

## Report to Council

**Report Title:** O.P.P. Fail to Appear Charges Update

**Prepared By:** Sarah Johnson, Deputy Clerk and Brockton Police Service Board Secretary

**Department:** Clerk's

**Date:** August 9, 2022

**Report Number:** CLK2022-19                      **File Number:** C11CL, P16PO

**Attachments:** Letter from Municipal Policing Bureau – Fail to Appear Occurrences Review

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### Recommendation:

That the Council of the Municipality of Brockton hereby receives Report Number CLK2022-19 – O.P.P. Fail to Appear Charges Update, prepared by Sarah Johnson, Deputy Clerk and Brockton Police Services Board Secretary for information purposes.

### Report:

#### Background:

An individual may be charged with the criminal offence of “fail to appear” if he or she is scheduled to appear at Court for a criminal matter and fails to attend as required. If a Fail to Appear charge is laid by the Ontario Provincial Police (O.P.P.), the location of the offence is always the Municipality of Brockton, due to the location of the Walkerton Courthouse. This default offence location makes Fail to Appear charges different from other criminal offences.

Fail to Appear charges are laid by all the police services using the Walkerton Courthouse, and connect to the first charge that would have necessitated the person appearing in Court. As a result, if the original offence was committed in the Town of Saugeen Shores, the Saugeen Shores Police Service will lay the Fail to Appear charge, and if the original offence was committed in the Municipality of Kincardine, the South Bruce O.P.P. will lay the Fail to Appear charge.

This discrepancy surrounding which police service lays the Fail to Appear also resulted in inconsistencies surrounding the billing of those charges. If the Fail to Appear charge is laid by a municipal service (Saugeen Shores, Hanover or West-Grey), the costs associated with that charge are borne by that Municipal Police Force. However, if the charge is laid by the South Bruce O.P.P., the cost was billed back to Brockton regardless of whether the original offence occurred in Kincardine, South Bruce, Arran-Elderslie, etc. In effect, Brockton was subsidizing the Fail to Appear charges for the other O.P.P serviced communities but not the municipally serviced communities.

While this practice developed over many years and was similar to practices at other courthouses (noting the difficulty in identifying a comparable courthouse), there was no principled reason for this billing discrepancy to occur as the offence location for all Fail to Appear charges is the Municipality of Brockton where the courthouse is located. There were two significant consequences associated with this practice:

- 1) A police service other than the O.P.P. with which Brockton contracted, and over which the Brockton Police Services Board has no oversight is providing policing services within the municipality when laying the Fail to Appear charges.
- 2) Brockton is paying for Fail to Appear charges where the originating offence was another O.P.P serviced municipality.

Any changes to the fail to appear structure, including the billing process, were to be decided by the Province of Ontario in consultations with additional Ministries and stakeholders.

### **Analysis:**

The Municipality of Brockton and Brockton Police Services Board researched the process for laying Fail to Appear Charges with the South Bruce O.P.P. who brought the matter forward to the Municipal Policing Bureau, and Crown Attorney.

Brockton further lobbied with the Ministry of the Solicitor General in 2021, and 2022 to discuss the statistics and billing model. Municipal staff also arranged a number of meetings with Ontario Provincial Police representatives to make use of the dispute resolution provisions in the policing contract.

Council presented a delegation to the Ministry of the Solicitor General in January 2022 during the Rural Ontario Municipal Association (R.O.M.A.) Conference, and will meet again with the Solicitor General during the upcoming Association of Municipalities of Ontario (A.M.O.) Conference on August 15, 2022.

On July 22, 2022 the Municipality of Brockton received the attached letter from the Municipal Policing Bureau, advising that a review was conducted on occurrences generated by routine processes and procedures within courthouses to whereupon charges are laid against offenders for not appearing in court.

The Municipal Policing Bureau confirmed that their “method of allocating calls for service costs to municipalities could be improved by removing certain courthouse activity-related occurrence types from our list of billable calls for service. In total five occurrence types are being removed: “Fail to Attend” occurrences and four bail violations occurrence types related to offenders being absent from court.” This change will take effect for the 2023 billing year with no retroactive adjustments to previous billing years. As a result, Brockton’s 2023 Annual Billing Statement will include the recalculated amount.

### **Strategic Action Plan Checklist:**

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

- |   |     |
|---|-----|
| • Recommendations help move the Municipality closer to its Vision                       | Yes |
| • Recommendations contribute to achieving Heritage, Culture, and Community              | Yes |
| • Recommendations contribute to achieving Quality of Life                               | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | N/A |

- Recommendations contribute to achieving Economic Development
- Recommendations contribute to achieving Municipal Governance

N/A


Yes

### **Financial Impacts/Source of Funding:**

- Do the recommendations represent a sound financial investment from a sustainability perspective? Yes

This change by the Municipal Policing Bureau will have a positive impact the 2023 Annual Billing Statement.

### **Reviewed By:**



Trish Serratore, Chief Financial Officer

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### **Respectfully Submitted by:**



Sarah Johnson, Deputy Clerk

### **Reviewed By:**



Sonya Watson, Chief Administrative Officer