



## Staff Report for Council Meeting

**Date of Meeting:** June 24, 2020

**Report Number:** SRCS.20.21

**Department:** Community Services  
**Division:** Community Standards

**Subject:** **SRCS.20.21 – Responsibility for Prosecution of Part III Provincial Offences**

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### **Purpose:**

The purpose of this report is to delegate authority to the Regional Municipality of York to execute agreements to amend the existing Provincial Offences Court Memorandum of Understanding and Local Side Agreement.

### **Recommendations:**

- a) That SRCS.20.21 be received.
- b) That the Regional Municipality of York be delegated authority to execute agreements amending the Memorandum of Understanding and the Local Side Agreement on behalf of the City of Richmond Hill, which will transfer prosecution of additional types of Part III proceedings to the Regional Municipality of York, provided that the Interim City Manager has reviewed and is satisfied with such amending agreements.

### **Contact Person:**

Tracey Steele, Director of Community Standards, extension 2476

Melinda Fartsalas, Supervisor Administrative Monetary Penalties, extension 5480

### **Report Approval:**

**Submitted by:** Darlene Joslin, Acting Commissioner of Community Services

**Approved by:** Mary-Anne Dempster, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the reports approval are attached.

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### Background:

Two existing legal agreements between the Province, the Regional Municipality of York (“York Region”) and the local municipalities within York Region, address the allocation of Provincial Offences court responsibilities (administration and prosecution) in York Region. These agreements, which were executed in 1999, are referred to as the Memorandum of Understanding (“MOU”) and Local Side Agreement (“LSA”).

The MOU is mandated under section 162(1) of the Provincial Offences Act (“POA”) and authorizes York Region and the local municipalities to perform all Provincial Offences Court administration and court support functions under the POA, together with the prosecution of most Provincial Offences proceedings. The LSA is contemplated under the MOU and gives effect to the POA transfer in the York Region judicial district transferring responsibilities for POA court administration to York Region. The LSA deals with facility arrangements for the Provincial Offences Court, revenue and financial arrangements, records transfer, and technology arrangements.

Under the POA, Part 1 proceedings (sometimes referred to as “ticketable offences”) are simple offences for which set fines (approved by a Provincial Court Justice) can be applied via the issuance of a ticket. Part II proceedings are parking related offences. In Richmond Hill Part II offences are now issued and adjudicated through the Administrative Monetary Penalty System (“AMPS”) rather than pursuant to the POA. Part III POA proceedings involve more serious offences for which charges are laid by a sworn Information and brought before a justice of the peace for a hearing, and can result in issuance of arrest warrants and more severe penalties (example, probation orders or imprisonment). Under the existing MOU and LSA, York Region is authorized to conduct prosecutions associated with Part III proceedings for offences under the Municipal Act (example, by-law offences), the Building Code Act, Fire Protection and Prevention Act, Health Protection and Promotion Act, and Smoke Free Ontario Act. Prosecution of Part III proceedings for offences associated with other provincial legislation remains with the Province.

### Discussion

On Dec 14, 2017, Bill 177 (Stronger, Fairer Ontario Act (Budget Measures) 2017) received Royal Assent amending Sections 162 and 173 of the POA to allow the Province to enter into agreements with municipalities to prosecute Part III charges under additional statutes. The types of offences for which prosecutions may now be transferred to municipalities include, but are not limited to, certain Part III proceedings for offences under the:

- Highway Traffic Act (example drive while license suspended);
- Compulsory Automobile Insurance Act (example drive no insurance);
- Liquor License Act (example sell alcohol without license, selling liquor to an intoxicated person); and
- Ontario Society for the Prevention of Cruelty to Animals Act

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This report recommends that Council delegate authority to York Region to execute amendments to the MOU and LSA which will facilitate the transfer of additional Part III prosecutions to York Region. The Region will be transferring the proceedings listed above to start, but may also transfer additional proceeding types in the future. Other Part III proceedings for charges, laid under various Provincial statutes and regulations, will continue to be prosecuted by the Ministry responsible for the Act (example Ministry of Labour, Ministry of Transportation, and Ministry of the Environment). The Ministry will also continue to prosecute certain Part III POA cases where a criminal charge is also laid.

The anticipated download of Part III POA prosecutions will increase the workload at the York Region POA courts. Communications with the Region have confirmed that the Region has increased resources to accommodate this new workload. Noted also were various efficiencies that may be realized through the facilitation of a transfer including enhanced delivery of court services to the community through a more efficient and streamlined process.

### **Financial/Staffing/Other Implications:**

There are no financial or staffing implications associated with the recommendation of this report as in accordance with the executed MOU, all POA prosecutions are undertaken and financed by York Region.

### **Relationship to the Strategic Plan:**

The transfer of responsibility for additional Part III POA prosecutions aligns with the strategic goal of *Better Choice in Richmond Hill* by improving the functioning of the POA court making it more user friendly for the public to deal with one prosecution office.

### **Conclusion:**

York Region is seeking delegated authority to execute amending agreements on behalf of each of the nine area municipalities to effect a transfer of prosecutions from the Province to the Region of certain statutory offences where charges are laid pursuant to Part III of the POA. The transfer will require the Province and local municipalities to sign amending agreements to the MOU and LSA. Authorization to sign these agreements will be required from York Region Council as well as the nine local municipalities since all are named as parties to the original agreements.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

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### Report Approval Details

Document Title:	SRCS.20.21 Responsibility for Prosecution of Part III Provincial Offences .docx
Attachments:	
Final Approval Date:	Jun 17, 2020

This report and all of its attachments were approved and signed as outlined below:

**Tracey Steele - Jun 10, 2020 - 2:40 PM**

**Darlene Joslin - Jun 10, 2020 - 2:44 PM**

**MaryAnne Dempster - Jun 17, 2020 - 9:29 AM**