, cost effective administration and prosecution services for the Ontario Court of Justice.

Program Background

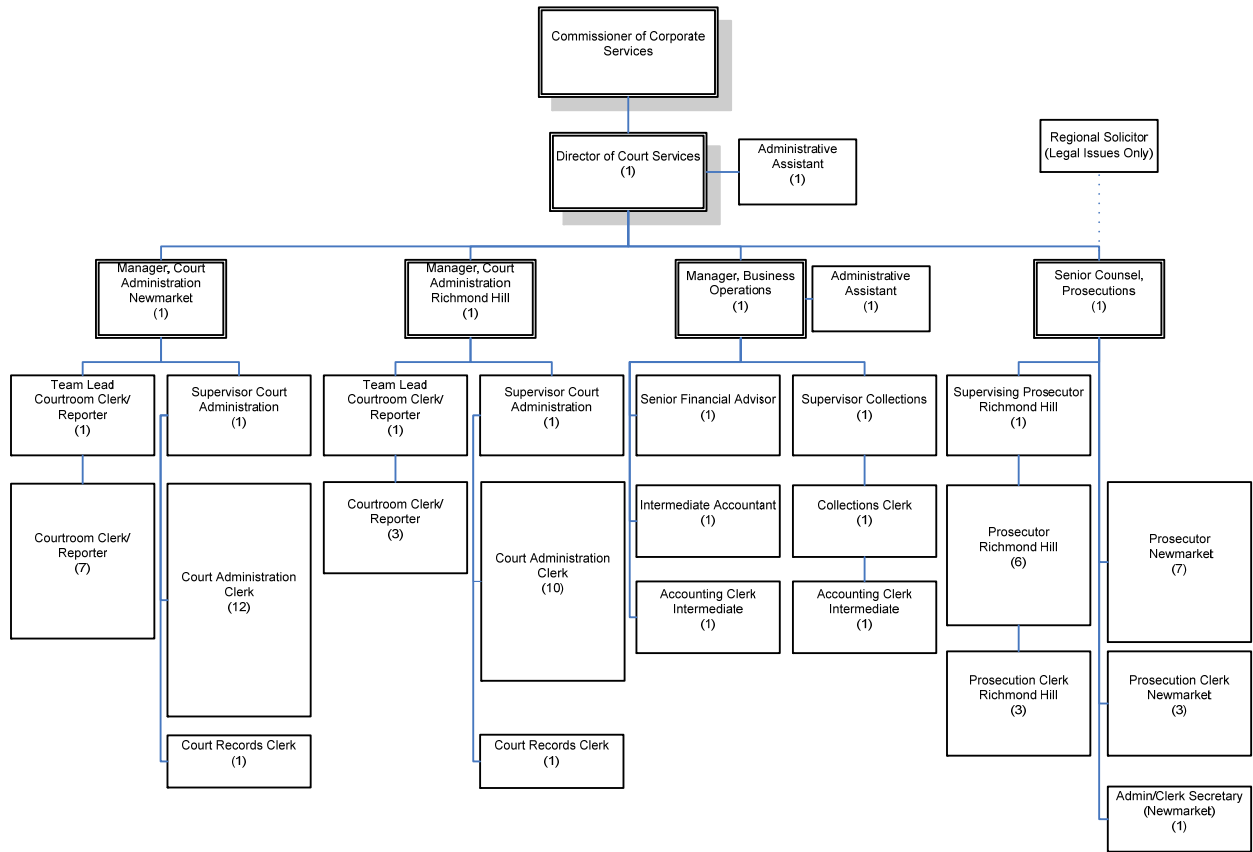
Responsibility for the delivery of certain Court Administration functions was transferred from the Province of Ontario on July 12, 1999 by virtue of the provisions of *Part X of the Provincial Offences Act*.

The costs of the program are paid by York Region, with the revenues being shared between all ten municipalities in the area (York Region, Aurora, East Gwillimbury, Georgina, King, Markham, Newmarket, Richmond Hill, Vaughan and Whitchurch-Stouffville).

Oversight of the Program

The work of the Court Services Branch is heavily constrained and controlled by statutes, regulations, case law, provincial directives, etc. Notwithstanding the transfer of certain functions to York Region, the Attorney General of Ontario retains overall responsibility for court administration and prosecution functions throughout the Province. The program is subject to regular audit by provincial and federal auditors as well as York Region's own internal and external auditors.

Organization Chart at October 2010



YORK 2771945

(72 FTEs)

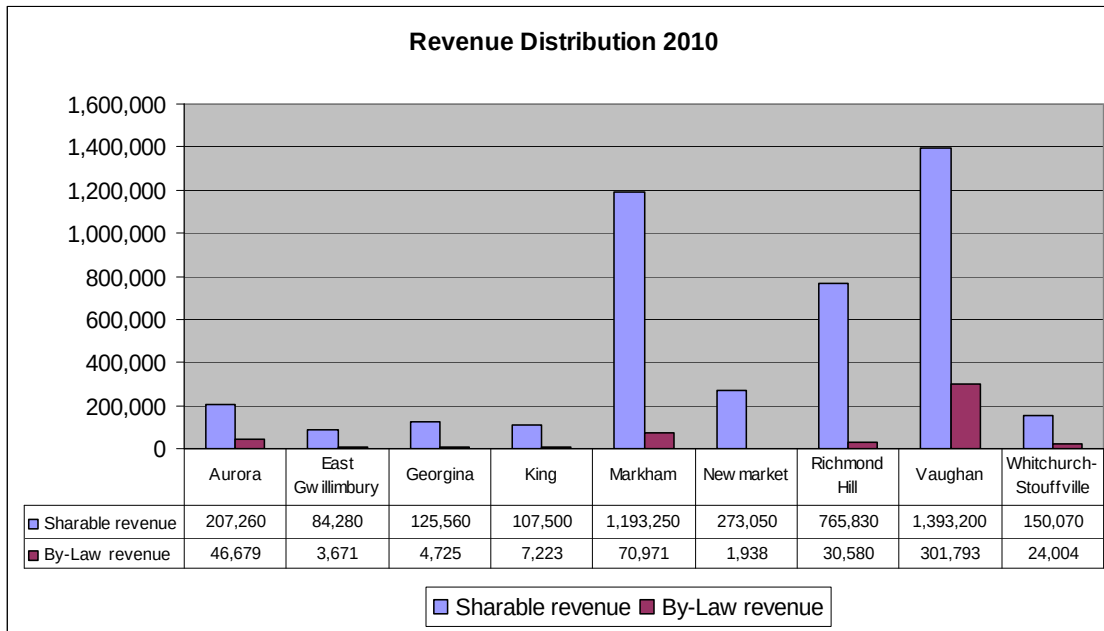
Workload Benchmarking Information:

Of charges per Court Administration Clerk = 9259

Of charges per Prosecutor = 6672

Note:

All Charges require processing by Court Administration. However, not all charges require the involvement of a Regional Prosecutor (e.g. undisputed cases, outside prosecutor, etc.).



Definitions:

“Shareable Revenue” refers to the payments made to local municipalities pursuant to the local Inter-municipal Agreement

“By-Law Revenue” is made up of fines for local municipal By-Laws and also other local charges laid by local municipalities for Building Code and Fire Code.

Highlights of the Year 2010

- **\$4.3 million** in “shareable” revenue was distributed to local municipalities
- **\$491,584** in by-law revenue was distributed to local municipalities
- **163,608** charges were filed (1.06% increase from 2009)
- Implemented a new Intermunicipal Agreement and revenue sharing arrangement with the nine local municipalities pursuant to Regional Council direction of December 16, 2009
- Held two stakeholder meetings (June 10, 2010 and November 16, 2010) and obtained high participation rate and positive feedback from court users
- Director of Court Services was a speaker at a conference of the Municipal Court Managers Association (MCMA) and was the Municipal Courts representative on Ontario’s POA Streamlining Working Group
- Senior Counsel, Prosecutions was a speaker at spring and fall conferences of Prosecutors’ Association of Ontario (PAO), Federated Press conference on Creating and Enforcing Municipal By-laws, Paralegal course put on by the Law Society of Upper Canada, Fire Marshall’s Conference regarding Admissibility of Statements, and York Regional Police and municipal training sessions
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- Entered into detailed architectural planning stage for proposed new court facility in Newmarket as part of the Central Service Centre complex
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Total Charges Filed (by Agency) in 2010

York Region Police	134,019
Ontario Provincial Police	16,687
Ministries and Other Agencies	4,530
York Region Transit	4,473
City of Vaughan	1,719
Town of Aurora*	990
Town of Markham	375
Town of Whitchurch Stouffville*	256
Township Of King*	188
Town of Richmond Hill	169
Town of Georgina	98
Town of East Gwillimbury*	86
Town of Newmarket	18
Total Charges Received	163,608

These municipalities have not “opted in” under Bill 47. This means that their Parking Tickets are processed through ICON and are automatically included in their total number of charges filed. For other local municipalities (those that have “opted in”), parking charges are not included in the statistics above.



KPMG LLP

Chartered Accountants

Yonge Corporate Centre Telephone (416) 228-7000
4100 Yonge Street, Suite 200 Telefax (416) 224-4671
Toronto ON M2P 2H3 www.kpmg.ca

Mr. Norman Scarratt
Director of Court Services
The Regional Municipality of York
Provincial Offences Office
50 High Tech Road
Richmond Hill, Ontario
L4B 4N7

May 25, 2011

Dear Mr. Scarratt:

As requested, we are writing to you to confirm that KPMG has completed an audit of the consolidated financial statements of the Regional Municipality of York ("the Region") for the year ended December 31, 2010 and our report, issued without reservation, is dated May 13, 2011.

The operating results of the Region's Provincial Offences Office are included in the accounts of the Region and information about those results is included in Note 11 of the Region's consolidated financial statements. Accordingly, the scope of our audit included the information about the results of the Region's Provincial Offences Office presented in the notes to the consolidated financial statements but this was done in relation to the materiality level of the Region taken as a whole. Please refer financial statement users to the annual report of the Region and our auditors' report on the consolidated financial statements that appear therein.

We trust that conveys the information that you require.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Kevin M. Travers'.

Kevin M. Travers C.A.
Partner
416-228-7004

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 of fines levied under Part I, II and III (including delay penalties) for POA charges. The total revenue for 2010 amounts to \$15,606,240 (2009 - \$15,408,876) and the net loss amounts to \$4,863,352 (2009 - \$2,465,696). 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 Expenditures**

For the year ended December 31, 2010

	Budget <u>2010</u> (Unaudited) \$	Actual <u>2010</u> \$	Actual <u>2009</u> \$
Revenue			
Fines and Miscellaneous Revenue Collected	15,815,100	15,606,240	15,408,876
Expenses and Disbursements			
Salaries and Benefits	6,120,458	6,073,947	5,463,617
Program Related Services	1,552,700	1,322,342	1,187,435
General Administration	1,303,746	1,238,116	1,063,885
Occupancy Expenses	923,960	903,707	997,741
Professional Services	743,700	873,179	704,100
Amortization	0	110,328	27,582
Asset Acquisitions	36,000	71,559	41,671
	<u>10,680,564</u>	<u>10,593,178</u>	<u>9,486,031</u>
Income before disbursements to area municipalities and others	5,134,536	5,013,062	5,922,845
Disbursements to Area Municipalities and Others (Note 2)	<u>(9,955,700)</u>	<u>(9,876,414)</u>	<u>(8,388,541)</u>
Net Deficit	<u>(4,821,164)</u>	<u>(4,863,352)</u>	<u>(2,465,696)</u>

The accompanying notes are an integral part of the financial statement

December 31, 2010

The Regional Municipality of York 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 Canadian Institute of Chartered Accountants. 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 local 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) Expenditures

Expenditures are recorded on the accrual basis of accounting which recognizes expenditures 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.

December 31, 2010

2. LOCAL INTER-MUNICIPAL AGREEMENT

The Ministry of the Attorney General has entered into a Memorandum of Understanding (“MOU”) pursuant to the Streamlining of Administration of the *Provincial Offences Act (1998)* with respect to the transfer of *Provincial Offences Act* responsibilities to the Region. The MOU contains terms and conditions that apply to every Municipal Partner in this transfer. The Ministry of the Attorney General and the Region recognize that there are certain terms and conditions that are specific to a Court Service Area. Therefore, a Local Inter-municipal Agreement has been signed by the local municipalities setting out those specific terms and conditions. For example, the agreement includes a provision whereby the local municipalities are each given a share of the fine revenue realized by the program. The share for each local municipality is calculated in ratio to the respective Annual Regional Levy (i.e. the local tax base). Since 2004, Council has capped this revenue stream at a total of \$2,929,598 per year.

On December 16, 2009 through the adoption of Clause No. 7 of Report No. 9 of the Finance and Administration Committee, Council authorized staff to negotiate the terms of a new York Region Courts Inter-municipal Agreement with the local municipalities in 2010.

3. PENSION AGREEMENT

The Region make contributions to the Ontario Municipal Employees Retirement System (“OMERS”), which is a multi-employer plan, on behalf of all permanent, full-time members of its staff. The plan is a defined benefit plan which specifies the amount of the retirement benefit to be received by the employees based on the length of service and rates of pay.

Goals for 2011

- Finalize the previous revenue sharing arrangements and send final payments to local municipalities
- Continue liaison with architects and key stakeholders on proposed new court facility in Newmarket
- Refine and improve customer queuing systems for office counters and telephones
- Devise systems and working practices to facilitate the recently legislated Early Resolution Process which will become operational in 2012
- Conduct analysis of existing and future fine collection sanctions