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## Report 2023-134

**Report Title:** Court Security Funding Review

**Committee Name:** Finance and Audit

**Committee Meeting Date:** November 28, 2023

**Prepared by:** Randy Horne  
POA/Court Services Manager  
Finance

**Reviewed by:** Matthew Nitsch  
Director of Finance/Treasurer  
Finance

**Approved by:** Jennifer Moore, CAO

**Council Meeting Date:** December 6, 2023

**Strategic Plan Priorities:**  Innovate for Service Excellence  
 Ignite Economic Opportunity  
 Foster a Thriving Community  
 Proper Sustainable Growth  
 Champion a Vibrant Future

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### Recommendation

**“That** the Finance and Audit Committee, having considered Report 2023-134 ‘Court Security Funding Review’, recommend that County Council reaffirm its support to the Town of Cobourg and direct staff to continue to provide its share of the annual Provincial Court Security and Prisoner Transportation funding, as well as levy funds (up to \$275,000) to the Town of Cobourg, with the condition that the Provincial Offences court room will always have a Cobourg Police Service Special Constable assigned to be present in the courtroom (as has traditionally been the norm) for all scheduled POA Part I and Part III proceedings; and

**Further That** the Committee recommend that County Council identify this item for separate discussion at the December 6, 2023 Special Budget Meeting, noting that County Council is required to review court security funding annually as part of the budget process.”

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## **Purpose**

This report is an updated review of Northumberland County's funding to the Town of Cobourg for court security, with a staff recommendation that consideration be given to ensuring that minimum security levels be maintained by Cobourg Police Service. Those minimum security levels would apply within the County's POA Courtroom (i.e. – the County staff workplace), as a condition of additional voluntary funding provided through County Levy for court security within the Town of Cobourg.

## **Background**

Please refer to attached Report 2021-158 'Court Security Funding Review' for a detailed history of Court Security Funding in Northumberland County. Prior to the COVID emergency (beginning March 2019), a minimum of one Cobourg Police Service constable was regularly assigned and present in the POA court room during all scheduled proceedings. In the fall of 2019, after a history of requests from the Provincial Ministry of Attorney General (MAG) and Ontario Court of Justice (OCJ) stakeholders who sit on the Local Court Management Advisory Committee (LCMAC, and the related Court Security sub-committee), a decision was made to institute a single point of access to the court facility at 860 William St.

LCMAC was advised by representatives from Cobourg Police Service (CPS) that this request of their service would have staffing impacts with regards to available security personnel in the rest of the building. LCMAC was told that the single-point-of-access screening station would require a minimum of two dedicated security staff. It was suggested by CPS staff that this would detract from staff being available as a dedicated presence in active courtrooms. A single-point-of-access at 860 William St, was implemented early in 2020 and soon began operation in coordination with COVID screening (staffed through an independent MAG private security contract) for all individuals accessing the court facility during the COVID emergency.

In response to this decision, Northumberland County staff facilitated the completion of a separate dedicated public entrance providing access to a secure POA service counter. The new service counter opened in January 2022, and allowed POA staff, defendants, stakeholders, and the public to access County POA administration without the need to enter the main provincial (MAG/OCJ leased) court facility through the single-point-of-access. For County staff, the intent of this initiative was to reduce the security load for the main court facility, providing reduced access to the building interior, but also reducing impacts for those largely transactional attendees at the POA service desk.

The County's POA courtroom remained closed (as per Provincial direction), until May of 2022. Virtual court room technology and delayed approval by the Regional Senior Justice of the Peace (RSJP), meant that while courtroom proceedings were initiated in the fall of 2021, there were no in-person appearances within the POA Courtroom until May of 2022.

Beginning in May of 2022, in-person appearances were again instituted in the POA courtroom, with some, but initially few individuals choosing to attend the court room in-person (as they are entitled by statute to do) rather than engage in available remote technology. POA staff learned at this time, that CPS court security staff were no longer being assigned to be present in the court room during proceedings, but rather, would be patrolling the building and attending on occasion into the court room, unless there was an indicated/communicated risk represented by a particular matter or attendee. It was communicated at that time, that this reduction in security

services was due to limited CPS staffing resources available for Court Security within the 860 William St court facility with a priority being given to staff the single-point-of-access.

Currently, the single-point-of-access policy for the leased MAG/OCJ provincial court space is in place and operational, requiring two special constables to be dedicated to the front entrance of the building (facing William St.). The 4 other access points to the building (apart from the dedicated POA access) are locked to exterior entry, but not monitored or alarmed. There are staff concerns regarding the efficacy of the single-point-of-access policy ensuring building security, as attendees are regularly observed departing the building from these other points of access, with an opportunity for unscreened individuals to also gain access at those points when doors are opened. Staff in POA Court have therefore been instructed to regard all participants in the courtroom as unscreened and to always take appropriate personal safety precautions with corresponding awareness.

Through significant efforts by POA court staff and through the implementation of Court modernization technology and processes, POA case backlogs were largely eliminated over the past year, with any dated matters remaining for the courts to address, being trial matters that have not resolved by way of informal resolution discussions or plea. For the past year, the number of actual in-person attendees has been low as many of the thousands of cases resolved, were done so by way of remote technology. For the remaining dated trial matters being scheduled, however, staff are finding these to be the more challenging, contested cases where defendants are choosing to attend in-person, have their say in court and challenge their prosecution in a personal and direct manner. These individual defendants are also often being accompanied by supporters who attend and can occasionally be disruptive. We are finding that in-person attendance has been increasing.

Anecdotally, staff are also noticing an increase in aggression and contempt towards the judicial system and law enforcement in general, which is consistent with an observed general erosion of decorum and respect being afforded to such institutions in broader society. While those who work in both the Judicial System and in Law Enforcement anticipate some conflict, challenges, and disrespect that don't necessarily meet a common-sense threshold for an incident report, on September 20, 2023, that changed with an escalation to physical violence within the courtroom.

On that date staff were aware that a particular defendant might be challenging/disruptive and they notified court security of their concern to ensure that an officer would be present in the courtroom. Upon sentencing by the sitting Justice of the Peace (JP), the defendant became aggressive and escalated to being violent with the lone officer in attendance. The officer was being overpowered, when two county staff present in the courtroom, intervened to help subdue the defendant. The JP had already left the court room when this occurred, panic buttons installed in the courtroom were activated by County staff, but a second officer did not arrive to assist for more than two minutes after the assault began.

Internal incident reports have been filed as per Health and Safety policy and staff are currently undergoing a Hazard and Risk Assessment to ensure that workplace policies, procedures, protocols, and controls are current and effective in addressing staff concerns, as well as employer concerns regarding health and safety.

What remains as a concern is that while a violent incident in the courtroom remains low in likelihood (based on frequency to date), the potential consequences place it in a high to severe category on the Risk Matrix. Based on previously mentioned anecdotal observations, and the

increase in contested and challenging trials, there is also some argument to suggest that the potential for incidents may be increasing with the lack of dedicated security staff being a factor contributing negatively to the hazard.

There is also a concern that relying on POA staff awareness of a potential court risk, and relying on that to request appropriate security staffing or a dedicated presence in the courtroom on any particular date, is inadequate. It is not always possible to foresee who or what matter may represent a risk or challenge from a printed list of names.

Under pre-COVID circumstances an officer was always present in the POA courtroom for all Part I proceedings (normally every Friday), and Part III/Ministry first appearance dates (normally on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of every month). For dates where staff expressed a specific concern, an additional officer would normally have been assigned to also attend, or patrol nearby to the courtroom on that date, as additional support for the dedicated security staff member.

POA Staff are concerned that, post-COVID emergency, this is no longer the case, and we are recommending that Council, as the elected body, but also as the employer of County staff, ensure the minimum traditional attendance of at least one officer representing appropriate, forceful, deterrent and authority to provide for public compliance within the courtroom. Staff are suggesting that a condition (requiring this level of security) be attached to the County levy funding provided through County Council for the provision of Court security by Cobourg Police Service.

## **Consultations**

HSEP Risk assessment for POA staff is ongoing. Based on the existing Risk Matrix, risk likelihood remains low, (but anecdotally increasing) based upon historical data, while risk consequence is high to severe. It should also be noted that historical data indicating low incident rates is based upon the traditional security model of having a dedicated officer in the courtroom, and not the current practice without a dedicated officer scheduled to always be within the courtroom.

Justice Sector Security Office (MAG) have been in regular contact with the POA court manager since the incident and have requested that the issue be raised at the next MAG/OCJ Court Security sub-committee.

## **Legislative Authority / Risk Considerations**

The Police Services Act, R.S.O. 1990 provides the following:

### **Court security**

#### **Municipalities with police forces**

**137 (1)** A board that is responsible for providing police services for one or more municipalities has the following responsibilities, with respect to premises where court proceedings are conducted:

1. Ensuring the security of judges and of persons taking part in or attending proceedings.
2. During the hours when judges and members of the public are normally present, ensuring the security of the premises.

3. Ensuring the secure custody of persons in custody who are on or about the premises including persons taken into custody at proceedings.
4. Determining appropriate levels of security for the purposes of paragraphs 1, 2 and 3. R.S.O. 1990, c. P.15, s. 137 (1); 1997, c. 8, s. 41.

While there are no minimum standards for court security, traditional standards having been in place for decades. Staffing pressures only recently eroded what had been the standard of always having a security officer in the courtroom and that change was clearly in response to the resource demands of providing single-point-of-access screening to the MAG/OCJ workplace at 860 William St.

#### Ontario Occupational Health and Safety Act.

Northumberland County POA staff have initiated a Hazard Identification and Risk Assessment process involving Joint Health and Safety Committee members, for the Northumberland County workplace. Appropriate safety procedures, controls and measures are being considered, however identified early in the process was the consideration that County Council, acting as the employer, does in fact have an opportunity to leverage optional Levy funding already provided for court security, to prevent the erosion of traditional security levels for County POA staff in their workplace.

#### **Discussion / Options**

##### Status Quo:

This option would suggest that the erosion of traditional security measures for the County's POA Courtroom within the larger provincial court facility is appropriate to support the resource demands of the current single-point-of-access operational framework established at 860 William Street. The current County Council Levy funding arrangement for court security would remain unchanged, but with reduced (from historical) security staff levels for the County's POA courtroom and staff in that workplace.

##### Make the recommended changes:

This would prevent the erosion of traditional security levels for POA staff in their workplace. The OCJ/MAG workplace may be impacted by reduced security resources due to the required commitment of CPS staff to the POA Courtroom AND the single-point-of-access station within the MAG/OCJ leased space. This may necessitate a review of the efficacy and practicality of single-point-of-access operations for provincial entities (OCJ/MAG) within the court facility. JHSC hazard identification and Risk Assessment processes may need to be conducted by the provincial entities for their workplaces, and their own security funding requests through provincial channels may result. It should be noted that Northumberland remains largely unique in providing additional Levy funding for court security in addition to the province's existing court security funding model.

##### Consider Alternate Security Measure for POA Staff:

Contracted private security could be considered as an alternative to maintain traditional security levels in the POA Courtroom, in the absence of dedicated CPS court security. This would be at an additional cost to the existing Council approved Levy funding for Court Security.

## **Financial Impact**

There would be no change in existing funding provisions or impact on County Levy to maintain the Status Quo or to make the recommended changes. Consideration of an alternate (contracted) security measure for court security, would incur additional levy expense.

## **Member Municipality Impacts**

Cobourg Police Service Special Constable staffing adjustments would need to be made to accommodate POA Court security requirements should the recommendation be implemented. For 2024 there are approximately forty-two (42) Part I and Part III/Ministry first appearance dates currently scheduled.

## **Conclusion / Outcomes**

That the Finance and Audit Committee recommend that County Council reaffirm its support to the Town of Cobourg and direct staff to continue to provide its share of the annual Provincial Court Security and Prisoner Transportation funding, as well as levy funds (up to \$275,000) to the Town of Cobourg, with the condition that the Provincial Offences Court room will always have a Cobourg Police Service Special Constable assigned to be present in the courtroom (as has traditionally been the norm) for all scheduled POA Part I and Part III and Ministry first appearance proceedings.

## **Attachments**

- 1) Report 2021-158 'Court Security Funding Review'