

Calgary



Administrative Penalties System Business Recommendation



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Executive Summary

City of Calgary (The City) bylaw contraventions represent a significant volume of cases for adjudication by the Alberta Provincial Court; however, this traditional approach of disputing bylaw contraventions is inefficient and inconvenient for citizens, and expensive for The City and the Courts.

The City of Calgary Charter (The Charter) provides The City with authority to establish an Administrative Penalties System (APS) limited to parking and transit fare evasion matters, which can be adjudicated by a municipal tribunal under an APS. Because tribunals are not bound by the procedural and evidentiary rules of Courts, they can provide public access to justice in a fashion that is faster, cheaper, less formal, and more flexible.

An APS allows for monetary penalties to be imposed for the violation of legislated requirements such as the requirement to pay for parking and transit rides. The purpose of an APS is to encourage compliance and promote changes in behaviour, and to have responses to contraventions that are proportional to offences.

Administrative penalty systems are becoming widely accepted and adopted throughout various Canadian jurisdictions as alternatives to enforcement pursued in courts. This less punitive approach encourages justice reform, easing the burden on strained justice resources, and supports proportionality in the enforcement of minor offences such as parking and transit fare evasion.

The City should consider establishing an APS to manage parking and fare evasion matters, including an Administrative Penalties Tribunal (APT) supported by the City Clerk's Office, to allow for a more efficient and effective means for the public to access justice. Given the relatively high volume, as well as the simplicity and uniformity, of the Calgary Parking Authority (CPA) parking contravention caseload, it is a good fit for inclusion in an APS; further, the CPA has an administrative review process which can be easily adapted to an Early Resolution Program, and mature information systems that can integrate with tribunal and Provincial information systems. The synergies between existing CPA processes and systems, and the recommended APS, are in alignment with leading practices of other successful APS jurisdictions, which focused on keeping implementation simple.

Now is also the right time to bring transit fare evasion contraventions into an APS. Calgary Transit is currently implementing several strategic initiatives which are in alignment with establishment of an APS, including the development of administrative penalty notices, an early payment option framework, a payment gateway, an administrative review process, and mobile fare service. Although a high percentage of transit enforcement relates to fare evasion, the overall trial caseload in Courts today for fare evasion is low relative to parking matters. That said, The City's experience shows that the introduction of technology in enforced services such as parking (e.g. ParkPlus) and transit fare can complicate efforts to prosecute them. As the Mobile Ticketing System initiative is implemented, the costs of prosecuting fare evasion matters is likely to increase significantly, making tribunal adjudication, with its lower evidentiary standards, a more attractive option. On balance, there would be benefits to the public and The City of integrating fare evasion matters into an APS.

A number of information systems and resources which could support an APS are already in place or will be shortly. Although resources would be required to establish an APT and support a transition away from Court processes, there would be net efficiencies to The City because the Law Department would no longer be required to support the prosecution of these matters in Court, and because CPA and Calgary Transit staff

would no longer be required to appear or testify in Court to support those prosecutions; instead, that evidence could be provided in writing, by affidavit.

The cumulative cost of resources that would no longer have to be applied to support The City's participation in the Court-based process would amount to approximately \$995,000 per year, which exceeds the estimated \$570,000 that it would cost to operate an APT by approximately \$425,000 per year. Given the estimated \$1.0 million of startup costs that would have to be invested corporately to establish an APS, the net efficiency of implementing an APS could be realized within three years after transition is complete.

Finally, successful implementation of an APS is largely dependent on Service Alberta Registries continuing to restrict services to those with unpaid penalties. This mechanism is in place today and is relied upon as a means of enforcing collection of unpaid fines. The City should continue discussions with the Province to achieve formal agreement that Service Alberta Registries will continue to assist with enforcement of administrative penalty collection if The City establishes an APS. Continuation of The City's dialogue with the Province should also explore the possibility of Provincial funding support for one-time APS startup costs.

Recommendation: The establishment of an APS program for parking and fare evasion violations – as enabled through the City Charter – is consistent with justice reform developments across Canada and in Alberta, aligns with existing City processes, and would provide benefits to The City and citizens. An APS program for parking and fare evasion matters would provide a cost-effective, streamlined, timely and customer-oriented dispute resolution system and is consistent with the following Guiding Principles for a municipal tribunal that were established by the Administrative Leadership Team (ALT):

- Delivery of Citizen-centered Services
- Accessible for All Citizens
- Safe and Secure Workplace and Information
- Proportionality and Efficiency of Operations
- Maintaining the Public's Trust

Introduction

The City Charter came into force on 2018 April 04. The Charter provides The City with authority to impose administrative penalties for the contravention of City bylaws as they relate to parking offences and transit fare evasion. The purpose of administrative penalties is to encourage compliance. An effective APS is responsive, proportionate, fair and equitable. APS programs can provide greater flexibility and can be more efficient and economical than enforcement through Courts.

The Charter empowers The City to establish an independent Administrative Penalties Tribunal (APT), also referred to as a municipal tribunal, to adjudicate citizen's appeals of penalties imposed by The City's Enforcement Agencies; for the purposes of The Charter, CPA and Calgary Transit. The Charter delineates the jurisdiction of such a tribunal, establishes governance and procedural frameworks for it, and empowers it to exercise compassionate discretion in appropriate circumstances, or to impose alternative administrative measures in lieu of a penalty.

Because they are not bound by the rules of evidence and procedure under which Courts must operate, tribunals are generally less formal, and achieve outcomes that are faster and less costly. A municipal tribunal would bring greater public convenience, accessibility and speed to resolution of disputes, as well as a more efficient and cost-effective means of responding to challenges of enforcement decisions.

Representatives from the City Clerk's Office, Law, CPA, Calgary Transit, Calgary Community Standards, Finance, Facilities Management, Information Technology, Communications, and Intergovernmental & Corporate Strategy brought their subject matter expertise to this project and provided oversight to the APS project. The Business Recommendation was framed in large part through the following analysis:

- Research and analysis of the current Court-based system;
- Examination of leading practices in other jurisdictions in Ontario and British Columbia (BC);
- Assessment of resources and procedures currently in operation at The City;
- Request for Information (RFI) process to identify possible Information Technology (IT) solutions; and,
- State of readiness of CPA and Calgary Transit.
- Risk assessment of the status quo and of establishing an APS

The purpose of this document is to identify and describe the current issues facing Calgarians and Administration when parking and transit fare evasion matters are prosecuted at Provincial Court, and to recommend whether an APS established by The City under authority of The Charter could alleviate those issues. This report provides a high-level recommendation, and is based on an analysis of enforcement and prosecution data sampled from 2017 and 2018. On the basis of the analysis completed to date, the financial estimates referenced below should be considered class 4 (-30% to +50%) unless otherwise specified.

Background

Currently, all municipal bylaw contraventions are enforced and administered through the Alberta Provincial Court system. Population growth, increased enforcement, and increased use of enforcement technology have all added to the workload and inefficiency of the Court system.

CPA Enforcement Services enforces the Calgary Traffic Bylaw (Bylaw 26M96) and the Calgary Parking Bylaw (Bylaw 41M2002). CPA has several enforcement methods, including photo enforcement through the ParkPlus system, as well as traditional on-site enforcement through Municipal Bylaw Officers.

Calgary Transit Public Safety and Enforcement (PSE) support a safe and secure environment for the general public, transit riders, and transit employees. PSE Officers currently issue violation tickets for bylaw and provincial offences. PSE Officers currently serve these tickets directly on recipients at the time of the alleged offence.

Of all of the violation tickets issued in Calgary relating to parking and fare evasion, approximately 96 per cent relate to parking matters:

	2017			2018		
	CPA	CT	Total	CPA	CT	Total
Total tickets issued	336,815	10,708	347,523	345,991	14,285	360,276
Voluntary payments	177,870	4,551	182,421	211,232	1,967	213,199
Convicted in absence	134,529	3,320	137,849	130,424	4,799	135,223
Proceeded to trial	1,584	351	1,935	1,224	322	1,546
Not guilty	14	3	17	14	3	17

Court-based System

Current processes for ticket enforcement and adjudication are complex, involve different stages, multiple City personnel and the Provincial Court. All of these processes take time and impose inconvenience on citizens and costs on The City.

When citizens (or their vehicles) are observed in violation of the Parking Bylaw or Traffic Bylaw, they are issued a parking tag. This tag notifies the registered owner or operator that unless the matter is rectified through payment or review, The City will be pursuing prosecution. The tag then provides various early payment options which, if taken advantage of within the given time frame, can allow an individual to avoid receiving a violation ticket. If an individual does not pay the fine before the prescribed time frame has elapsed, a violation ticket is issued with the date that they must make their first appearance at Provincial Traffic Court.

In advance of prosecution in Court, however, an individual can contact the CPA to request an administrative review of their tag/ticket for errors. If the CPA determines that an error was made, the tag/ticket may be cancelled and withdrawn from Court. Under its administrative review process, the CPA does not itself have the authority to cancel a validly-issued ticket for compassionate or mitigating reasons, or vary the amount of the fine, or the time to pay it.

Violation tickets issued by Calgary Transit PSE Officers include payment, first appearance and plea option details on the back of the ticket, and are explained by the PSE Officer. The violation ticket states the risk of being convicted in absence if the ticket is not dealt with in the timeline set out on it (in the near future, Calgary Transit PSE Officers will instead issue tags called administrative penalty notices; more information follows in the Calgary Transit State of Readiness analysis, below).

Whether for a parking violation or a fare evasion matter, once a violation ticket is issued and communicated to the Provincial Court, the management of the ticket process is assumed by the Provincial Court and the municipality's role is as a party to the ongoing action. Currently, the Provincial Court mandates through legislation that a violation ticket cannot enter the Court system for six to nine weeks after a ticket is written.

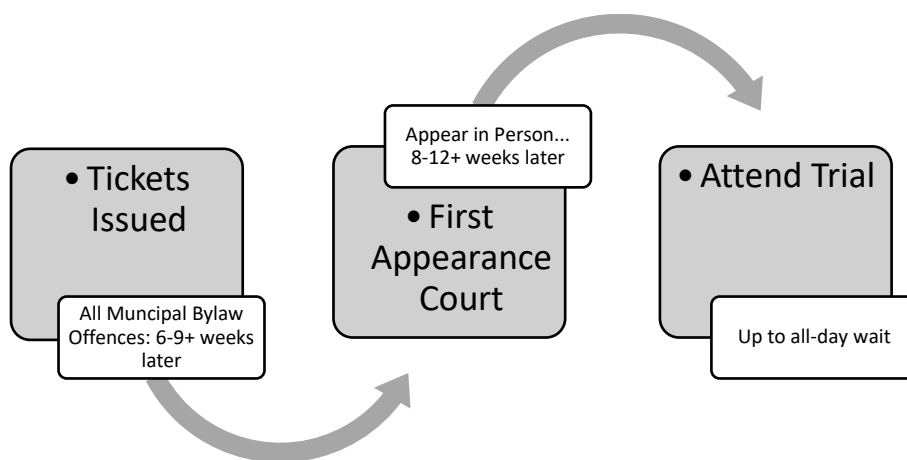
From the date of an accused person's first appearance at Court onwards, the enforcement of tickets becomes an adjudicative matter handled according to the General Rules of Procedure and Evidence for the

Provincial Traffic Court. These matters are prosecuted by staff from the Prosecution section of The City Law Department, and are heard by Traffic Commissioners appointed by the Provincial Court.

Many individuals fail to pay their fine, and then neglect to attend First Appearance Court: these individuals are convicted in absence of the violation. For those who do appear, municipal prosecutors have discretion to consider agreeing with requests for reductions to the fine amount and/or increases to the time to pay. Those who want to challenge their ticket, speak to a municipal prosecutor, and set a trial date, can expect to wait many hours to be heard.

In the lead up to trial, the individual challenging their violation ticket may contact the municipal prosecutor, who may negotiate fine reductions/adjustments, or withdraw the charge in response to compassionate or mitigating circumstances presented by the accused. Most often, the municipal prosecutor will make one last attempt to reach a plea deal with an accused on the trial date; however, the accused can elect to proceed to trial, as scheduled, at any juncture in the process.

Trials typically require a two-hour time commitment from the individual, but it can take up to between 20 to 30 weeks from the date a violation ticket is issued for the trial to occur. Trials in Traffic Court are scheduled using a docket system and so matters are assigned to either the morning or afternoon of a given day. Those morning or afternoon dockets generally represent two hours of actual available hearing time. Trials can take up to a half-day (two hours), and are scheduled on a docket system containing 8 to 12 matters per half day. As a result, it is not unusual for cases to be dismissed without the Court having heard them, if the Court runs out of time for the day. In these cases, the matters are generally dismissed by the Commissioner without a trial, meaning the violation tickets must be withdrawn by the Crown, and are not paid.



Citizen Experience

The Court-based system provides a process which is challenging for the public to navigate. The complexity, burden and timelines of the current system pose a barrier to access to justice. There is a significant opportunity to improve the citizen experience, both in terms of minimizing the time commitment required to participate meaningfully in the justice process, as well as reducing the formality of the process so that it is more accessible.

The delays in proceeding to trial pose challenges to citizens hoping to access justice and have their matter resolved in a timely manner, as well as for City staff who are required to prepare for and appear on specific matters.



Participants must provide the best evidence available. In the case of violation tickets, the Court considers the best evidence to be in-person testimony regarding issuance of the ticket and any supporting technology which may have been used to identify the violation. This practice is referred to as “best evidence.”

Court procedures and rules also impose a level of complexity which may deter individuals from fighting their tickets due to the difficulty in understanding the process, as well as the inconvenience that arises from having to spend so much time attending Court, on multiple occasions, to seek justice. Arguably, those most in need of the leniency currently available only through the Courts, are also those for whom setting aside time during the work week has the most significant impact.

For those that do exercise their right to challenge the allegations against them, few are fully successful: for example, of the 1,224 provincial court trials for parking violations in 2018, less than one per cent, only 14 individuals, had success in achieving a not guilty verdict through a trial.

City Resources

In addition to the procedural rules, Traffic Court also inherits its burden of proof from the Criminal Division; as such, proof beyond a reasonable doubt is required. In practice, this requires the municipal prosecutor to provide evidence to the Court which establishes, beyond a reasonable doubt, that the offence has occurred.

For parking tickets, which are strict liability offences, this means that The City must prove that the vehicle in question did in fact belong to the defendant according to the rules of the *Traffic Safety Act*, and that the vehicle was in the restricted location as reported by the officer. In the case of fare evasion matters, it requires that the Court weigh the testimony of the officer against that of the defendant to determine whether a valid proof of fare was presented. In order to support prosecution of these offences, CPA and Calgary Transit must send staff to present evidence to the Court in support of each violation ticket that is challenged.

In any case where an electronic system such as ParkPlus is used to determine that a contravention occurred, the Court must be satisfied that the system itself is accurate and was working properly at the time in question. CPA's ParkPlus system has created evidentiary challenges for the Court, which has struggled to understand the details and implications of the technology, thus driving up costs for The City to meet the burden of proof necessary to successfully prosecute these matters in Court. The current use of technology by CPA has resulted in up to two to five staff having to attend Court in many cases to provide expert testimony, depending on the experience and comfort level of the individual Traffic Commissioner hearing the matter (this experience provides a cautionary tale for The City as Calgary Transit implements mobile fare technology which promises to complicate the prosecution of fare evasion matters).

Most matters are resolved at First Appearance Court (FAC) with a guilty plea and a submission to the Court that has been mutually agreed upon by both parties. These relatively straight forward resolutions still require a significant investment of time by resources from CPA and Calgary Transit, and the municipal prosecutor. If a mutual resolution cannot be reached, a trial is scheduled.

In the current Court-based system, approximately 20 administrative support personnel are involved full-time in the processing and adjudication of parking and transit fare evasion contraventions. Up to four prosecutions staff are involved in supporting the prosecution of parking and fare evasion matters in the Court. There are also 80 CPA staff and 90 Calgary Transit enforcement personnel who are required to attend Court in support of prosecutions. In total, 190 City employees are involved in the Court process on a full- or part-time basis. The demand is certainly enough that both CPA and Calgary Transit consider officer availability for Court support when planning staff resourcing. It is not uncommon, for example, for between two and 12 CPA staff to attend Court (four days per week) to respond to parking violation matters.

Specific teams responding to these matters on behalf of The City include:

Calgary Parking Authority

The CPA has a six-member team of 'Tag Administration Clerks' involved in processing parking tags in preparation for Court proceedings, conducting administrative reviews and recommending appropriate action.

Calgary Transit

Calgary Transit has a seven-member PSE Canadian Police Information Centre (CPIC)/Court Services team that provides real-time information to PSE Officers, enters all tickets into the record management system, and prepares tickets for transfer to the Calgary Court Centre. In addition, some members of this team also prepare the disclosure material, exhibits, as well as subpoenas for witnesses, and coordinate the availability of officers for trials.

Law Department, Prosecutions section

There is a team of seven individuals in the Prosecutions section who primarily conduct themselves in traffic court. These members range from disclosure clerks to prosecutors, and they are also responsible for addressing a variety of other municipal enforcement matters in the Courts on behalf of The City.

Recommendation

Overview

The City should exercise its authority under The City Charter and proceed to establish an APS to manage parking and transit fare evasion matters.

Although a key feature of the APS would be a new independent administrative tribunal, other changes to the overall system of enforcement and administration for parking and transit fare evasion contraventions would be both required and beneficial.

Implementation of an APT should be supported by the City Clerk's Office, which currently has the expertise to support tribunals, given its experience and expertise in supporting the Appeals and Tribunals service.

State of Readiness Assessment

Calgary Parking Authority

The CPA has several business processes in place that complement the transition to an APS program; for example, it has an early payment incentive program. Although not a requirement for transition to an APS, the CPA has a three-tiered fee system for parking fines. Administrative expenses and other costs resulting from violation tickets and prosecution costs are minimized when a fine is paid early.

Although CPA's administrative review program described above is citizen-initiated, and is a voluntary process, only minor changes would be required to transform it into an Early Resolution Program with broader discretion to resolve public concerns before they evolved into appeals. All parking contraventions under the APS program would flow through that early dispute resolution process and then, if required, through a single point of adjudication with the tribunal. The CPA also has a robust and well-developed online customer service presence, with a system that allows the public to make an application online for administrative review, or to pay fines online.

The Court processes between approximately 135,000 and 240,000 parking tickets annually. The elimination of these tickets in Court would free up Justice resources to attend to more serious offences. Fifty per cent of Calgary bylaw contravention proceedings before the Provincial Court relate to parking bylaw matters. The City's prosecutors deal with up to 6,000 accused people who are looking to plead guilty and make a submission to the Court that has been mutually agreed upon by both parties. These relatively straight forward resolutions still require a significant investment of resources by the CPA and municipal prosecutor.

Had the APS system been fully operational in 2018, 70 per cent of the cases that resulted in appearances before the Court that year would likely have been resolved through an early dispute resolution process, in a more timely and cost-effective way. Matters resolved through informal dispute resolution would cost 25 per cent less than cases resolved with a hearing at First Appearance Court, or less than five per cent of the cost of cases resolved by trial.

Using Ontario jurisdictions' successful forecasting model for tribunal caseload, approximately 1,250 parking violation appeal proceedings would be expected, based on the number of parking violation trials set in Court in 2018.

Calgary Transit

Many changes are presently underway with respect to how Calgary Transit interacts with its customers and responds to those who evade paying fares. In 2020, Calgary Transit is launching mobile fare technology, and related enforcement program changes and services to support: administrative penalty notices, early payment options, administrative review processes and direct collection of enforcement revenue.

Mobile fare technology

In 2020, Calgary Transit plans to release the “MyFare” app, allowing customers to electronically purchase fares for transit service. When customers are asked to produce proof of fare, their electronic devices will provide the appropriate information to Calgary Transit enforcement. Should riders be unable to produce proof of fare, Calgary Transit enforcement staff will have the option to issue them with an administrative penalty notice.

Administrative penalty notices (APN)

Amendments to the Calgary Transit Bylaw 4M81 planned for later this year will change the way that Calgary Transit enforcement responds to fare evasion. Officers will issue APNs which, if unpaid for a prescribed period, will eventually result in the issuance of violation tickets to be prosecuted in Provincial Court. With appropriate bylaw drafting, these APNs would easily be diverted for adjudication through an APT under the authorities granted in The Charter.

Early payment options

The introduction of APNs will be complemented by an early payment options program featuring three payment tiers. Recipients of APNs would be able to pay less at the first (earliest) tier than at the second (middle) or last (latest) tier of the payment options. Such a program is expected to minimize administrative processing costs associated with fare evasion matters, expedite revenue collection and reduce the risk of non-payment or late payment. This is because early payment incentives can contribute to greater collection effectiveness and facilitate the timely management of related revenue; for example, currently, individuals charged with fare evasion offences often set matters for trial or attend court in an effort to seek a reduction in the \$250 fine. Through the judicial process, these individuals are offered the minimum specified penalty by prosecutions staff in exchange for a guilty plea. Early payment options are expected to minimize the need for APN recipients to appear to make their case, eliminating judicial ‘red tape’ and minimizing use of City prosecution and enforcement resources to achieve the same result.

Administrative review processes

Complementing these initiatives, Calgary Transit will be launching an optional administrative review process, so an individual’s first opportunity to raise their concerns with allegations that they have committed a bylaw violation is not at Court. Calgary Transit will have an established administrative review process by which APN recipients will be able to make a written request for review of the circumstances under which an APN is issued for fare evasion matters. This work will be coordinated by the PSE CPIC/Court Services Section, and access for customers will be provided at no cost by phone and email. Such an administrative review process has many of the components of, and could readily be converted into, an Early Resolution Program under an APS. Discretionary authority to grant extensions of time to pay penalties, to make referrals to low income pass programs, and/or community resources, may be possible and are currently being explored.

Revenue collection

Because Calgary Transit's current violation tickets have been managed within the Court-based system to date, Alberta Justice has been the agent which collects and forwards associated Calgary Transit fine revenue back to The City.

Calgary Transit has, however, recently launched the Calgary Transit eStore, which will provide a means by which APN recipients could pay monetary penalties directly to The City in the future. Only fare evasion APNs which result in violation ticket issuance (e.g. those which are not paid on time) will become collectable by Alberta Justice. Calgary Transit has also arranged that payments may also be made through its retail store locations downtown.

Case management

In 2019, Calgary Transit initiated a project to develop and implement its own case management system to manage its APN program, and track collection of associated revenue. Implementation of this system will allow for greater integration with City finance systems, and could provide a future opportunity for integration with Provincial systems (i.e. Service Alberta Registries) or an APT case management system, to support enforceability of revenue under an APS system.



Examination of the 2018 fare evasion ticket volumes show that of the approximately 4,100 accused who attended First Appearance Court, only 322 matters resulted in trials being set. Again, referencing Ontario jurisdictions' successful forecasting model for tribunal caseload, approximately 322 fare evasion appeals would be expected under an APS.

Further consideration also needs to be given to Transit's introduction of mobile fare technology, planned for later this year. The City's experience with prosecuting parking matters associated with ParkPlus is that the Courts do not readily cope with transitions to new technology, and the costs of prosecuting these matters are encumbered by the need for witnesses with specialized knowledge of the technical details of new

technology. The effort and costs associated with prosecuting fare evasion matters through the Courts can be expected to increase with the introduction of mobile fare technology. Presenting such evidence would be simpler and less cumbersome in a tribunal, where procedural and evidentiary rules are less rigid.

Readiness Assessment Summary

Given the high volume of CPA cases before the Courts, as well as the simplicity and uniformity of the parking violation caseload, it is a good fit for inclusion in an APS; further, the CPA has an administrative review process which can be easily adapted to an Early Resolution Program. Its mature IT solutions can integrate with a tribunal case management system, and the necessary Provincial information systems.

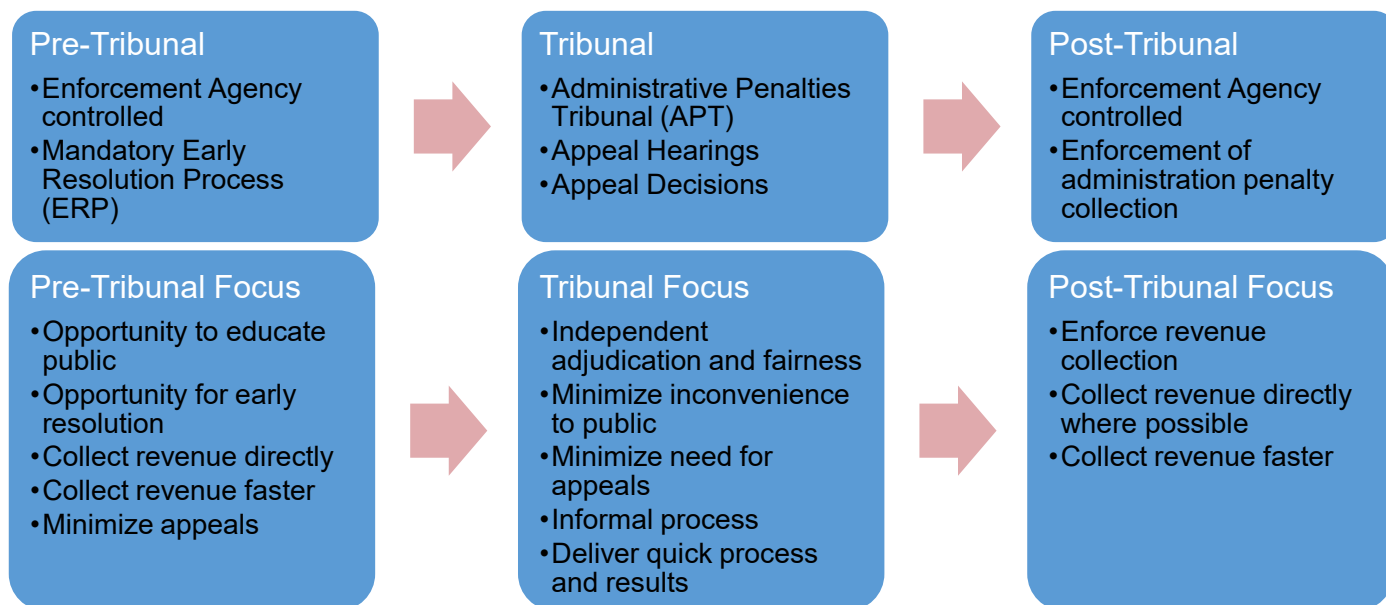
Recent and current program development by Calgary Transit has brought its enforcement program into alignment with processes and criteria for an APS. Its administrative penalty notice regime has been conceived in alignment with incorporation into an APS system, along with related initiatives such as implementation of early payment options, administrative review, a new enforcement information system, and a means of collecting revenue directly (and online). The gap between Calgary Transit's current state and the startup requirements for aligning Calgary Transit enforcement with an APS has largely been closed by recent investments in program development.

Administrative Penalties System Structure

The recommended APS can be thought of as a three-phase continuum: Pre-Tribunal, Tribunal and Post-Tribunal. The APS process would begin within the Calgary Transit and CPA enforcement bodies, with the issuance of the administrative penalty notice (APN) and administration of a mandatory Early Resolution Program (ERP).

The reported experience of Ontario and BC jurisdictions strongly suggests that early resolution is an essential ingredient for the success of an APS. An ERP is therefore recommended as a mandatory process within an APS for Calgary. CPA will need to make minor changes to their already existing administrative review program, and Calgary Transit is in the process of implementing a new administrative review process which should be readily aligned with this requirement.

As necessary after an unsuccessful early resolution process, a matter under dispute would then flow through the Administrative Penalties Tribunal (APT) for adjudication, and then come back full circle to Calgary Transit and CPA to ensure that measures are taken to support enforcement of collection.



In order for a contravention to fall within the adjudicative realm of an APS, Council must pass an Administrative Penalties Bylaw (APB). Such a bylaw must include all the contraventions and the administrative penalty amounts to be applied under the APS. The CPA parking contraventions and Calgary Transit fare evasion contraventions included in the APB would be removed from the Parking Bylaw, the Traffic Bylaw and the Transit Bylaw respectively. The contents of the bylaw would also set out the procedures and structure of the APT.

Calgary Transit and CPA would have full management of APNs throughout the ticketing and early resolution process. The management of revenue would continue to be handled by Calgary Transit and CPA in accordance with processes which align with requirements of The Charter, and would continue to be responsive to the needs of their business and oversight by Council. The APT would only be engaged to adjudicate a matter if there was a request for a hearing; otherwise, the APN would be wholly administered by Calgary Transit and CPA.

Under the current system, the onus is on CPA to send all parking tags not resolved by the payment deadline to Provincial Court for automatically-scheduled adjudication. Calgary Transit-issued violation tickets flow to Provincial Court directly. In the future state, the onus would be shifted by The Charter onto the individual who is responsible for payment of the APN, to appeal it to the APT following an attempt at dispute resolution. If an individual does not properly file an appeal within the prescribed period, intentionally or otherwise, they would not have a right to be heard at the APT; instead, the APN would be automatically affirmed for further enforcement and collection. The effect of eliminating the conviction in absence process is a significant reduction in processing effort - to effectively nothing - for approximately 135,000 matters each year.

Early Resolution Program (ERP)

Leading practices in other jurisdictions suggest that the majority of matters being disputed by citizens can and should be settled without the need for adjudication before a tribunal. By providing an opportunity for this resolution, the ERP would divert these matters out of the appeal system early, establishing vital efficiencies for the user, and Calgary Transit or the CPA.

ERP minimizes cost and delay; in addition, the process can be educational and used as a tool to establish or improve positive customer relationships, thereby achieving greater long-term compliance. Enforcement

staff can use this interaction to explain the bylaw contravention in question, allowing citizens to better understand how to comply with bylaws and, in some cases, realize the error(s) they committed.

The success of the Calgary APS program would be dependent on an ERP being established as a mandatory prerequisite to appeal. A mandatory ERP would complement an APT adjudication model by requiring that all disputed penalty notices be reviewed by the issuing enforcement agency prior to those matters proceeding to appeal, ensuring that only matters requiring adjudication are heard by the tribunal.

As described above, the CPA already has an administrative review process which is very similar to ERP processes that exist in other leading practice jurisdictions. Calgary Transit is on the verge of implementing a similarly aligned administrative review process. In establishing Calgary Transit and CPA's administrative review process as an ERP, consideration should be given to creating a framework that would allow greater discretion for enforcement agencies to reduce penalties, or extending timelines for payment, which would divert as many matters from proceeding to appeal before a tribunal as possible.

Like the CPA's administrative review process, the ERP process could be undertaken by CPA and Calgary Transit staff at a time which is operationally convenient, thereby improving timelines for resolving concerns of affected individuals. Conducting ERP in writing should increase convenience for out-of-town individuals and others.

Administrative Penalties Tribunal (APT) Structure

An independent quasi-judicial tribunal would be established to provide adjudication of administrative penalty appeals. If an individual is not satisfied with the outcome of ERP, they would be able to bring an appeal of the administrative penalty before the APT.

The operations of an APT would be supported by the City Clerk's Office, which has the expertise and experience to support the APT, much as it supports the other administrative tribunals in The City under the Appeals & Tribunals service. The City Clerk's Office would be responsible for management of a budget and operations encompassing support staff, remuneration for hearing officers, facilities, equipment, information technology and external independent legal counsel.

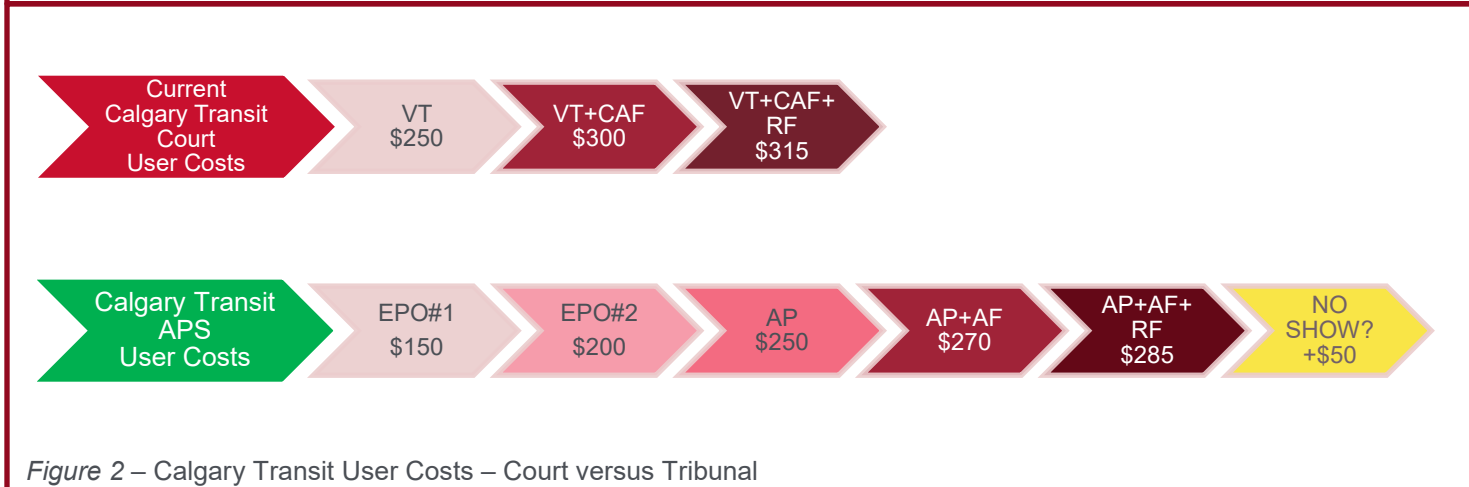
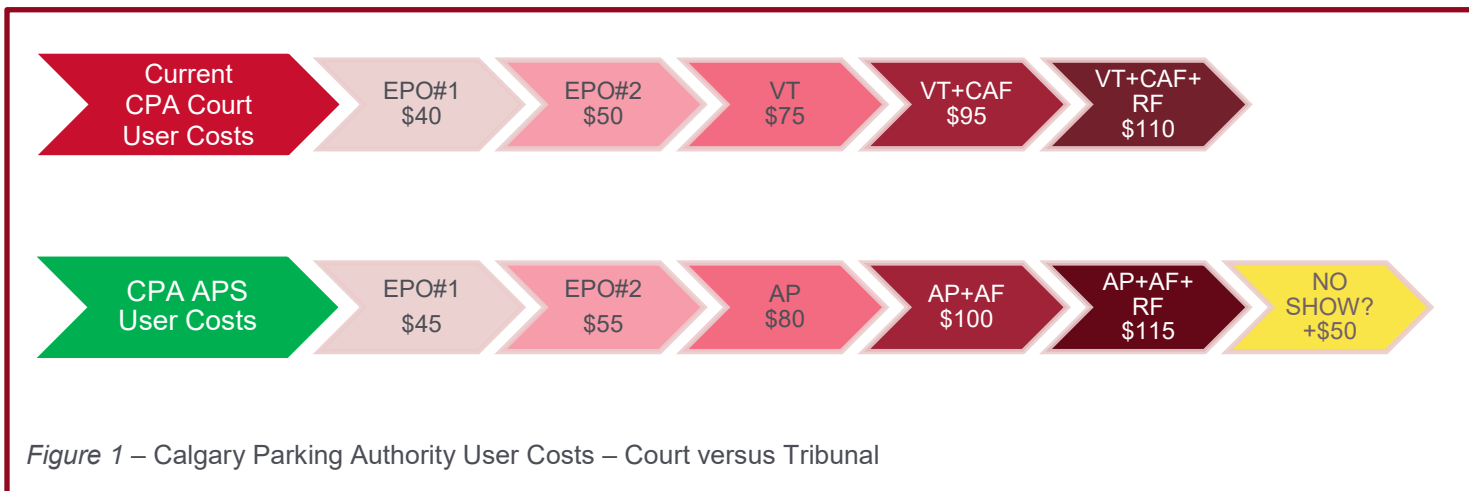
Appropriately qualified candidates would be appointed by City Council as Hearing Officers for a minimum of three years, as established in The Charter. This term length would enhance the institutional independence of the APT and would reduce the recruitment and appointment burden on Administration and Council.

Based on leading practices and current trial volumes at Court, it is anticipated that approximately 1,500 appeals would be filed, and approximately 700 appeal hearings would have to be conducted each year. Given this volume, a tribunal would need to set aside one day or two half-days per week for appeal hearings. Under provisions of The Charter, appeals can be heard without the cumbersome procedures and rules of the current Court-based system. The APT hearing process would be established to allow for the possibility that appeals could be conducted entirely on the basis of written submissions and evidence, but would always have to allow for the possibility of hearing appellants' verbal submissions directly.



Based on the experience of other leading practice jurisdictions, appeal hearings would take an average of 15 to 20 minutes. The APT should have capacity to be able to schedule 18 hearings per day. Under the proposed system, there would be one-hour timeslots for hearings during regular business hours. The needs of the public would be met, as they would not have to book extensive time off from work or other personal obligations in order to attend their appeal hearings, and they would not be expected to wait for hours for other appeals to be heard before theirs. The City would also no longer lose revenue because of tickets being dismissed or disposed of by the Courts when they haven't been able to hear all the matters scheduled on the docket by the end of the day.

Under The Charter, The City may establish a fee for filing an appeal which must not exceed \$50. An appeal fee of \$20 is recommended: this is a reasonable amount and would represent only a small portion of the average cost of appeal proceedings. Fees should not obstruct participation in the appeal process, or conflict with the principles set out in the Fair Calgary Policy (CPS019). The appeal fee should be enough to create a decision point for prospective appellants, but it must be refunded when appeals are successful. A \$20 appeal fee would result in costs for users that are comparable to those they currently face in the Court-based system, which includes a \$20 Court Administration Fee surcharge for matters resolved at or after their first appearance before the Court. The following figures set out the difference in user costs between the current Court process and the proposed APS process:



EPO#1 = First Early Payment Option
 EPO #2 = Second Early Payment Option
 VT = Violation Ticket
 CAF = Court Administration Fee
 RF = Registry Fee
 AP = Administrative Penalty
 AF= Appeal Fee

A “no show” administrative penalty of \$50 is proposed to ensure that those who file appeals would not abuse the schedule and resources of the APT by filing appeals and then not appearing at a hearing to participate.

Procedure and Evidence at the Tribunal

The General Rules of Procedure and Evidence of the current Court-based system would not apply in the APT process. The Charter allows sworn affidavit evidence to establish the facts of a matter. This removes the need for enforcement officers or other personnel to attend hearings in person to provide evidence, except in exceptional cases, as affidavit evidence will satisfy requirements of the proceedings.

At a standard APT hearing, the only people in attendance would be the Hearing Officer of the tribunal and the appellant (and/or their agent/representative). Neither municipal prosecutions staff nor representatives of Calgary Transit or the CPA would generally be required to attend appeal hearings. As the appeal process

would be relatively informal and accessible to everyone, it would result in a more streamlined and efficient dispute resolution process.

As the degree to which the public use an APS cannot be fully predicted, there could be opportunities for further efficiencies that cannot be quantified at this time. Administration would monitor the impact of the APS program and report back to Council through PFC.

Administrative Penalties Tribunal (APT) Decisions

With efficient and streamlined hearings, Hearing Officers would issue their decisions immediately after hearing the arguments of appellants. The Hearing Officers would issue a written decision on the spot for the appellant, and would provide the appellant with a brief verbal explanation for why the appeal was decided as it was. Written reasons for decisions would be available upon request.

The quick delivery of outcomes would allow unsuccessful appellants to pay the penalty immediately following their hearing. Successful appellants would have their penalties cancelled, and would receive a refund of their appeal fee(s).

Fine Collection and Payment

Fees owed to The City would be collected faster under an APS as the overall system would be more efficient. The unpredictable and lengthy wait times in the Court-based system currently hinder the achievement of timely outcomes and collection of fines. The comparatively speedy resolution of appeals through an APS would allow The City to better forecast control revenues and allocate funds accordingly.

The Charter allows that Service Alberta can continue to implement service restrictions on prospective registry customers who have unpaid penalties [through Motor Vehicle System (MOVES) to the Alberta Motor Vehicle Information Registry (AMVIR)] as a means to enforce payment of administrative penalties. Although other methods of collection exist, research of other leading practice jurisdictions indicates that the most effective means of enforcing collection is the restriction of Provincial registry services while there are outstanding monetary penalties owing to The City. It is therefore important that any successful APS maintain a cooperative and collaborative working relationship with Service Alberta.

Removing the Court system from the adjudication and enforcement of these matters would also likely mean replacing the current movement of related data to AMVIR from the Judicial Online Information Network (JOIN), with an integration between Calgary Transit, the CPA and the Province. This would allow for two-way communication of information regarding the status of APNs and related payment details. The Registry network would likely continue to charge a service fee when collecting administrative penalties through registry offices, as indicated in Figures 1 and 2, above.

In order to ensure accessibility for all users, it would be important that the APS maintain as many payment access points as possible, including: City cashiers, the CPA office(s), Calgary Transit retail stores, the APT site and through CPA's website and Calgary Transit's eStore. No matter how the payment is provided to The City, administrative penalty revenue must be deposited directly into The City's General Current Bank Account (1053214) without interference from outside agencies and with proper accounting to the CPA and Calgary Transit.

Financial Impact

Operational Costs

APT Operating Costs

Net annual operating costs for an APT are forecast at approximately \$570,000. Most of the costs are associated with the wage and salaries of support staff:

	EXPENSES
Salary/Wages & Fringe (4 employees)	\$450,000
Honorarium (Hearing Officers)	\$35,000
Legal	\$25,000
Misc (training, office supplies, security, forms, educational materials, facilities, etc.)	\$40,000
IT (software maintenance, printer, user accounts, phones, etc.)	\$35,000
Expense Sub-Total	\$585,000
	REVENUES
Appeal filing fees (\$20)	(\$30,000)
Failure to appear fine (\$50)	(\$4,000)
Miscellaneous revenues (recordings, copies, etc.)	(\$1,000)
Appeal filing fee refunds	\$20,000
Revenue Sub-Total	(\$15,000)
Net Total	\$570,000

Based on the anticipated appeal caseload of approximately 1,500 filings each year, the approximate cost per appeal filed would be \$380, or \$1.58 per APN issued by enforcement entities.

Impacts on Calgary Parking Authority

Efficiencies for the Calgary Parking Authority due to not having to send staff in person to Court proceedings could be the equivalent of the workload of up to six staff. The annual estimated cost of those resources is up to approximately \$650,000.

Impacts on Calgary Transit

Efficiencies for Calgary Transit due to not having to send staff in person to as many Court proceedings would allow for the savings of an estimated \$35,000 per year in overtime costs.

Impacts on Law - Prosecution

It may take between 18 months to two years for all CPA violation tickets and Calgary Transit fare evasion matters before the Provincial Court to be fully resolved, during which time there will need to be continued effort and management of cases by staff from the Prosecutions section. The annual estimated cost of those resources is approximately \$310,000.

APS Startup Costs

Tribunal Facilities

In order to meet the needs of the public from all quadrants of the city, and Calgary Transit riders in particular, customer service and hearings need to be centrally available, providing convenient access to clients using bus and LRT transportation, and would require connectivity to City IT infrastructure. Hearings would be held in publicly-accessible meeting spaces within the Municipal Complex, and in boardrooms at the City Clerk's Office at the Deerfoot Junction III, which features free parking.

The approximate cost of establishing appropriate facilities with adequate security is estimated at a cost of \$150,000 (class 5 estimate). This recommendation aligns with Council direction to use existing administrative workspaces wherever possible.

Tribunal Case Management System

The efficient and effective management of appeals would require case management software designed for the task, and a system for recording hearings. A case management system would provide a web portal for the filing of appeals, submission of evidence and inquiries, and would also assist in the scheduling and tracking of cases, and managing hearings and issuance of decisions.

Following the completion of a Request for Information (RFI) process, an in-house case management system developed by IT Client Solutions was recommended as the most effective approach to balance achievement of the system requirements with the need for cost efficiency. IT Client Solutions would build a case management system and implement necessary system integrations to other City systems, the Motor Vehicle System (MOVES), or other systems as determined through future discussions with the Provincial Government. The total cost to implement this solution is estimated at a class 5 level (-50% to +100%) to be approximately \$500,000.

Startup Costs Overview

The total estimated one-time startup costs for an APS program are approximately \$1.1 million (includes establishment of the APT, the costs of communication and engagement, as well as associated CPA and Calgary Transit startup costs).

One-Time Projected Costs					
APT Costs		CPA Costs		CT Costs	
Project Manager	\$ 150,000				
Facilities	\$ 150,000	Personnel	\$ 25,000		\$ -
IT	\$ 500,000	IT	\$ 5,000	IT	\$ 10,000
Communications	\$ 75,000	Communications	\$ 25,000	Communications	\$ 25,000
Engagement	\$ 57,000	Engagement	\$ -	Engagement	\$ -
Training	\$ 5,000	Training	\$ 5,000	Training	\$ 5,000
Legal Advice	\$ 15,000	Legal Advice	\$ 10,000	Legal Advice	\$ 10,000
APT costs	\$ 952,000	CPA costs	\$ 70,000	CT costs	\$ 50,000
Sub-Total	\$ 952,000	Sub-Total	\$ 70,000	Sub-Total	\$ 50,000
Total costs (APT+CPA+CT)					\$ 1,072,000

The one-time startup costs for the CPA would be minimal because it currently has a number of business procedures and systems in place that would facilitate transition to an APS program. The CPA has identified there may be the need for an additional employee on a six-month contract to assist with the transition from the Court-based system to the APS program.

The one-time startup costs for Calgary Transit would be minimal because of investments that have been made to modernize its enforcement program, including the work that has already been undertaken to date to implement EPO, administrative review, case management and revenue collection systems.

During the transition to APS implementation, while prosecutions of residual cases continued to be handled by the Law Department, there would be a need for the necessary Law Department resources to continue to be funded. It is difficult to forecast the amount and timelines for resolving this residual caseload; however, the Law Department expects it to take between 18 months to two years to fully resolve.

Funding Strategy

The following funding options are proposed for funding the one-time APS startup costs:

APS Facilities and startup support (\$302K) - Council Innovation Fund

The Council Innovation Fund (CIF) supports initiatives that have potential to support or contribute to the goals of Council and have city-wide application. Applications can be made to Council for one-time startup funds for initiatives or programs which will support or contribute to Council's priorities. An application could be made to cover facilities renovation costs and related communication and engagement costs.

Case management system (\$500K) - IT Development Pool

Pool funds are available for tax-supported business units, to be used for internal resource costs. An application could be made to support development of the APT case management system and system integrations with Provincial systems.

Calgary Parking Authority startup costs (\$70K)

Approximately \$70,000 of one-time startup costs (transition resource, IT development, communications, training and policy development costs) have been identified for CPA to transition its operations to align with the proposed APS framework. It is proposed that CPA absorb those costs directly.

Calgary Transit startup costs (\$50K)

Approximately \$50,000 of one-time startup costs (IT development, communications, training and policy development costs) have been identified for Calgary Transit to transition its operations to align with the proposed APS framework. It is proposed that Calgary Transit absorb those costs directly.

Project Management (\$150K)

The City Clerk's Office would support implementation through funding for a dedicated project management resource.

Provincial funding (TBD)

A significant amount of Court time and resources are spent on parking and transit fare evasion matters, to the detriment of other more serious matters with broader public impact. Since an APS established by The City would free up Alberta Justice resources, a request for sharing of costs should be made to the Provincial Government. Demonstrating the benefits of this red-tape cutting justice reform, including the efficiencies that could be realized by the Courts and the likely improvement in experience for citizens, should demonstrate the value of Provincial financial support for this initiative.

Operational Costs

The APT is expected to cost approximately \$570,000 annually, and require four full-time equivalent (FTE) positions.

Given that the vast majority of APT Program costs would relate to parking matters at the outset, APT operational costs could be met by making a \$5 increase to the financial penalty for parking violations, with a portion (estimated at \$1.70 per APN issued by CPA for 2021) of the increase to City revenues being allocated to meet the financial costs of the APT. The remaining portion of the increase to the financial penalty would be managed by CPA the same way that other enforcement revenue is currently managed and distributed back to The City.

Should the ratio of matters before the APS prove substantively different than forecast, or should further bylaw enforcement matters be added to The Charter and the APS in the future, the operational funding of the APT should be revisited at that time.

Conclusion

The current model of using the Provincial Court Traffic Division to adjudicate bylaw contraventions, and particularly parking violations, continues largely unchanged from when those tickets were first introduced, and is now out of step with justice reform initiatives that have been implemented in other jurisdictions.

The Court-based system is complicated and time-consuming for citizens, and cumbersome and inefficient for The City. The City Charter has introduced the framework for an Administrative Penalty System (APS) which can be implemented at the discretion of The City.

The reality of today's Court process, characterized by rigid procedures, lengthy trial scheduling delays and reduced availability of Court time for bylaw matters, suggest that the time is right to establish an APS for parking and transit fare evasion violations.

A review of leading practices in other Canadian jurisdictions, as well as the needs of stakeholders across The Corporation indicates that The Charter framework for an APS can provide a cost-effective, streamlined, timely and customer-oriented dispute resolution system.