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COURT SERVICES STAFFING AND STATISTICAL UPDATE

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, September 22, 2006, from the Commissioner of Corporate Services:

1. RECOMMENDATIONS

It is recommended that:

1. This report be accepted for information purposes.

2. Permission be given for the conversion of five temporary positions (already approved in the 2006 budget) to permanent.

2. PURPOSE

The purpose of this report is to provide updates on:

a. Progress made by Court Services with 2006 Business Plan objectives during the first half of the year.
b. Current workload and staffing position.
c. Strategic challenges facing Court Services in 2006 and 2007.

3. BACKGROUND

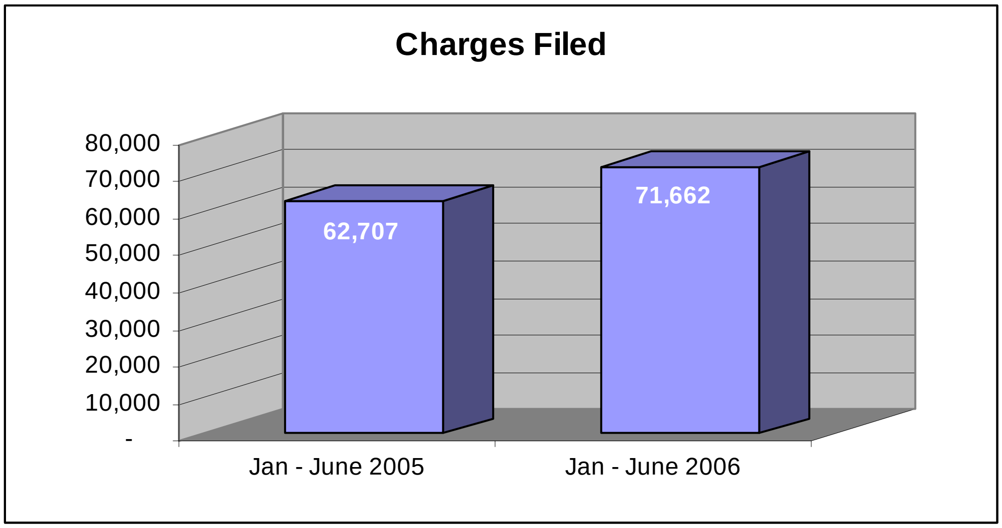
At its meeting on November 17, 2005, Regional Council approved the filling of six of the eleven positions contained in the 2005 budget. The remaining five positions were left unfilled pending the outcome of an independent review of Court Services. It was hoped that the review of Court Services, coordinated by the Town of Markham, would provide further insight into staffing and workload levels not only in York Region but also in comparator jurisdictions. The consultants were expected to conduct a detailed investigation of the efficiency of the Court Services Branch and draw conclusions about the effectiveness of Regional staff in managing court resources.

4. ANALYSIS AND OPTIONS

4.1 York Region Caseload – First Half of 2006

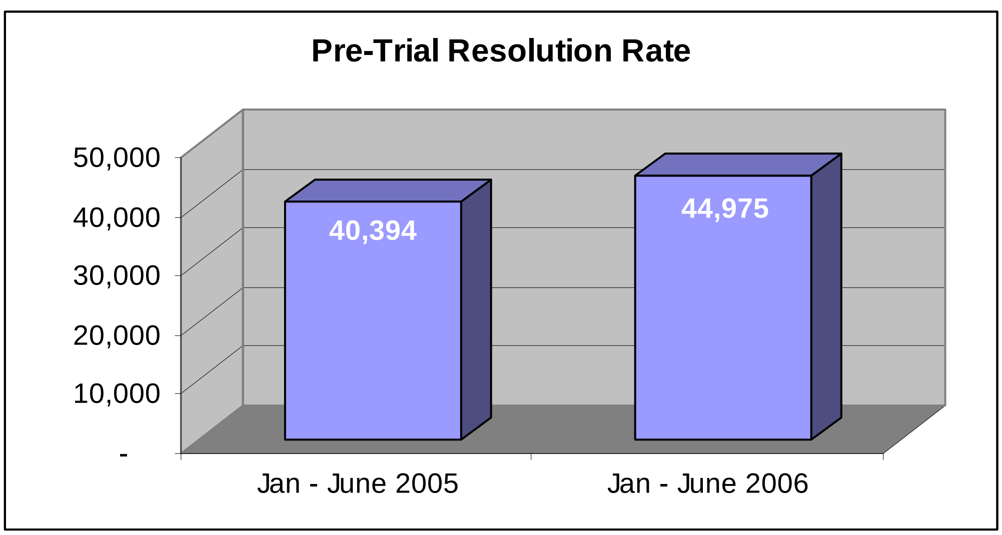
4.1.1 Charges Filed

Between January 1 and June 30, 2006, a total of 71,662 new charges were filed with Court Services. This represented a 14.28% increase on the same period in 2005.



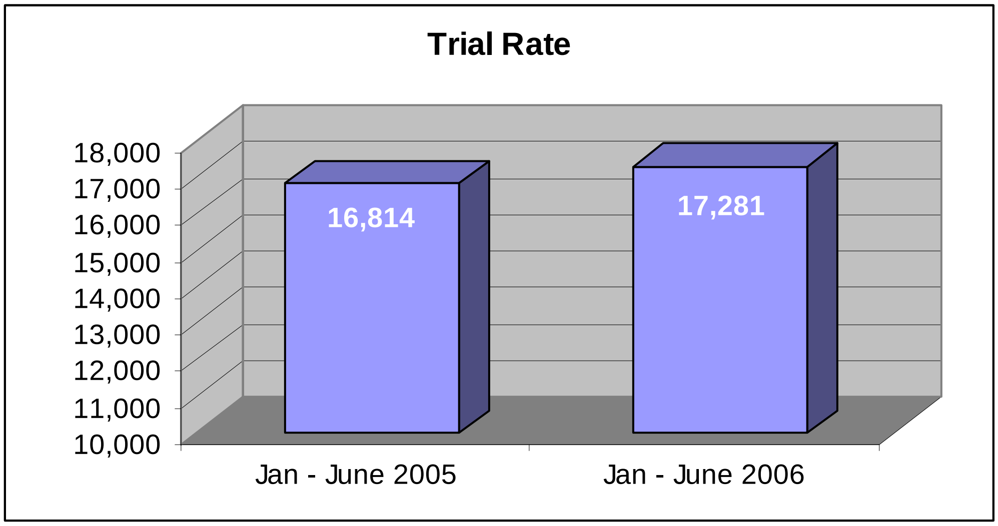
4.1.2 Pre-Trial Resolution Rate

Between January 1 and June 30, 2006, a total of 44,975 cases were disposed without trial. This represented an 11.34% increase on the same period in 2005.



4.1.3 Trial Rate

Between January 1 and June 30, 2006, a total of 17,281 cases were disposed at trial. This represented a 2.78% increase on the same period of 2005.



4.1.4 Revenue Collected

In the 2006 Business Plan, it had been projected that the additional eleven FTEs would enable Court Services to dramatically increase collection activities as well as keeping up to date with related accounting activities. The related accounting activities include the prompt input of payments, establishing a fast response to customer queries regarding collection letters, and the timely investigation of unidentified payments in the suspense account (thereby reducing the risk of inappropriate collection sanctions being taken).

Some extra collection activity took place in the first half of 2006, but the Collections Supervisor position was not filled until May and the impact of Phase III of the Court Services collection strategy was therefore not seen until June (Phases I and II of the strategy were completed in 2004 and 2005 respectively, in accordance with Council approved Business Plans).

In the first half of 2006, revenue was 5.39% short of the target set in the Business Plan (i.e. $540,000). However, with the gearing up of the Collections Team in June and July, progressive increases in revenue were realised. If permission is given for the hiring of the 5 remaining staff approved in the 2006 budget, it will be possible to sustain the current level of collection activity as well as addressing the growing backlogs in other mandatory functions (see section 4.4). This should bring the final revenue total at year end closer to the original projections.

4.2 Benchmarking Data

York Region continues to play a leadership role in the collection and analysis of benchmarking data from other municipally-managed court operations. The Director of

Court Services for York Region is the official Courts lead for the Ontario Municipal Benchmarking Initiative (OMBI), and made a presentation to the Municipal Court Managers Association (MCMA) annual conference in Thunder Bay in May 2006. The first round of information has now been collected from participating municipalities and is undergoing analysis and refinement through the established OMBI process.

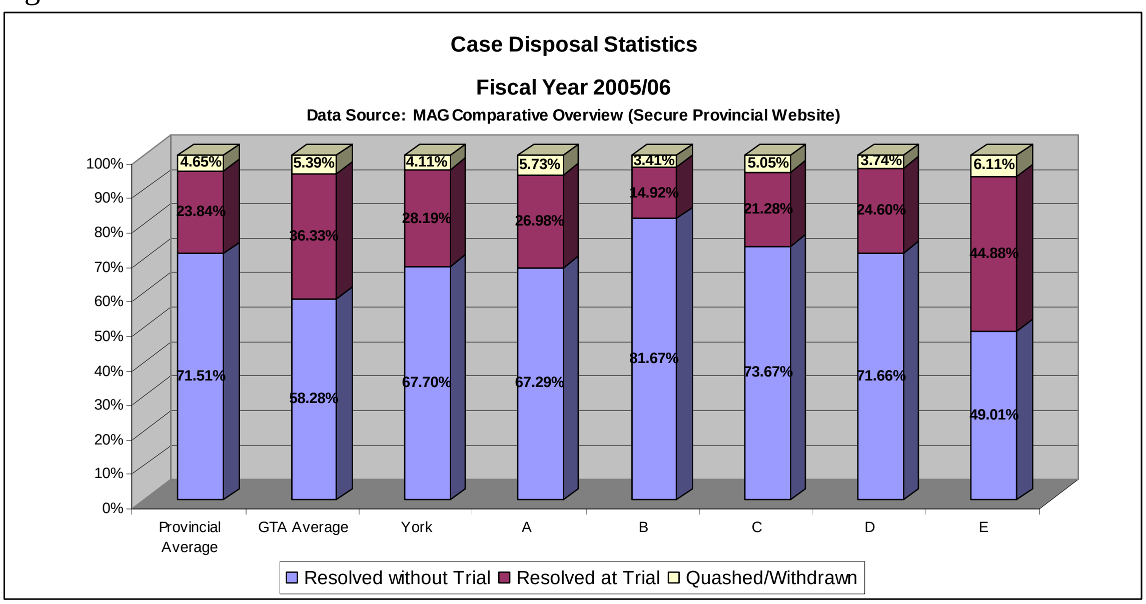
Additionally, through the MCMA, York has now obtained independent benchmarking data from the Ministry of the Attorney General (MAG). This data (drawn directly from the ICON provincial computer system), provides an objective basis for benchmarking.

Case Disposal Statistics

At the highest level, the efficiency of court operations can be quantified in terms of the Case Disposal Statistics (see Figure 1 below).

It is important to note that this indicator is impacted by many external factors (e.g. the quality of charge information provided by enforcement agencies, the availability of judicial officers to preside over cases, the tendency of defendants in a particular geographical area to fight charges, the activity level of local defence agents, etc.). However, Courts in the GTA tend to experience similar pressures in many respects and it is therefore valid and useful to compare their respective Case Disposal statistics.

Figure 1

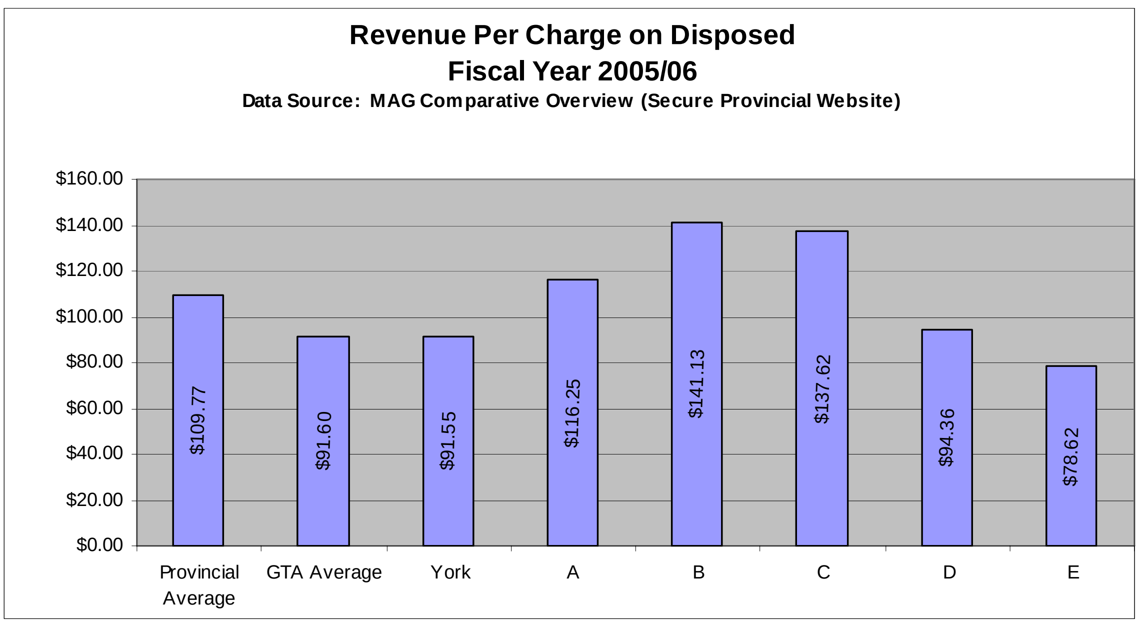


The above chart shows that the average case disposal rate in the GTA is 13.23% lower (i.e. worse) than the average case disposal rate for the Province as a whole. However, York Region's case disposal rate is only 3.81% lower than the Provincial average (or 9.42% **better** than the GTA average). This indicates that cases are being disposed very effectively in York Region, despite the challenges brought by rising workload and the reduction in judicial availability.

Revenue Per Charge Statistics

By examining the average revenue collected for each charge disposed, it is possible to benchmark with comparator areas and draw conclusions about the effectiveness of revenue collection efforts. However, it is important to note that the caseload makeup for each court area varies for many reasons. These variations are outside the control of both the judiciary and court staff (e.g. the number of "high fine" charges filed by enforcement agencies, the number of "low fine" charges filed by enforcement agencies, the number of "dedicated fine" charges filed by Provincial Ministries, the number of charges that involve out-of-jurisdiction defendants who are not subject to standard enforcement sanctions and therefore have reduced incentive to pay, etc).

Figure 2



The above chart shows that the average revenue collected per charge tends to be lower for courts in the GTA than it does in the Province as a whole. York Region's revenue per charge is consistent with the GTA average, despite the fact that all other GTA courts possess a highly developed in-house collection function. York Region's new Collections Team (established in May 2006 after the above figures were compiled) is significantly smaller than all comparator courts.

4.3 2006 Staffing Level

The Business Plan objectives for 2006 were based on the workload estimates available at that time and on the assumption that Court Services would be permitted to fill all staff positions approved by Council on December 15, 2005, in the Court Services budget (i.e. eleven additional positions).

Upon receiving Council's direction that five positions should remain unfilled, Court Services re-visited the business cases for the additional staff and identified the six positions which would provide maximum support to the objectives of the Court Services Branch on an interim basis pending the outcome of the Review of Court Services. The remaining five positions (already included in the 2006 budget) now need to be filled as a matter of urgency.

	Permanent	Temporary	Total
Current approved staff complement	50	5	55
Current number of positions filled	50	0	50
Complement now requested	55	0	55

The final report of the consultants (issued January 2006) made suggestions for minor improvements, but did not identify any significant inefficiencies or any mismanagement of the program. Now that the final report has been received, there is no reason to further delay the filling of the remaining staff positions that were approved by Council in the 2006 budget.

The consultants presented their findings in Markham on March 31, 2006. They reported that they had found no significant deviations from best practices (based on comparator sites), but that the opening of a second court facility in York Region (a customer service initiative to provide better service to residents in the southern municipalities) had resulted in significantly higher program costs. The consultants emphasised that the current operation was "functioning as well as it could" and that there were "no red flags or silver bullets" identified during the investigation. The consultants acknowledged full co-operation of Court staff during the review.

4.4 Impact and Risks of Short Staffing

The staffing level approved by Council in the 2006 budget was intended to meet all mandatory and legislated program requirements while also increasing focus on various revenue generating activities. The delay in recruiting five of the approved staff is bringing significant impacts and risks as well as reducing our ability to meet the targets put forward in the 2006 Business Plan and Budget.

To facilitate the increased focus on collection and enforcement activities, eleven FTEs had been proposed in the 2006 Business Plan. On receiving direction that only six of the eleven positions would be filled, Court Services re-assessed priorities and made adjustments to the assignment of resources to mandatory functions. This enabled collection targets to be met but created worrying delays and backlogs in other mandatory and legislated areas. For example:

1. Trial notices are being processed late and defendants are not receiving prompt service with regard to Court dates.

2. Telephone calls are frequently being diverted to voice mail and are not answered as they come in.

3. Requests for transcripts of Court proceedings are being delayed.

4. Information requests from Defaulted Fines Control Centre regarding Licence Suspensions are being delayed.

5. Requests for "Certificates Requesting Conviction" in parking cases are being delayed.

6. Data entry of non-HTA Part I tickets is being delayed.

In order to provide staff coverage for our core service hours (six courtrooms, two public counters and telephones) we need to have staff available from 8:00 a.m. to 5:15 p.m. It is increasingly difficult to maintain this level of coverage while also providing mandated service to the judiciary and other stakeholders at a time when all key indicators are showing increases in workload. The backlogs and delays mentioned above bring several risks and liabilities to the Region as well as increasing the burden on staff. Furthermore, many of these backlogs and delays are directly impacting our collection activity (e.g. unanswered calls from defendants responding to collection letters, delayed information requests relating to Licence Suspensions, etc.).

Pursuant to Regulation 140/01, The Regional Municipality of York was designated as a "First Attendance" site. This removed a defendant's right to mail in a request for a court hearing, but it placed a greater obligation on the Region to ensure that defendants are able to contact staff by telephone to contest a charge. The current staffing level does not permit staff to meet this obligation while maintaining other mandatory service levels and also giving a stronger focus to collection activity.

The installation of new telephone software for the Richmond Hill Court site has enabled the collection of the following data on missed telephone calls. The software is not yet available at the Tannery Court facility, but manual statistics confirm that call volumes are similar.

	February	**March**	**April**	**May**	**June**	**Totals**
Calls Received	631	3170	2783	3261	2837	**12682**
Calls Answered	311	1972	1544	1404	1692	**6923**

The above chart shows that 45% of callers are not receiving an acceptable standard of service.

4.5 Strategic Challenges

4.5.1 Justice of the Peace Availability Crisis

The ongoing crisis is causing Court cancellations across the Province and undermining the integrity of the administration of justice. The downloading of POA Courts to the municipal level was based on the principle that fines received from convicted defendants would defray the running costs of the Court operations and generate additional income for municipalities that manage the POA program. However, when charges are withdrawn through lack of Court time, no revenue is realized and significant administrative costs are incurred by the municipalities that operate Courts. This issue has been highlighted to the Provincial government in several ways by a variety of stakeholders, but no immediate relief appears likely. There is a possibility that Bill 14 (mentioned at 4.5.3) may improve this situation, but it is also possible that Bill 14 could worsen the crisis by creating increased incentives for the early retirement of some Justices of the Peace. Significant workload issues are created for Court staff by the ongoing judicial shortage (e.g. handling numerous complaints, re-scheduling work on alternate days, providing daily and hourly updates to Court users about judicial availability, etc.).

4.5.2 Increasing Workload

York Region continues to experience an increase in the number of charges filed by enforcement agencies. In fiscal year 2005-2006, the increase for York Region was 7.4% (or 9,237 charges). This is not consistent with the GTA trend, which showed an average decrease of 2.3% over the same period. There is no ability for Court Services staff to influence the activity levels of enforcement agencies. Every charge filed at the Court office must receive attention in the manner prescribed by statute, regardless of staffing levels and prevailing workload.

4.5.3 Streamlining of Provincial Offences Act

York Region continues to be actively involved in the development of best practices for Provincial Offences Act Courts. Regional staff are actively involved in the POA Streamlining project launched on August 10, 2006. Numerous suggestions for enhancement and improvement have been collected through the Municipal Court Managers Association and are now being considered by the Attorney General for possible inclusion in upcoming legislative changes. Separately, the government has launched Bill 14 and proposed several changes that will also impact POA Courts. These include a new appointment process for Justices of the Peace and the possible creation of Per Diem Justices of the Peace. Additionally, the Bill may bring changes to the way in which evidence may be brought before POA Courts, as well as introducing a regulation or licensing regime for Paralegals who may appear at POA Courts.

4.5.4 Fine Collection Sanctions

The amount of uncollected fines continues to grow in all areas of the Province and the total outstanding now exceeds $800m. The Province is actively working on write-off procedures that will help to clean up the Provincial computer system by purging some of the oldest and most uncollectible fines, but municipalities are also requesting new collection sanctions that will assist in ensuring that a higher percentage of fines can be successfully collected.

5. FINANCIAL IMPLICATIONS

If the recruitment of the 5 remaining staff (already included in the 2006 budget) is approved, it will be possible to sustain recent improvements in revenue collection while also minimising the risks and legal liabilities associated with backlogs in mandatory and legislated program functions (detailed in section 4.4). The delay in recruiting all of the staff that were approved in the 2006 budget naturally impacted the revenue targets contained in the approved 2006 budget, but staff were able to minimize this impact to a shortfall of only 5.39% ($540,000) at the mid-year point. With the gearing up of the new Collections Team in June and July, further improvement in revenue was realised. However, this improvement is now jeopardized by the growing backlogs in mandatory functions (see Section 4.4) and it is imperative that the remaining staff (already approved in the 2006 budget) be recruited without further delay.

6. LOCAL MUNICIPAL IMPACT

If the remaining five staff (already included in the 2006 budget) are recruited without delay, it will be possible to maintain service levels for Area Municipalities and other key stakeholders while also ensuring an active fine collection regime for all cases (including By-Law Fines and other fines that are shared between Area Municipalities).

7. CONCLUSION

The Court Services review by external independent consultants indicates there are no operational inefficiencies. To continue with additional collection activity while also meeting service standards for other mandatory Court administration functions, it is requested that permission be given to fill the remaining five positions approved in the 2006 budget. In order to recruit the best staff for these specialized roles, it is requested that the positions be converted to permanent.

The Senior Management Group has reviewed this report.