

Management’s Response to the Auditor General’s Report Entitled: “Toronto Court Services: Collection of Provincial Offence Default Fines”

Recommendation 1: City Council request the Director, Court Services, to devise collection strategies specifically to address difficult to collect defaulted fines and apply the strategy in a methodical and consistent manner.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Director, Court Services will continue to review the division's existing collection strategies specific to defaulted fines that are difficult to collect for enhancement and incorporate these collection strategies into a formal strategic collection plan for collection of City of Toronto defaulted Provincial Offences fines by Q4, 2018.

Recommendation 2: City Council request the Director of Court Services, in consultation with the City Solicitor, to request the Province to consider if additional sanctions can be applied where defendants are repeatedly committing offences (and in particular, offences that have the potential to impact public health and safety) in order to improve opportunities for enforcement where defendants continue to fail to pay the related defaulted fines.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

In December 2017, the Province amended the POA (Bill 177) to:

- Retain the \$40.00 default fee where a person who is already late in paying a fine asks for more time to pay. Court Services advocated for this legislative change through consultation with the Province and Municipalities starting in 2002.
- Create an order of fine payment requiring those with defaulted POA fines to pay their oldest defaulted fine first. Court Services advocated for the legislative amendment through collaboration with the Province and Municipalities.

In 2018, Court Services is actively working with provincial and municipal partners to implement the legislative changes to the POA in Bill 177.

The Director, Court Services agrees that there are individuals with multiple outstanding court ordered fines. Sentences can include fines in conjunction with penalties such as: jail time, probation, restitution or revoked licenses.

By Q3, 2018, the Director, Court Services will send a letter to the Province to request that they consider consulting with all Provincial Ministries in order to determine if additional sanctions can be applied where defendants are repeatedly committing offences.

Recommendation 3: City Council request the City Manager, in consultation with the City Solicitor, to request that the Province pass regulations that, despite subsection 165(3) of the Provincial Offences Act, will allow a defendant to apply to a justice to reduce or expunge a defaulted Provincial Offences Act fine where the defendant meets the criteria for inability to pay defined in the regulations.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager, in consultation with the City Solicitor, will send a letter to the Province requesting that a regulation be passed.

Recommendation 4: City Council request the Director, Court Services, to ensure that outstanding Provincial Offences Act fines are assigned to and rotated from its collection agencies on a consistent and timely basis, in compliance with its collection procedures.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will enhance existing business processes to ensure the timely assignment and rotation of City of Toronto Provincial Offences Act defaulted fine accounts among its contracted collection agencies on a consistent basis and ensure adherence to its formal strategic collection plan and supporting procedures.

Recommendation 5: City Council request the Director, Court Services, to make improvements to the Division's management of collection agency contracts, incorporating changes to performance management criteria and incentives, information sharing requirements, and structure of account assignments into future procurement processes, where applicable.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q2, 2018, the Director, Court Services will incorporate changes to improve the performance and accountability of collection agencies in future procurement processes. Changes are already underway and will be consistent with past practices.

Recommendation 6: City Council request the Director, Court Services, in consultation with the City Solicitor, to:

- a. Review the feasibility of obtaining updated debtor information by matching against or tracing to other sources, such as City or provincial databases
- b. Implement processes to use, wherever possible, the updated debtor information to pursue collection of debts.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q1, 2019, the Director, Court Services will consult with the City Solicitor to review the feasibility of obtaining updated debtor information from other City or provincial databases. If obtaining updated debtor

information from other City or provincial databases is feasible, the Director, Court Services will work with other city divisions or the province to gain access to the data by Q4, 2020.

Recommendation 7: City Council request the Director, Court Services, to establish documentation standards to ensure that pertinent information about the collection actions taken for Provincial Offences Act fines in default are appropriately tracked and documented.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Director, Court Services will review current documentation standards for adequacy and enhance current processes. This will ensure that pertinent information about collection actions taken for City of Toronto Provincial Offences Act fines in default will be appropriately tracked and documented by Q1, 2019.

Recommendation 8: City Council request the Director, Court Services, in consultation with the Chief Information Officer, to implement an information system, either independently or as part of an organization wide review, that allows it to effectively manage the collection of outstanding Provincial Offences Act fines.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the Director, Court Services will consult with the Chief Information Officer on the feasibility of implementing an information system with connectivity with the provincially mandated ICON system that allows Court Services to improve its effective management of the collection of outstanding City of Toronto Provincial Offences Act fines. If a system is determined to meet the business requirements of the City of Toronto Court Services division, the Director, Court Services will include the cost of any new IT system or software in the division's capital and/or operating budget submission for consideration through the City's 2020 Budget Process. Any IT solution will be consistent with the Treasurer city-wide transformation review.

Recommendation 9: City Council request the Director, Court Services, to:

- a. Undertake a review of unmatched driver's licence suspensions in ICON and the Ministry of Transportation's ARIS system, as well as other cases that need resolving, to determine whether additional cases with defaulted fines are eligible for suspension and take appropriate action
- b. Implement a process to periodically review or compare defaulted Provincial Offences Act fines eligible for licence suspensions and plate denials against data from the Ministry of Transportation to identify and resolve data synchronization issues. If necessary, the City Manager request the cooperation of the Ministry of the Attorney General and Ministry of Transportation.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, consistent with the division's practices, the Director, Court Services will complete its review of City of Toronto Provincial Offences Act (POA) defaulted fines eligible for licence suspension and plate denial with corresponding information on the MTO ARIS system to ensure eligible defaulted fine information is accurately transmitted through the provincially mandated ICON database system to the

Province's Default Fine Control Centre database. The Director, Court Services will implement a process to quarterly review the data on the Province's data bases for the purposes of collecting City of Toronto defaulted POA fines.

The Director, Court Services will continue to communicate effectively with Ministry of Transportation and Ministry of Attorney General and other stakeholders through both formal intergovernmental committees and existing business processes to improve data synchronization of the Province's DFCC, ICON and MTO systems in relation to City of Toronto Provincial Offences Act conviction and defaulted fine records.

Recommendation 10: City Council request the City Manager, to request that the Province consider requesting all Provincial Ministries to assist in encouraging the payment of Provincial Offences Act fines by:

- a. Identifying Ministries and Agencies that may have enforcement tools that could promote the payment of fines, like licensing requirements or conditions that require the payment of outstanding fines; and
- b. Encourage those Ministries and Agencies to consider adding the requirement to pay all outstanding fines incurred under the Provincial Offences Act as a condition of the issuance of any licences and/or permits.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q2, 2018, the City Manager will send a letter to the Province to request that they consider requesting all Provincial Ministries to assist in in encouraging the payment of Provincial Offences fines through the means identified in parts (a) and (b) above.

Recommendation 11: City Council request the City Manager to request that the Province consider whether additional sanctions, such as single-plate denials, can and ought to be established where fines for offences involving a company-owned vehicle are not paid, or companies do not pay fines related to HTA or CAIA offences.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager, in consultation with the City Solicitor and Director, Court Services, will send a letter to the Province to request that they consider whether additional sanctions, such as single-plate denials, can and ought to be established where fines for offences involving a company-owned vehicle are not paid, or companies do not pay fines related to HTA or CAIA offences.

Recommendation 12: City Council request the Director, Court Services, in consultation with the City Solicitor, to establish and implement a protocol or criteria for prioritizing accounts that would benefit the most from filing certificates of default (CODs).

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will consult with the City Solicitor to review the existing protocol and criteria for prioritizing accounts that would benefit from filing certificates of default (CODs) and implement improved protocols or criteria wherever possible.

Recommendation 13: City Council request the City Manager, in consultation with the City Solicitor and Director, Court Services, to make a request to the provincial Superior Courts of Justice to improve or expedite processes for filing certificates of default (CODs) related to defaulted Provincial Offences Act fines.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager, in consultation with the City Solicitor and Director, Court Services, will send a letter to the Province to request that systems and protocols be put in place that will improve and expedite the filing of certificates of default in the Superior Court of Justice.

Recommendation 14: City Council request the Director, Court Services, in consultation with the Revenue Services Division and Legal Services Division, to improve processes for reviewing debtor information against various property databases, to maximize opportunities to add defaulted fines to the property tax roll for collection purposes.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will consult with the City Treasurer and the City Solicitor to identify and implement improvements to processes for reviewing debtor information against various property databases to maximize opportunities to add defaulted fines to the property tax roll for collection purposes where legislative authority exists.

Recommendation 15: City Council request the City Manager, in consultation with the City Solicitor, to request that the Province assist the City in accessing information in the Province's electronic land records database, in order to improve the ability to match City debtors (including those with defaulted Provincial Offences Act fines) with the owners of real property in Ontario.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager will send a letter to request that the Province assist the City in accessing information in the Province's electronic land records database, in order to improve the ability to match City debtors (including those with defaulted Provincial Offences Act fines) with the owners of real property in Ontario.

Recommendation 16: City Council request the City Manager, in consultation with the City Solicitor and Director, Court Services, to make a request to the Province for legislative changes to enable collection of defaulted fines through the property tax rolls for jointly owned properties.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager, in consultation with the City Solicitor and Director, Court Services, will send a letter to request that the Province implement legislative changes to enable collection of defaulted fines through the property tax rolls for jointly owned properties.

Recommendation 17: City Council request the Treasurer, in consultation with the Director, Court Services, to assess the results of the pilot inter-municipal tax roll program. If the project is deemed to be successful in enforcing the consequence of POA offenses:

- a. The City undertake to enter into additional agreements with other Ontario municipalities
- b. The City undertake to transfer and accept other defaulted fines to and from other municipal partners to be added to the relevant municipal property tax rolls for collection.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

Although the pilot has resulted in only minimal amounts added to tax rolls to-date, the benefits of this collection practice far exceed the minimal costs, and therefore this will be expanded. An additional agreement with York municipalities was signed by the Treasurer in late April, and further expansion will be pursued.

Recommendation 18: City Council request the City Manager to:

- a. Undertake the necessary consultation with the relevant provincial Ministries to evaluate whether the City's defaulted Provincial Offences Act fines can be added to the Canada Revenue Agency Set-Off Programs; if so,
- b. Submit a request to participate in the Programs.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2018, the City Manager, in consultation with the Director, Court Services and Treasurer, will initiate the necessary consultation with the relevant provincial Ministries to evaluate whether the City's defaulted Provincial Offences Act fines can be added to the Canada Revenue Agency Set-Off Programs. If the City's defaulted Provincial Offences Act fines can be added to the Canada Revenue Agency Set-Off Programs, the City Manager will submit a request to participate in the Programs within 6 months of determining that the City's defaulted Provincial Offences Act fines can be added to the program.

Recommendation 19: City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor and the Director, Court Services, as well as the Ontario Ministry of the Attorney General, to discuss opportunities to enable Licensing unit staff to request and collect payment for defaulted fines from any debtor applying for or renewing a business licence.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

City staff agree with undertaking a review of this opportunity.

Recommendation 20: City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to evaluate whether requiring payment of all defaulted Provincial Offences Act fines can serve as a condition for issuing or renewing municipal licences.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

City staff agree with undertaking a review of this opportunity.

Recommendation 21: City Council request the City Manager to request that the Province consider whether incentives for early fine payment can and ought to be established, such as discounts to fine amounts where a defendant does not dispute a ticket and submits payment promptly or interest charges applied to fines that go into default.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The recommendation is inconsistent with established sentencing policies in Ontario, including the objectives of specific and general deterrence. Once a sentence has been imposed by the court only a Justice can alter the sentence. Set fine amounts are set by order of the Chief Justice and can only be altered by the court.

Recommendation 22: City Council request the Director, Court Services, to revise the Division's practices for maintaining contact with debtors, where necessary, in an effort to be more proactive in following up on unpaid fines. This should include implementing requirements for a consistent dunning process in the contracts with the private collection agencies.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Director, Court Services already includes the requirement for consistent dunning in procurement processes. The Director, Court Services will continue to include dunning in future contracts with collection agencies including reporting requirements. The Director, Court Services will revisit the results of past collection pilot projects aimed at maintaining contact with debtors to determine the feasibility of repeat initiatives. The results of any future pilot will be the basis for inclusion or future revision to Court Service's strategic collection plan by Q2, 2019.

Recommendation 23: City Council request the Director, Court Services, to explore the use of predictive data modelling and decision analytics in order to optimize collections and resource allocation based on the debt profile.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will review the division's existing data analytics in use for Provincial Offences Act defaulted fines and identify opportunities for improvements.

Recommendation 24: City Council request the Director, Court Services, to develop a formal plan of action that sets out a cost-effective, multi-streamed approach to collect on defaulted fines that takes into account the debt profile and ensure that the plan is methodically and consistently applied.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will develop a formal strategic collection plan to support its effective collection of City of Toronto defaulted Provincial Offences fines. Court Service's formal strategic collection plan will include its existing: benchmarks for defaulted fine collections; performance measurement tools; documented business processes; training plans; and protocols that ensure collection agency performance and accountability.

Recommendation 25: City Council request the Director, Court Services, to establish a systematic process for determining when active collection efforts should cease and to ensure information systems are updated to accurately reflect the Provincial Offences Act fines in default where active collection efforts are no longer pursued.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q2, 2019, the Director, Court Services will formalize the existing business processes for determining when collection efforts are no longer be actively pursued. By Q4, 2019, the Director, Court Services will review its existing collection database for adequacy in tracking and maintaining data on POA defaulted fines no longer being actively pursued and make improvements where feasible.

Recommendation 26: City Council request the Director, Court Services, to:

- a. Review the "Write-Off Policy for Fines under the Provincial Offences Act Deemed Uncollectible" and submit to Council proposed revisions to the Policy to reflect existing practices
- b. Implement processes to ensure compliance with the "Write-Off Policy for Fines under the Provincial Offences Act Deemed Uncollectible".

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q3, 2019, the Director, Court Services will undertake a review of the existing "Write-Off Policy for Fines under the Provincial Offences Act Deemed Uncollectible" to align with existing best practices and submit a revised Policy to City Council for their consideration.

By Q4, 2019, the Director, Court Services will incorporate City Council approved policy into its formal strategic collection plan and implement business processes to ensure compliance.

Recommendation 27: City Council request the Director, Court Services, to establish clearly defined benchmarks and performance measures for the collection of Provincial Offences Act fines in default, both for itself and for individual private collection agencies that it contracts. The outcomes should be tracked and evaluated against established benchmarks.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

By Q4, 2018, the Director, Court Services will review existing benchmarks and performance measures for opportunities for improvement and incorporate them into the division's formal strategic collection plan. The Director, Court Services will ensure outcomes continue to be monitored quarterly to evaluate and address any variances to established benchmarks.

Recommendation 28: City Council request the Director, Court Services, to report annually to City Council, or the applicable standing committee, on defaulted Provincial Offences Act fines including:

- a. Year-to-year comparisons of the delinquency rate, defaulted fine collection rate, and number and dollar value of defaulted fines where collection is being actively pursued and where active collection efforts has ceased
- b. Aging of defaulted fines by type of offence and size of the debt
- c. The results of its efforts to collect defaulted fines during the year compared to objectives or recovery targets
- d. The remaining balance of unpaid fines.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Director, Court Services will continue to report outstanding accounts through variance reporting and the division's annual budget report. The Director, Court Services will incorporate into the division quarterly variance reports and annual budget report the items identified above (a) through (d) beginning in 2019.

Recommendation 29: City Council request the Treasurer, in consultation with the Chief Transformation Officer, to consider a comprehensive review of Court Services' defaulted fines program as part of an overall review of the City's debt collection activities.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Treasurer, as part of the ongoing review of invoicing and collections activities throughout the organization, will include a review of the Court Services' defaulted fines program. This will be completed prior to the end of Q2, 2019.

Recommendation 30: City Council request the Treasurer, in coordination with the Chief Purchasing Officer and in consultation with the other program areas responsible for receivables management and debt collection including Court Services, to seek private sector expertise in designing transformative solutions for collecting overdue amounts owing to the City.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The Treasurer, as part of the ongoing review of invoicing and collections activities throughout the organization, will review other organizations' transformative solutions for managing and collecting receivables, and consider private sector options and costing. This will be completed prior to the end of Q2, 2019.

Recommendation 31: City Council request the Director, Court Services, in consultation with the City Solicitor, to:

- a. Determine whether administrative fees and charges can be applied by the City to defaulted fines, in addition to those prescribed Collection Agency Costs, Late Fee, and other mandated fees and charges under the Provincial Offences Act, in order to more fully recover the cost of collections
- b. Make a recommendation to City Council on an administrative fee that can be imposed under section 259 of the City of Toronto Act, 2006, or otherwise seek approval from the Ontario Ministry of Attorney General for additional fees under the Provincial Offences Act, as necessary.

Management Response: Agree Disagree Partially Agree

Comments/Action Plan/Time Frame:

With respect to a., the Director, Court Services will consult with the City Solicitor to determine the feasibility of applying administrative fees and charges to confirm appropriate legislative authority exists by Q4, 2019.

With respect to b., the Director, Court Services will only consider making a recommendation to City Council or seek approval from the Ontario Ministry of Attorney General if the outcome of the review with City Solicitor supports the imposition of additional fees.
