

For Information Only

Provincial Offences Collection Strategy

Presented To:	City Council
Presented:	Tuesday, Dec 13, 2016
Report Date	Tuesday, Nov 15, 2016
Type:	Correspondence for Information Only

Resolution

For Information Only

Finance Implications

Revenues collected from POA fines are recorded in the year in which they are received.

Background:

Please see attached.

Signed By

Report Prepared By

Tanya Thompson
Deputy City Clerk
Digitally Signed Nov 15, 16

Division Review

Tanya Thompson
Deputy City Clerk
Digitally Signed Nov 15, 16

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Nov 15, 16

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Dec 1, 16

PROVINCIAL OFFENCES COLLECTION STRATEGY

FOR INFORMATION ONLY

BACKGROUND

The Provincial Offences Office provides defendants with three options:

1. Pay the fine—Fines that are paid in full require no further action;
2. Dispute the charge through early resolution—Once the matter has been dealt with, should the individual be convicted, the fine is set by the court with a timeline for payment; or
3. Request a trial—Once the matter has been dealt with, should the individual be convicted, the fine is set by the court with a timeline for payment.

Failing to choose an option may result in a conviction being registered in their absence.

Failure to pay the imposed fees on time will result in the fine going into default. The challenge for all Ontario Municipalities is that *1 in 5 POA fines are not paid on time*¹. Overdue fines trigger additional collection actions, such as driver's licence suspensions, licence plate validation denial, and involvement of collection agencies—these additional collections efforts involve additional administrative costs.

POA fines are debts to the Crown and do not disappear with time and must be paid. Court Services can apply various enforcement tools for the purpose of collection regardless of when the fine was imposed. POA fines are retained by the City except for the Victim Fine Surcharge and MAG's additional fees which is remitted to the province, unless the offence is committed by the municipality, in which case the whole fine is remitted to the province.

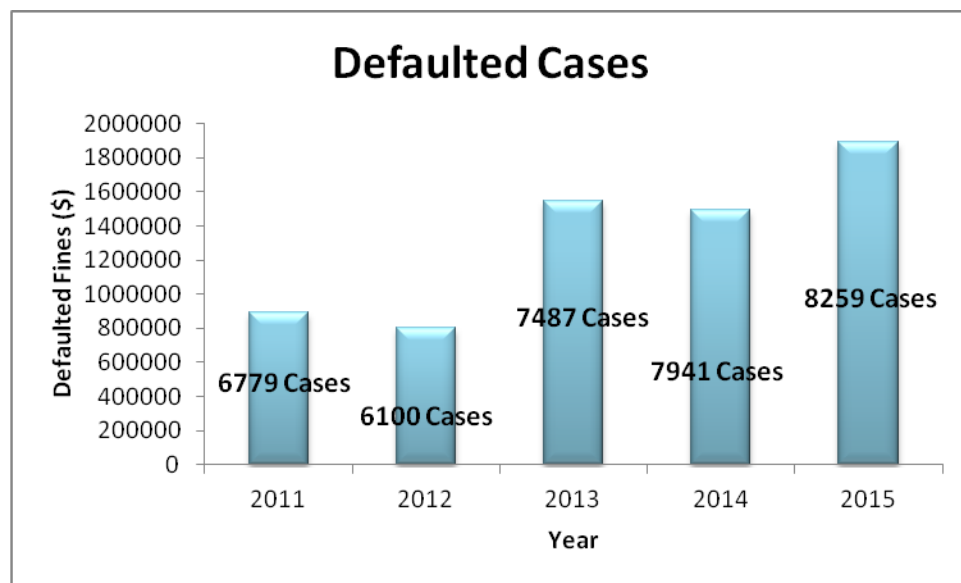
When the POA court program was transferred to the City in 2000, the Province also transferred approximately 6 million of unpaid fines. Older fines can be more difficult to collect but collection tools can be applied to all fines regardless of age. Currently, there are 41,371 counts (cases) that are in default totaling approximately 18.4 million dollars (this amount includes parking infractions).

In late 2011 the Law Commission of Ontario released a report entitled *"Modernizing the Provincial Offences Act: A new Framework and Other Reforms"* and the Ontario Association of Police Services Boards paper entitled *"Provincial Offences Act Unpaid Fines: A Billion Dollar Problem: White Paper"*. Both these documents include numerous recommendations for legislative and process changes that would grant new enforcement tools to municipalities to ensure better collection rates for outstanding POA fines and support the administration of justice. Similarly, Chapter 18 *"Revenue Integrity"* of the

¹ Paleja, M. (July 21, 2016). *Pilot Project Proposal: Increasing Timely / Online Provincial Offences Act Fine Collection*. Ontario's Behavioural Insights Unit.

Drummond Report includes recommendations specific to providing assistance and stronger tools to municipalities for the collection of unpaid fines, including changing the property tax roll process to allow fines to be attached to property tax bills for jointly owned properties. The Association of Municipalities of Ontario (AMO) is amongst the groups that is lobbying the province “for improvements to the fine collection and enforcement system”.

BAR GRAPH: YEAR VS. TOTAL DEFAULTED FINES IN GREATER SUDBURY



The Chart above represents the approximate number of cases that went into default in a specified year, some of which were paid after going into default (not a representation of current total outstanding defaulted fines). As shown the number of defaulted cases is rising each year, though the number of tickets being issued has also risen.

LIFECYCLE OF AN OFFENCE

The following depicts the timeline of a **PART 1 Offence** where no option was chosen which outlines the additional fees that are added to recover the costs of enforcement. Provincial offences are non-criminal charges, primarily laid by the police, by-law officers, or Ministries, including those committed under the following: *Highway Traffic Act, Compulsory Automobile Insurance Act, Liquor Licence Act, City By-laws*, etc.

DAY	STEP	ADDITIONAL FEES
Day 1	Offence is issued	
Day 45	Fine becomes sentenced on a Fail to Respond Docket Notice of Fine and Due Date mailed	\$5.00 Court Cost

Day 76	Offence is put into Default	\$40.00 Court Fee
The first week of the next month	Final Notice is mailed	\$40.00 Collection Administration Fee
15 Days after the final Notice mailed	Driver's Licence is suspended (If applicable)	

The following lays out the timeline of a **PART 2 (Parking) Offence**, these are municipal infractions issued for municipal, provincial and federal parking.

DAY	STEP	ADDITIONAL FEES
Day 1	Offence is issued	
Day 7	Set Fine Increase	\$5.00 - \$10.00
Day 30	Notice of Impending Conviction letter is mailed	
Day 70	Certificate Requesting Conviction Letter is mailed	\$16.00 Conviction Fee
Day 90	Offence goes into Plate Denial	\$40.00 Court Fee
Day 90-120	Offence enters the CGS Collection Process	\$40.00 Collection Administration fee

CGS PROVINCIAL OFFENCES COLLECTION STRATEGY

A collection strategy has been put in place to maximize default collection efforts and encourage payment in full of outstanding fines and associated administrative charges. Set fines are established through judicial process and alternate fine amounts are court ordered. CGS staff do not have the authority to alter, amend or reduce fines. An individual who wishes to challenge a conviction or a fine amount must apply through the courts through filing for a reopening, an appeal or an extension.

The City of Greater Sudbury currently has the following tools at our disposal for the collection of defaulted fines:

1. Court ordered Payment Plans
2. Licence Suspension and Plate Denial
3. Civil Enforcement
4. Adding Defaulted Fines to Property Tax Roll Collection
5. Collection Agencies

1. COURT ORDERED PAYMENT PLANS

If a court order is imposed for payments to be made on a scheduled payment plan the POA Office will monitor the payment to make sure that the payments are made in accordance to the order.

2. LICENCE SUSPENSION AND PLATE DENIAL

Licence suspension and plate denial are the most effective tools for collection and are applied automatically where legislated authority allows. Consequences of not paying fines for certain provincial offences may include the suspension of a driver's licence. Losing a driver's licence also incurs other costs, including a fee payable to the MTO to reinstate their licence once the fine is paid.

3. CIVIL ENFORCEMENT

Refers to a series of tools usually heard in Small Claims Court. The most commonly used method is the garnishment of wages and/or bank accounts. Where there is sufficient information to identify appropriate sources of income, the individual's employer must pay 20% of the individual's wages to the court as payment towards clearing the individual's debt.

Other available tools are property liens which are registered against the individual's property and writs that are an execution against the individual's name. Examinations are also used to gather information, as they are under oath and need to provide the requested information failing to do so could result in being held in contempt of court and a possible warrant issued for their arrest.

4. ADDING DEFAULTED FINES TO PROPERTY TAX ROLL COLLECTION

At the May 29, 2012 City Council meeting, council approved the addition of outstanding POA fines to the tax collection rolls if they meet the specific circumstances allowed by legislation and also approved the recovery costs associated with this tool. The Provincial Offences Office in conjunction with the Tax Department have created internal policies to apply these defaulted fines to the tax roll if the person to whom the fine has been issued is the same person and sole owner of the property to which the fine will be added. Similarly, the City of Greater Sudbury already applies a number of outstanding receivables to the tax rolls, including water, drainage, property standards; Fire Marshall's orders; and by-law receivables. CGS is the first northern community to proactively push to make systematic use of this tool in 2017, though it is common practice in larger municipalities.

The CGS User Fee By-law has fees associated with outstanding receivables that are added to the tax roll.

5. COLLECTION AGENCIES:

The Provincial Offences Office submits unpaid fines to collection agencies after all other collection efforts have been exhausted. Individuals whose fines have gone into default can expect to hear from a collection agency that has been retained for the collection of unpaid fines. The City currently uses two (2) Collection Agencies. Under the Collection Agency Act, an agency is permitted to send letters and conduct follow-up calls for purposes of collecting a debt or unpaid fines. Representatives of the agencies will encourage individuals to pay the defaulted fines and/or make payment arrangements if necessary.

Collection agency fees, in the range of 14-32% of the fine, are added to the POA fine and are fully recoverable from the defendants. Fees are not paid to the collection agency unless the fines are successfully collected so there is no direct cost to the City.

MOVING FORWARD

1. On June 2, 2015, the Ontario Legislature passed Bill 31—Making Ontario Roads Safer Act. The Bill includes various amendments to the Highway Traffic Act in relation to public road safety and fine collection. Under Bill 31, all POA fines that enter into default and are processed to licence suspension will also be processed to plate denial by the Ministry of Transportation effective January 1, 2017.
2. CGS will begin the process of developing inter-municipal agreements to improve the collection of defaulted POA fines through the addition of fines amounts owing to municipal property tax rolls. Many municipalities have these types of agreements in place, such as: Northumberland County; Town of Cobourg; City of Brampton; City of Belleville; City of Kawartha Lakes; City of Mississauga; City of Ottawa; City of Toronto; County of Hastings; etc.
 - a. Currently, there are approximately 9,552 total counts (cases), totaling \$4,949,180 for individuals who live outside of the City of Greater Sudbury