

Part I Offences go the way of the Parking Ticket

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The Law Commission of Ontario wrote a report in 2011. “Modernizing the Provincial Offences Act” recommended moving parking infractions from to an Administrative Monetary Penalties system (AMP’s). We’ve been asked to reflect on whether the adjudication of minor Highway Traffic Act (HTA) issues should be dealt with by municipalities, or continue to be handled by the courts?

I take the position that Ontario courts should be unburdened of the adjudication of minor HTA offences. There is no question to the AMP’s efficiency of process and the saving of the taxpayer’s dollars, but more importantly to me, the municipal proceedings are more impactful for the community.

Under the POA, when any offense (including minor Part I offenses) goes to trial, it goes to the Ontario Court of Justice. This “[requires] the presence of a justice, clerk, prosecutor ... the various provincial offence’s officers ... an interpreter”¹; their presence and time are paid for by the Ontario taxpayer. Expensive morning for an 85\$ ticket, and it can snowball quickly. For example, someone representing themselves is likely unfamiliar with the formal court proceedings; delays make the process more expensive. Additionally, the costs can jump further ‘if a defendant has the grounds to appeal a decision and the matter goes to the Superior Court’². The numbers reveal a waste of our provincial fiscal resources.

However, the cost of bringing a Part I offence before a judge is one piece of the equation – to complete the math we must consider *how many* Part I offences annually go to trial. The Ontario Courts of Justice webpage shows the Provincial Offences - Court activity from October 2021 to September 2022. The statistics illustrate the real weight of these minor HTA offences on the provincial court system. Last year there were over 1 million Part 1 charges received, compared to a little more than 100,000 Part III charges (10x’s more charges for Part I offenses). Of those one million Part 1 offences, 90,063 were disposed at trial, comparatively only 35,761 Part III offences went to trial³. Speeding and failing to stop at a stop sign happen more frequently than the more serious offenses. Court time is wasted by these matters. Not to mention a judge’s skill set of interpreting the law, discernment and decisiveness are also better applied to more serious and complex matters.

There is a more effective tool for dealing with the Minor offenses in the HTA. Unlike the POA, the administrative monetary policy system “takes disputes out of the courtroom as a judicial process and moves them to a municipal office ... as more of an administrative review process”⁴. Municipalities have been given the jurisdiction to create by-laws and penalties tailored directly for their communities. One marker of AMP effectiveness is how well municipalities deal with parking infractions. Each municipality has been empowered to create its own by-laws and penalties as well as administrative procedures for review and disputes of

¹ Provincial Offences for Paralegals: Zubick – pg. 272

² Provincial Offences for Paralegals: Zubick – pg. 270

³ <https://www.ontariocourts.ca/ocj/stats-prov/>

⁴ Provincial Offences for Paralegals: Zubick – pg. 270

parking tickets. The process is already more effective than the Provincial process because it is tailored to the needs of the community. Secondly, the process of disputing a ticket in this venue is much less expensive and intimidating than in courthouse. The local municipal office and screening clerk are perfectly equipped to deal with a parking ticket; Part I offences (such as failing to stop, speeding, driving without a valid permit) could very effectively be dealt with in this venue as well. AMP's easier and faster approach promote compliance with the by-laws because accountability is more real time, direct and accessible.

With such relevant and critical reasons to support the change from POA to AMP for minor offences, I was curious about the reasons for opposition.

The following quote was taken from Bridget Cherry, a Senior Advisor at the Association of Municipalities Ontario in August of 2022.

"More people died on Ontario roads because of *Highway Traffic Act* offences such as speeding or distracted driving, than who died as a result of homicide. Addressing road safety enforcement, through a well-functioning POA system, is just as important to the safety of Ontarians as criminal offences."⁵

She advocates for the POA to remain the same but give the court clerk more authority to a) 'consider the defense application to reopen a conviction when the defendant was convicted without a hearing' and b) 'enter a conviction, withdrawal of a charge, or impose a fine when it's agreed on in writing between defendant and prosecutor'⁶.

I agree that serious matters should be heard in a court of law, but until now, the consequences of speeding and distracted driving have been fines from the province. If we want to deter drivers from speeding maybe the more personable municipal venue might achieve the desired result; the municipal proceedings have the purpose of '[promoting] compliance' with the by-laws, speaking one-on-one with a hearing officer who has seen the real consequences and risks of speeding could make an impact.

This isn't the first time a change has been suggested to better the administration of the law. In 1973 the "Report on the Administration of Courts" was published highlighting the ineffectiveness of the "summary conviction [procedure] for criminal offences"⁷ for all minor provincial offenses. The report suggested moving minor offenses to Ontario. The Provincial Offences Act was 'enacted' 6 years later.

This evolution positively impacted the administration of justice and freed up police resources to be utilized where they were really needed; we can learn for this example. The Law Commission of Ontario is calling for change. Allocating power from the POA to municipal AMP's will make the administration of justice more effective on the provincial level, as well as creating empowered and relevant municipalities. Sounds good to me.

⁵ <https://www.amo.on.ca/advocacy/municipal-gov-finance/provincial-offences-act>

⁶ <https://www.amo.on.ca/advocacy/municipal-gov-finance/provincial-offences-act>

⁷ Provincial Offences for Paralegals: Zubick – pg. 6