



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

HIGHLIGHTS OF RECOMMENDATIONS

Modernization of the Provincial Offences Act

The LCO makes 47 recommendations in its Final Report on the Modernization of the Provincial Offences Act. The most significant involve a framework to government not only the POA, but the development of the rules and future amendments; removal of parking offences from the POA to be replaced by administrative monetary penalties; sentencing reforms, including probation; and bail reform, among others. In all cases, the LCO emphasizes the importance of consultation with appropriate groups.

1. The LCO has concluded that it remains important to distinguish between regulatory and criminal offences and therefore to maintain a separate statute to address regulatory offences. (1)
2. The purpose section of the POA requires a procedure under the POA, for the development of rules and future amendments to be
 - fair;
 - accessible;
 - proportionate to the complexity and seriousness of the provincial offence;
 - efficient;
 - responsive to the offence-creating statute's objective; and
 - reflective of the distinction between provincial offences and criminal offences. (2)
3. The POA should be simplified by removing the detailed procedural provisions to regulations and that the current four sets of rules and forms be consolidated into a single set of rules or regulation. (3 & 5)
4. Trial and other processes should be proportionate to the offence, whether the current Part I or current Part III offences. (6)
5. The LCO believes it would be helpful for the Ministry of the Attorney General to develop plain language guides for the POA, in consultation with municipalities and legal and community organizations (7).
6. Remove parking offences (currently Part II of the POA) from the POA and to provide that they be subject to administrative monetary penalties, including offences related to disabled

parking. The LCO recognizes the need to develop appropriate technological requirements to implement this recommendation. (10-14)

7. Other jurisdictions use AMPs for other minor offences and the LCO believes it would be useful for the the Ontario government to conduct a review of minor provincial offences most typically commenced as Part I proceedings, and in particular, minor Highway Traffic Act offences currently prosecuted under Part I, to assess which offences may be better enforced under an AMPS regime, taking into account a number of factors the LCO identifies. (15)
8. The POA does not currently include principles for sentencing to assist judges and justices of the peace to determine an appropriate sentence. The LCO therefore proposes that the POA include a statement of sentencing principles, subject to principles in offence-creating statutes. The principles relate to remediation, rehabilitation, deterrence and denunciation. (16 & 17)
9. The LCO has concluded that the remedial and rehabilitative sentencing principles can be best achieved if probation orders are available to the court, particularly for more serious offences, including restitution and community service, as well as alternative penalties such as an embedded auditor. The power to issue probation order would also extend to orders against corporations. The application of the punitive and deterrence principles against a business may be assisted by a non-exhaustive list of aggravating factors. (19-21, 24, 25)
10. The objectives of the amended POA can be facilitated by alternative measure programs that would allow less serious offences to be addressed outside the usual system. (23)
11. It is important to maintain a distinction between criminal and regulatory offences. However, the LCO has concluded that a justice should be allowed to deny bail in order to protect the public, including victims and witnesses, but only in extraordinary circumstances. (26)
12. Technological advancements are one of the developments since the enactment of the POA, including the maintenance of records on computers and other electronic devices. This is not dealt with effectively under the current search warrant powers and the LCO has concluded that they need to be considered and amended appropriately. (29)
13. With the emergence of paralegals as representatives of persons charged under the POA, the LCO has concluded that it would be appropriate to consider whether a class of paralegal-client privilege ought to be prescribed by statute, with appropriate recommendations to searches of paralegals' offices. (31)
14. Currently municipalities do not receive notice of constitutional challenges that might affect them. The LCO has concluded that they should receive notice. (35)
15. Currently, French language defendants may choose English language proceedings because their needs are not identified early enough to ensure that French language justices and

other officials are available on the date of hearing. The LCO concludes that procedures should be put in place to respond to those needs early. (41)

16. Various statutes and policies require that persons with disabilities have their needs considered in relation to court proceedings. The LCO notes that this is required in relation to the framework to ensure that needs are recognized and addressed early in a case. (42)

17. The LCO noted three matters which it believes warrant further consideration: the treatment of young persons charged with provincial offences under the POA; the application of the POA in relation to Aboriginal peoples, particularly, strategies to allow local communities to offer culturally appropriate ways to help Aboriginal peoples better respond to the provincial offences justice system; and the application of AMPs to First Nations communities. (45-47)