

# PROVINCIAL OFFENCES ACT

#### LEARNING OUTCOMES

After completing this chapter, you should be able to:

- Differentiate among the various levels of law (federal, provincial, and municipal) and describe their related statutes, regulations, and by-laws.
- Explain the principles of natural justice and apply them to the prosecution of provincial offences.
- Locate and research Ontario statutes using the Ontario government e-Laws website.
- Identify and apply *Provincial Offences Act* (POA) Parts I, II, and III prosecutions, procedures, and forms.



#### IT'S YOUR MOVE

You are a uniformed patrol officer, badge #3345, assigned to platoon #2, working the day shift from 7 a.m. to 3 p.m. Today is the 20th day of the present month, and you are performing your duties in a marked cruiser. Traffic enforcement is part of your general duties.

Since traffic enforcement involves writing tickets, you have been assigned the following date/time for court purposes:

Court date: 2nd Tuesday of every month

Court time: 0900 hrs (9 a.m.)

Court room: #7

At 1345 hrs (1:45 p.m.), you have decided to monitor traffic passing through the intersection of Pine and Grove Streets in the city of Barrie. Before choosing an observation position, you drive through each direction of the intersection and confirm that the stop signs are visible and in good repair.

You've chosen your observation position and are parked south of Grove Street on Pine Street, facing north. The intersection is a four-way stop controlled by stop signs.

At 1400 hrs (2 p.m.), you observe a vehicle approach the intersection. It is travelling eastbound at approximately 45 km/h. While approaching the stop sign, the vehicle does not slow down and proceeds straight through the intersection.

You follow and stop the vehicle after it has gone a short distance. When you advise the driver of the violation, he replies that he didn't see the sign and apologizes. He produces the required documents for himself and his vehicle.

James Robert McCarthy Driver:

114 Black Oak Rd., Barrie, ON L3M 3T2 Home address:

Driver's licence number: M0162 37658 10512 Vehicle: 2018 Honda Civic

Current year val tag for plate: AAAF 175

#### Imagine you are the responding officer.

- In resolving this incident, what charge do you lay?
- What documents are required and how are they filled out?
- What other actions must you complete?

### TYPES OF LAW—IN REVIEW

In Canada, laws are enacted by three levels of government: federal, provincial, and municipal.

The Government of Canada (federal) has authority under the Constitution to enact the Statutes of Canada including the Criminal Code. The federal government is the only level to make criminal law and any violation is deemed to be a "criminal offence."

Each province is, by authority of the Constitution Act, 1867, allowed to create provincial statutes in areas defined by the Constitution as provincial jurisdiction, such as education, traffic, consumption of liquor, age of majority, child protection, and family law. Provincial laws may differ across the country. For example, the legal drinking age is 19 in Ontario and 18 in Alberta, Manitoba, and Quebec.

Within Ontario, each municipality may be granted the authority (by the province) to pass laws relating to its own area. These laws are called by-laws and they may only be enacted where the province has given permission—usually in a provincial statute. For example, speeding is an offence under the Ontario *Highway Traffic Act* (HTA), and that statute sets a general speed limit of 50 km/h in cities. The HTA also permits municipalities to set lower or higher speed limits on their streets by passing by-laws, so long as the by-laws comply with any rules set out in the statute.

It is important to recognize that because provincial and municipal offences are not criminal in nature, a conviction does not require identity confirmation by way of fingerprints, nor does it generate a criminal record.

#### STATUTES AND REGULATIONS

The federal and provincial governments have the power to create statutes and regulations within their areas of jurisdiction. Statutes are passed, repealed, and amended by a majority vote in the respective governing body after debate. The Canadian House of Commons and Senate enact federal statutes, which are approved by the governor general on behalf of the monarch. In Ontario the Legislative Assembly creates provincial statutes, approved by the lieutenant governor on behalf of the monarch. Federal laws are found in the Statutes of Canada (SC) or Revised Statutes of Canada (RSC) and Ontario law is found in the Statutes of Ontario (SO) or the Revised Statutes of Ontario (RSO).

Regulations or orders in council are created under the authority of a statute by the Governor in Council (federal) or Lieutenant Governor in Council (provincial). They are intended to provide details and interpretation to support the statute. Federal regulations are found in the Consolidated Regulations of Canada, and Ontario regulations are in the Regulations of Ontario (RO) or the Revised Regulations of Ontario (RRO).

In practice, the governor in council means the federal cabinet, and the lieutenant governor in council means the provincial cabinet. Some statutes permit individual ministers to enact regulations.

Statutes and regulations are both laws and each are equally binding.

#### **PRESCRIBED**

In law, the word "prescribed" often means "described in regulations." If you see the term "prescribed," you know that there is a regulation made under the statute that explains or defines something further. A good example concerns helmets worn by motorcycle riders. Section 104 of the HTA requires the use of helmets. Section 104(3) allows for the creation of prescribed standards and specifications

for these helmets. To find the actual specifications one must look at sections 1–4 of RRO 1990, Regulation 610, *Safety Helmets* (http://www.ontario.ca/laws/regulation/900610/v3). This regulation is a separate document, listed under the HTA, the statute that authorized its creation, but both statutes and regulations are valid laws. In the POA, "prescribed" means "prescribed by the rules of court."

# FINDING AND APPLYING PROVINCIAL LAW

It is essential for any police officer or provincial offences officer to be able to find, read, understand, and apply provincial law to various policing problems. Most of the provincial law we will be covering is not contained in this text. This is because all Ontario law is readily available online at the Government of Ontario e-Laws website at <a href="https://www.ontario.ca/laws">https://www.ontario.ca/laws</a>. This website contains up-to-date versions of all Ontario statutes and all Ontario regulations under "Consolidated law." The website allows you to browse by statute title using an alphabetical index and it also includes a search engine. To see a list of regulations made under each statute, after choosing the statute you want to refer to, click on the "Regulations under this Act" tab immediately below the title of the statute. To view any regulation, click on its title in the list.

#### FUNCTION OF THE PROVINCIAL OFFENCES ACT

The Provincial Offences Act (POA) provides the administrative and charging framework for all other provincial statutes. The processes, procedures, authorities, and forms set out in the Criminal Code do not apply to provincial prosecutions, but in certain cases the POA processes do apply to federal offences. The POA does provide the administrative and charging framework for less serious federal statute offences listed in the Contraventions Act. The Contraventions Act was enacted by the Government of Canada in 1992 to provide a "ticketing" procedure, in addition to the procedures set out in the Criminal Code for the prosecution of less serious regulatory offences. The governments of Canada and Ontario entered into an agreement to permit the POA framework, processes, and forms to be used in Ontario from August 1, 1996 for regulatory offences designated as contraventions. Specific contraventions are defined in the Contraventions Regulations. The specific applications of POA processes and forms to contraventions prosecutions are described in the Application of Provincial Laws Regulations. A conviction under this process does not result in a criminal record (Contraventions Act, s. 63).

The prosecution of federal contraventions or violations of provincial statutes—for example, the *Liquor Licence and Control Act, 2019* (LLCA)—or municipal by-laws is conducted through the Ontario Court of Justice. The POA sets out general criteria regarding:

• General limitation periods

"Limitation periods" refers to the amount of time that may pass from the time the offence was committed to the time the officer "lays the charge" or, more formally termed, "initiates the proceedings."

The general period is six months (s. 76); however, there are exceptions within specific statutes, so care must be taken to verify the appropriate period.

- Penalties
- Charging documents
- Procedures for trials and appeals

#### STRUCTURE OF THE POA

The POA consists of ten parts:

I to III: issuing of process

IV: trial and sentencing procedures

V: general provisions

VI: involvement of young persons

VII: appeals

VIII: arrest, bail, and search warrants

IX: judicial orders and matters related to other statutes

X: agreements with municipalities

The POA has three different processes for charging and prosecuting offenders: a relatively simple ticket/summons process that may not require court attendance, a parking infraction notice left on the offending vehicle, and a more formal procedure involving a sworn information and summons, arrest warrant, and bail or pre-trial detention.

Part I: Used for most frequent offences that are minor in nature—for example, speeding.

Part II: Restricted to vehicle parking, standing, or stopping infractions.

Part III: Reserved for more serious offences and punishments—for example, serving liquor to a minor. It is also the procedure to be followed to issue process when the time since the offence has gone beyond 30 days. You can't use a Part I process after 30 days from the offence date (s. 3(3)).

#### PART I

#### **Features**

Less formal procedure—the paperwork is simpler. The handwritten or
printed certificate of offence is used to commence proceedings and the
offender is served with an Offence Notice or summons, all of which can
be prepared at the scene by the officer.

- Maximum fine \$1,000—any fine above this amount must be proceeded with through Part III (s. 12(1)).
- No imprisonment (s. 12(1)).
- If the offender is a "young person" (12 to 15 years of age) as defined by the POA in section 93, the officer must use a summons instead of an Offence Notice (s. 95) and provide a copy to the parent (s. 96). This is so that no "young person" may commit an offence and settle it out of court without the parent being aware of the event and given the opportunity to get involved with the process. Note that "no person shall be convicted of an offence committed while he or she was under 12 years of age" (s. 94).

#### Officer Action

An officer who has:

- a belief that an offence has been committed and
- initiated a legal process by signing a Certificate of Offence (Form 1) that is subsequently filed with the court, may serve the defendant within 30 days
  - a. with an Offence Notice (Form 3, which is a copy of Form 1).
    - If service is made on a date other than the offence date, this date must be noted and certified by the officer.
    - If service is made by a second officer, the service must be sworn before a justice of the peace by this second officer.
  - b. a summons (Form 7).
    - If the period exceeds 30 days, the officer must resort to the Part III process, described below.

#### **Defendant Options**

Action to be taken within 15 days of being served:

#### To Part I Offence Notice

- 1. Plead guilty and pay the set fine—in person or by mail.
- 2. Plead guilty before a justice of the peace with submissions as to penalty.
  - The justice of the peace may reduce the fine if the defendant establishes that such a fine would be a financial hardship. However, any demerit points attached to the penalty remain the same.
- 3. Meet with the prosecutor, or in some jurisdictions participate in an "early resolution process."
  - A meeting with a prosecutor or "early resolution" may allow a guilty plea to a different offence, possibly affecting penalties and demerit points.
- 4. Plead not guilty and request a court date.
  - The POA also allows the defendant to consent to be represented by another party.

#### To Part I Summons

Defendant must appear in court at the time and place specified in the summons. If the defendant does not appear the court may issue a warrant or proceed with the trial.

#### **PART II**

#### **Features**

- Generally lower fine schedule than that of Part I.
- Officer must have personal knowledge of an infraction.
- Process is initiated by the officer signing the Certificate of Parking Infraction (Form 11) and filing it with the court.

#### Officer Action

Serve the Parking Infraction Notice (Form 13) personally on the operator of the vehicle.

• More often accomplished by placing it on the vehicle in a conspicuous place, such as on the windshield.

#### **Defendant Options**

Action to be taken within 15 days:

- 1. Pay the ticket.
- 2. Apply for a trial.

#### **PART III**

#### **Features**

- More process (forms) involved.
- More serious punishments:
  - fines,
  - probation, and/or
  - jail.

#### **Officer Action**

Anyone may swear to an information.

Two options for the officer exist:

- Officer must have "reasonable and probable" grounds to believe an offence has been committed and may issue a Part III summons (Form 104) to the defendant at or near the place of the offence.
   An information concerning the offence has to be sworn to and filed with the court (Form 105).
- 2. Swear to an information and summons.

Serve the summons personally or by way of another officer, upon the defendant personally, or leave it at the defendant's last-known place of abode with someone apparently over the age of 16.

A justice of the peace who receives an information from an officer may respond as follows:

If satisfied that an offence has occurred:

- 1. Confirm the summons issued by the officer.
- 2. Issue a summons—as in Point 2, above.
- 3. Issue a warrant if there are reasonable grounds to believe that doing so would be in the public interest.

If a justice of the peace is not satisfied that an offence has occurred, then:

- 1. Withdraw the information.
- 2. Cancel any summons served and cause the defendant to be notified.

TABLE 1.1 Provincial Offences Act Parts I, II, and III Forms

PART	PURPOSE	FORM TO COURT	FORM TO ACCUSED
1	Less serious "ticket" procedure where penalty is \$1,000 or less	Certificate of Offence (Form 1)	Offence Notice (Form 3 or Form 4 in jurisdictions with "early resolution"). Ticket allowing out-of-court payment of fine, plead guilty with submissions as to penalty, meet with the prosecutor, or request a court date. OR Summons (Form 7) requiring the accused to attend court.
II	Parking offences	Certificate of Parking Infraction (Form 11)	Parking Infraction Notice (Form 13).
III	More serious procedure where penalty is more than \$1,000	Information (Form 105)	Summons (Form 104) requiring the accused to attend court.



### **TERMINOLOGY**

#### **OFFENCE**

An "offence" means an offence under an Act of the Legislature or under a regulation or by-law made under the authority of an Act of the Legislature or a contravention as defined by the *Contraventions Act* (s. 1(1)).

#### **POLICE OFFICER**

"Police officer" means a chief of police or other police officer but does not include a special constable or by-law enforcement officer (s. 1(1)).

#### PROVINCIAL OFFENCES OFFICER

"Provincial offences officer" means

- (a) a police officer,
- (b) a constable appointed pursuant to any Act,
- (c) a municipal law enforcement officer referred to in subsection 10(4) of the *Municipal Act, 2001*, or in subsection 79(1) of the *City of Toronto Act, 2006* while in the discharge of his or her duties,
- (d) a by-law enforcement officer of any municipality or of any local board of any municipality, while in the discharge of his or her duties,
- (e) an officer, employee or agent of any municipality or of any local board of any municipality whose responsibilities include the enforcement of a by-law, an Act or a regulation under an Act, while in the discharge of his or her duties, or
- (f) a person designated under subsection (3); (s. 1(1)).

#### **SET FINE**

"Set fine" means the amount specified for an offence under section 91.1 by the Chief Justice of the Ontario Court of Justice or by a regional senior judge of that court for the purpose of proceedings under Part I or II.

#### YOUNG PERSON

Under section 93, the term "young person," when used in the POA, means a person who is, or in the absence of evidence to the contrary, appears to be, 12 years of age or more, but under 16 years of age.

# COMMON OFFENCES AND/OR PROVISIONS

The POA contains provisions for young persons similar to those found in the *Youth Criminal Justice Act* (which replaced the *Young Offenders Act*). When a young person is charged with an offence, a notice to the parent(s) is required and the use of a Part I Offence Notice is prohibited, requiring instead the use of a Part I or Part III summons and essentially eliminating the out-of-court set fine option (POA ss. 95 and 96). Note that "no person shall be convicted of an offence committed while he or she was under twelve years of age" (s. 94).

In addition, the identity of a young person is not to be published (s. 99). Accountability extends beyond the individual who publishes the young person's identity to every director, officer, and employee of a corporation who is involved in the publication (for example, by authorizing it) (s. 99(2)).

Finally, it is an offence for an individual to fail to attend or remain at a hearing without a lawful excuse to do so, if that person is required by law to attend or remain in attendance (s. 42(1)); it is also an offence to commit contempt in the Ontario Court of Justice in a proceeding under the POA (s. 91(1)).

#### ARREST POWERS

Arrest powers permit an officer to physically restrain a person and deprive them of their liberty. This is a significant intrusion and must be authorized by law. Criminal offences are serious and the arrest powers for officers and ordinary people are clearly set out in the Criminal Code. The Criminal Code authorities and procedures do not apply to provincial offences. Provincial offences are less serious and in many cases there is no power of arrest without warrant. Where arrestwithout-warrant powers do exist, they are generally conferred by the individual provincial statute, not the POA. For example, the authority to arrest an individual for being "drunk in a public place" comes from the LLCA, not the POA.

There are two broad types of arrest authorities. The first is the narrow situation where an officer is present and observes the offence being committed. This is known as "found committing."

The second authority is broader, encompassing situations where an officer has developed a strong belief that an offence occurred and may arrest on "reasonable grounds" to believe that an offence has been committed.

The Criminal Code authorizes arrests on reasonable grounds for indictable offences and found committing for less serious offences. Provincial offences are all less serious and the various provincial arrest authorities are generally narrower and more restrictive than those found in the Criminal Code.

The POA does authorize arrest with warrant (s. 144(1)), and section 145 authorizes any person to "arrest without warrant a person who he or she has reasonable and probable grounds to believe has committed an offence and is escaping from and freshly pursued by a police officer who has lawful authority to arrest that person." If the person who effects the arrest is not a police officer, that person must deliver the arrested person to a police officer immediately. This is the only arrest-without-warrant authority in the POA. Where they exist at all, other provincial arrest-without-warrant authorities are described in individual statutes, restricted to those statutes, and vary widely one from the other. The arrest authorities for federal contraventions are as conferred by the enactment that creates the offence and are not affected by the Contraventions Act (s. 7).

There is sometimes confusion between the authority to arrest and the authority to lay a charge. Arrest involves detention and/or restraining a person. Charging is an administrative process to commence a proceeding by laying an information or similar document before a court. There are many situations where a charge may be laid but there is no authority to arrest. Remember, an officer may always charge but not always arrest.

#### SEARCH AND SEIZURE POWERS

Criminal Code search and seizure authorities do not apply to provincial offences except for contraventions as described in the Contraventions Act (s. 5). The POA does authorize search and seizure with a POA search warrant (Form 141) (s. 158). The POA does not authorize any powers of search or seizure without a warrant. Where such authorities exist, they are described in individual statutes, restricted to those statutes, and vary widely. A POA search warrant is similar to the one authorized by the Criminal Code.

Section 158(1) of the POA authorizes a justice to issue a search warrant if the justice is "satisfied by information upon oath that there are reasonable grounds to believe that there is in any place, (a) anything on or in respect of which an offence has been or is suspected to have been committed; or (b) anything that there are reasonable grounds to believe will afford evidence as to the commission of an offence." A "place" includes a building and a receptacle (s. 158(4)).

A POA search warrant authorizes a police officer or person named in the warrant to search the place named in the information for anything described in (a) or (b), and to seize the thing and deal with it in accordance with section 158.2. Every POA search warrant shall name a date upon which it expires, which date shall be not later than fifteen days after its issue (s. 158(2)). Every POA search warrant shall be executed between 6 a.m. and 9 p.m. standard time, unless the justice authorizes otherwise by the warrant (s. 158(3)).

#### **USE OF FORCE**

Criminal Code use of force authorities do not apply to provincial offences except for contraventions as described in the Contraventions Act (s. 5). Section 146(1) of the POA justifies a police officer, if that officer is acting on reasonable and probable grounds, in using as much force as is necessary to do what the officer is required or authorized to do by law. The purpose of this provision is to protect officers from civil suits that may otherwise arise as a result of officers performing duties authorized by provincial statutes.

#### LIMITATION PERIOD

Section 76(1) of the POA provides for a general window of six months from the date of the offence for submitting an information or summons, unless specific references override this general limitation period within the individual act itself. For example, the LLCA allows a window of two years from the date of the offence, thereby extending the general limitation of the POA. Other statutes may or may not extend this general six-month limit for any or all of their provisions.

#### NON-POLICE AGENCIES INVOLVED

- 1. Game wardens
- 2. Municipal law enforcement officers
- 3. Ontario Court of Justice
- 4. Other provincial offences officers

#### PROVINCIAL OFFENCE CHARGING

#### PRINCIPLES OF NATURAL JUSTICE

The principles of natural justice include burden of proof, standard of proof, and facts in issue.

#### **BURDEN OF PROOF**

The presumption of innocence is a rebuttable presumption in favour of the defendant that imposes on the prosecution the burden of proving guilt beyond a reasonable doubt. This means that the burden of proof is on the prosecution and a defendant is presumed innocent until proven guilty.

#### STANDARD OF PROOF

The standard for provincial offences is proof beyond a reasonable doubt.

#### **FACTS IN ISSUE**

The facts in issue include general facts in issue (the date, time, and place of the offence and the identity of the accused) and specific facts in issue, which are guilty intent and the elements of the offence. All of the facts in issue must be proved before an accused can be convicted of any offence. The elements of any offence are found in the law that creates the offence.

#### **GUILTY INTENT AND THE ELEMENTS** OF AN OFFENCE

Generally, conviction for any offence requires mens rea (guilty mind) and actus reus (guilty actions).

Mens rea is a Latin expression that generally means "guilty mind." For our purposes it means intentionally doing a wrongful act with the knowledge of what you are doing.

Actus reus is a Latin expression that generally means "guilty act." For our purposes it means any act representing an element of the offence.

The Crown must prove both the actus reus and mens rea in order for an accused to be found guilty of a criminal offence, but the level of guilty intent is not as important an element in provincial offences. In fact, there are five levels of *mens rea* that range from specific guilty intent to no guilty intent at all, namely specific intent, general intent, negligence, strict liability, and absolute liability:

- **Specific intent** means the Crown must prove that the accused intended to commit a wrongful act with an additional, very specific, wrongful intention. Specific intent applies to the most serious criminal offences, such as first degree murder where the act must be "planned and deliberate."
- General intent applies to most criminal offences in that the Crown
  must prove the accused had knowledge that the actions were wrong and
  intended the consequences of the actions.
- Negligence implies that the accused was negligent in some duty of care, in that even though the accused may not have intended the consequences of the actions, the accused was reckless about whether or not they occurred. Criminal negligence is "wanton or reckless disregard" for the rights of others, while civil negligence is careless behaviour that results in harm to another person.
- **Strict liability** means the prosecutor must prove the *actus reus* and a minimal level of *mens rea* to obtain a conviction. More specifically, the prosecutor need only prove the accused committed the *actus reus* and then the onus shifts onto the accused to prove that they took reasonable care not to commit the illegal act.
- Absolute liability means the prosecutor need only prove the actus
  reus to obtain a conviction. Mens rea is not an issue for these offences.
  Offenders are guilty of speeding once it has been proven they were
  driving at a speed in excess of the posted speed limit—it does not matter
  why the accused was speeding.

Because provincial offences are less serious in nature, the level of intent to be proved ranges from civil negligence through strict liability to absolute liability as the offences become less serious.

#### FINDING AND APPLYING PROVINCIAL LAW

It is essential for any police officer or provincial offences officer to be able to find, read, understand, and apply provincial law to various policing problems. Ontario law is readily available online at the Government of Ontario e-Laws website at <a href="http://www.ontario.ca/laws">http://www.ontario.ca/laws</a>. This website contains up-to-date versions of all Ontario statutes and regulations under "Consolidated law." The website allows you to browse by statute title using an alphabetical index, and it also includes a search engine. Once you have found the statute you were looking for, you can find any regulations made under it. To see a list of regulations, click on the "Regulations under this Act" tab immediately below the title of the statute. To view a regulation, click on its title in the list.

#### **MUNICIPAL BY-LAWS**

Municipal by-laws are passed by municipalities that include regional municipalities (e.g., Peel or Halton), cities (e.g., Toronto or Guelph), towns (e.g., Orangeville), townships, counties, villages, and so on. By-laws, like regulations, are made under the authority of statutes such as the Municipal Act, 2001 and the HTA. Municipal by-laws are generally available on municipal government websites. It is not necessary to prove the existence of a valid by-law that makes the behaviour an offence (ss. 9(3), 18.4(4)). The regional senior judge of the Ontario Court of Justice may specify an amount as the set fine of a municipality in the region for by-law offences (s. 91.1(2)).

#### PROVINCIAL OFFENCE CHARGING

Determine the best charge from the statute or regulation that creates the offence. Check the Ontario Court of Justice set fines website to see whether there is an approved offence wording and a set fine under \$1,000: http://www.ontariocourts .ca/ocj/how-do-i/set-fines. If not, you will have to use a summons under Part I or proceed under Part III of the POA. Write down the title of the statute or number of the regulation and the exact section number because you will need this information to find the approved offence wording and set fine, if any. Note that the approved offence wordings and set fines for federal law contraventions (as described in the Contraventions Act) are found in the schedule to the Contraventions Regulations.

For purposes of Part I and Part II of the POA, the courts have authorized official offence wordings and set fines for most common provincial offences, and these are published in a booklet titled Provincial Offences Wordings and Fines. They are also published online on the Ontario Court of Justice website mentioned above.

On the set fines website, click on Set Fines I for offences to be prosecuted under Part I of the POA or Set Fines II for offences (parking, standing, or stopping) to be prosecuted under Part II of the POA. Clicking on Set Fines I will provide an alphabetical list of statutes and regulations for which there are offence wordings and set fines. Click on the title of the statute or number of the regulation and a table listing the information by section number will appear.

If there is a set fine, use a Part I Offence Notice unless the accused should be required to attend court or is a young person, in which case use a Part I summons.

#### PART I SET FINES, VICTIM FINE SURCHARGES, AND COURT COSTS

To calculate the total payable on a Part I Offence Notice, make the following calculation: add together the set fine, the victim fine surcharge, and the court cost. Victim fine surcharges can be located in a table found in Ontario Regulation 161/00, Victim Fine Surcharges, made under the POA:

**TABLE 1.2** Table of Victim Fine Surcharges

FINE RANGE \$	SURCHARGE \$
0-50	10
51–75	15
76–100	20
101–150	25
151-200	35
201–250	50
251–300	60
301–350	75
351-400	85
401–450	95
451-500	110
501-1,000	125
Over 1,000	25% of actual fine

Source: O. Reg. 161/00, Table.

Court costs are listed in RRO 1990, Regulation 945, *Costs*, made under the POA. The only cost that applies to a Part I POA charge is \$5 for "service of Offence Notice or Summons."

#### **EXAMPLE**

At the time of writing, where someone drives through a stop sign contrary to HTA section 136(1)(a):

- the offence wording is: Disobey Stop Sign—Fail to Stop,
- the set fine is \$85,
- the victim fine surcharge is \$20, and
- the court cost is \$5.

Therefore the total payable would be \$85 + \$20 + \$5 = \$110.

# PROVINCIAL OFFENCES NOTICE AND SUMMONS

The most common form used in the enforcement of the POA is the Provincial Offence Notice (PON) provided by Part I. The sections below include instructions for completing and serving the PON and are followed by reproductions—first unmarked and then annotated—of the pages of a PON and summons. The fronts and backs of pages in the snap set are shown side by side.

#### INSTRUCTIONS FOR COMPLETING A PON

It is important to understand what is required when filling out a PON. Responding to the five Ws—who, what, why, where, and when—is the conventional approach, followed by the question, "Then what?"

#### "WHO?"

There are usually two people involved when a PON is being completed: the defendant and the officer. In addition to the names of the defendant and the officer, certain pieces of information are required for identification purposes. For example, the defendant needs to provide a date of birth, while the officer is required to record their badge number.

#### "WHAT AND WHY?"

This question addresses the substance of the alleged offence. The offence must be clearly identified, and specific information must be provided from the statute. For example, a PON given to someone allegedly driving over the speed limit could read: "Speeding: 85 km/h in a 50 km/h zone. Contrary to the *Highway Traffic Act*, section 128." This gives the defendant a chance to research the charge and prepare a defence. (See s. 25(4)(c) of the POA.) Officers can find accepted short-form wordings on the Ontario Court of Justice set fines website.

#### "WHERE?"

It is important for the officer to provide the specifics of where an offence occurred so that there is no dispute about the location. If possible, include specific reference points, such as an address or where the offence occurred in relation to a cross street. Always include the name of the municipality.

#### "WHEN?"

The date and time recorded on the PON are specific to the incident. Note that the date is written in the following order: year, month, and day. For example, May 21, 2026, is written as 2026-05-21.

This is the standard format used in law enforcement for recording a date. Officers use this format in record-keeping and when conducting a CPIC (Canadian Police Information Centre) check.

#### "THEN WHAT?"

The defendant is given either a monetary fine or a notice to attend court. If the officer issues a fine, the defendant can do one of three things:

- 1. plead guilty and pay the fine by mail or in person,
- 2. plead guilty with an explanation, or
- 3. request a trial date.

#### INSTRUCTIONS FOR SERVICE

The officer completes the certificate of offence, which is the top copy of a ticket, except for the section that requires the officer's signature. The top copy is lifted and the copy underneath, which is the Offence Notice, is pulled out. At this point, the officer signs the Offence Notice and serves the defendant with the notice, which now has an original signature, not an imprint from the top copy. Once that is done, the officer signs the top copy under the words "And I further certify that I served an Offence Notice personally upon the person charged."

If the officer had signed the top certificate of offence while the Offence Notice was still attached, the defendant would have been served with a document that did not contain an original signature—an indication that the officer did not follow procedure in serving the defendant with the Offence Notice. This could raise questions about the officer's credibility and professionalism and lead to a possible challenge in court from the defendant.

#### **OFFICER NOTES**

The last page provides a space for the officer to record notes pertaining to the offence. They can be used to help refresh the officer's memory when the officer is giving evidence at a trial. As a general rule, it is important to be consistent and follow the same process when making notes. For example, it is recommended that a record always be kept of the weather at the time of the incident, since the conditions could be relevant in court, especially in the case of driving offences.

If the officer used any equipment in documenting the offence or aspects of the offence, particulars should also be noted (such as the model and serial number of a radar unit). In the event that the accuracy or quality of the unit is questioned in court, it will be possible to produce the exact piece of equipment for inspection.

A diagram of the scene is helpful to include in notes, especially if an officer is new or the scene is complex and may be difficult to remember at trial. When sketching a diagram, it is a good practice to place north at the top of the page.

The space provided for notes is limited, so it is important to make effective use of it. These tips may help:

- Using the short forms of words saves space and is helpful if they make sense in the situation. Examples include: N/B for northbound; O/S for on scene; OBS for observed; and R/C for radio call. The short forms should be used in all of an officer's work, and the officer should be able to verify them so they are not given an alternative meaning.
- The information on the front of a notice should not be repeated in an officer's notes. The space for notes should be saved for additional relevant information.

See Figure 1.15 for a sample of an officer's notes.

#### COMPOSITION OF THE TICKET AND SUMMONS

#### **Note Regarding Forms**

The forms in this text are based on official forms from Government of Ontario and Ontario Courts websites and were current at the time of publication, but they are frequently amended. In addition, there are legal provisions for the electronic creation and filing of various forms and documents (O. Reg. 67/12, Electronic Documents and Remote Meetings: https://www.ontario.ca/laws/ regulation/R12067). This text is intended for students without access to police services' business processes, and many agencies and court locations are at various stages of automation. The provided forms should be sufficient as examples. The major use of computer generated forms for Part 1 is camera offences: red light, municipal speed, school bus, etc., and they are issued centrally. These are "owner liability" offences, and the related forms and procedures are quite different from ordinary Offence Notices.

- Figure 1.1 Form 1: Certificate of Offence and Form 101: Affidavit of Service of an Offence Notice or Summons
- Figure 1.2 Form 3: Offence Notice
- Figure 1.3 Computer Input
- Figure 1.4 Enforcement Agency Record/Enforcement Agency Notes
- Figure 1.5 Payment Notice
- Figure 1.6 Form 7: Summons

#### **ENTITIES REPRESENTED IN THE TICKET**

- Figure 1.7 Annotated Form 3: Offence Notice—Original Signature
- Figure 1.8 Annotated Form 1: Certificate of Offence—Officer Information
- Figure 1.9 Annotated Form 1: Certificate of Offence—Offence Information
- Figure 1.10 Annotated Form 1: Certificate of Offence—Defendant Information
- Figure 1.11 Annotated Form 1: Certificate of Offence—Vehicle Information

#### STEPS IN COMPLETING THE TICKET FOR SETTLEMENT OR COURT APPEARANCE

- Figure 1.12 Annotated Form 1: Certificate of Offence—Out-of-Court Settlement
- Figure 1.13 Annotated Form 1: Certificate of Offence—Mandatory Court Appearance

#### OTHER INFORMATION ENTERED ON THE TICKET

- Figure 1.14 Annotated Form 1: Certificate of Offence—Elements of a Driver's Licence Number
- Figure 1.15 Annotated Form 1: Certificate of Offence—Sample Enforcement Agency Notes

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#### **FIGURE 1.1** Form 1: Certificate of Offence

ICON Location Code Code d'emplacement of Form 1, Provincial C		Act, On	tario Cou	•	éro d'infra istice, O.		11		
Formulaire 1, Loi sur		tions pro	ovinciales	, Cour	de justice	de l'Ontario		le l'Ont	. 108/1
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believe and certify crois et atteste que		he day	of 2	<b>Y</b> / <b>A</b> 0	M / A	D/J	Time /	heure	N
Name			(famil	v / nom o	de famille)				
				,					
Address	(1	given / pi	rénom)				(initia	als / initi	ales)
Adresse		(nui	mber and s	treet / nu	ıméro et no	om de la rue)			
(municipality / mui	nicipalité)	(F	P.O. / C.P.)	)	(provinc	e)	(postal co	de / cod	le posta
Driver's licence no.	/ Nº de j	permis	de cond	uire		į į	Jur	is / Au	t. Lég
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# **FIGURE 1.1** Form 101: Affidavit of Service of an Offence Notice or Summons

l,				, mak	e oath and
say that on th	ne day of		yr	· 20 I	personally
	fence notice/summon endant named in the				of offence
*(strike out ina	applicable term)				
The Corporate	e defendant named in th	ne attached co	rtificate of o	ffence by leavir	ng it with
		Person Served			
	Position	, at		Address	
	Signature o	of Provincial Offe	nces Officer		
Sworn before r	Badge number			Unit	
	day of			yr :	20
	A Justice of the Pea	ce/Commissione	for Taking Affic	davits	
Court Record	te	Adjourned	to	Requested by	on Consent
Da	te	Aujourneu	10	Requested by	on consent
Date	Pleads				
	☐ Guilty ☐ Not Guilty		☐ Failed	to appear Withdrawn	
	☐ Guilty to a subs	tituted	charge	· •••••••	
	offense				
	Finding of Court  Guilty / Convict	ed □ 5	spended sent	tence	
	☐ Dismissed			tence	
	☐ S.9.1 Conviction		[s.60(2)] _		
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#### FIGURE 1.2 Form 3: Offence Notice

ICON Location Code Code d'emplacement de		staria Carre	Offence num Numéro d'inf	raction	11		
Form 3, <i>Provincial C</i> <i>Formulaire</i> 3, Loi sur l	les infractions pro	ovinciales, (				e l'Ont. 10	8/11
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Name							
Nom		(family	/ nom de famill	e)			
	(given / p	rénom)			(initia	als / initiale	s)
Address	/nu	mher and etr	eet / numéro et	nom de la rue)			
Aui 5005	(nu	mper anu Str	oot i numero et	nom de la rue)			
(municipality / mur	nicipalité) (l	P.O. / C.P.)	(provi	nce)	(postal co	de / code p	ostal)
Driver's licence no.	/ Nº de permis	de condu	ire		Jur	is / Aut.	lég.
Birth date / Date de	0		ehicle involved	/ Collision in		Witness Témoi	
			□ N / N	□ Y		□ Y /	
At			y / municipalité				
A commis l'infraction					ect.		
contrairement à	ο.	Juris	Commercial	CVOR	art. NSC	: C	ode
Nº de la plaque d'in		Aut. lég.	Utilitaire	IUVU	CNS	3	000
	CVOR No I	NSC No. / /	□Y/O √° de l'IUVU -	□ Y / O	□ Y /	U	
And I further certify personally upon the J'atteste également of mains propres, un av	e person charge qu'à la date de l'il	d on the o	ffence date. ai signifié, en	Or othe		ce date d ignificatio	
	ing Provincial Offen ent des infractions p			ficer No. de l'agent	Plato Pelot		Unit Jnité
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\$ \$	\$	\$		nprend l'amei oire pour l'aid et les frais.			enae
		Impo	rtant:				
You have 15 da		day you	receive th		to cho	ose on	e of
	the options	s on the	pack of th	e notice.			
Àt	e la réceptior		rtant :	VOLIO 01/0-	7 15 io	ura nai	ır

choisir une des options décrites au verso de l'avis.

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#### FIGURE 1.2 Form 3: Offence Notice (continued)

OPTION 3	Procès, Cour de justee de l'Ontario, Bureau des infractions provinciales	Avis d'intention de comparaître devant le tribunal :	☐ J'ail'Intention de comparaître devant le tribunal pour inscrier no pladoye de non-culpabilité à l'heure et au lieu prévus pour le procése et je déstier que le procés se décude en français. Ju comporends que si je ne me présente pas au procés, une déclaration de culpabilité risque d'être inscrité en mon absence risque d'être inscrité en mon absence.	Je demande l'aide d'un interprète en langue	A remplir, s'il y a lieu.)	REMARQUE: Si vous sélectionnez l'option du proès, vous devez envoyer le présent avis à l'adresse du greffe indiquée, vous recevrez des avis importants à l'adresse	postale et/ou à l'adresse électronique indiquées dans le dossier. Vous devez <b>aviser</b>	le erlibural de laut changement à votre adresse postate ou d'ectronique /votre autémes pourmit avoir leux sous une forme electronique (p. ex., audro ou video). Si vous ne pouvez pas participer à une audience électronique, veuillez en aviser le greffe.	Signature Changement d'adresse (le cas échéant) :	Numéro de téléphone et adresse électronique :
Ido	Trial Option, Ontario Court of Justice, Provincial Offences Office	Notice of intention to appear in court:	☐ I Intend to appear in court to enter a plea of not guily at the time and place set for the trial and unshib to have the trial conducted in the English language. I understand that if do not attend the trial. I may be convicted in my absence.	Irequest a	language interpreter for the trial. (Leave blank if inapplicable.)	NOTE: If you select the trial option, you must sand this notice to the court address stated. You will be sent important notices to the address and/or	email on file. You must notify the court if your mailing address or email changes.	Your matter may be sacheduled by I electronic method (e.g., audio or wideo). If you are unable to participate by electronic method, please contact the court office.	Signature Changes to your address (if applicable):	Telephone number and email:
Imporant – If you do not exercise one of the following options within 15 days of receiving	ans studio, by with one benefacting the charge and a conviousling the charge and a conviousling the charge and a conviously of the conviously of the conviction. When the charge are charged and a conviction within 15 days of benefacting ever on the conviction, by our may apply for review by a plastice. Upon conviction, additional costs will be added to the total payable. If the fine goes tho obefault, and emberged when the bedded payable and steps will be taken to enforce your defaulted fine. For example, information may be provided to a consumer reporting agency and for certain offences, including speeding, your referance in the second of the consumer payable and the second of the suspended.	Important — Si vous n'exercez pas l'une des options suivantes dans un délai de 15 jours à compter de la réception du présent avis, vous serez réputé(e) ne pas contester l'accusation et	une décleainoin de culgalité pourrait des inscrite contre vois. Le geteine du thubral avantines de procès-verbal d'infraction avant d'inscrite une décleairon de culpabilité. Après avoir pris connoissance de de décleairon de culpabilité, vois avant 15 jours d'enander à avoir pris connoissance de de décleairon de culpabilité. Suit décleairon de culpabilité des frais additionneis s'ajouleront au montant total exigèle. En cas de défaut de palement de l'amencie, des lass d'aminatations s'ajourdent au total autiète et des meurses seront ploses pour l'aire exècule le palement de votre amende. Par exemple, information pourra être transmisse à mis agenne de rensegmente suit le donneille ut ellais des de certaines infrancies de une agenne de rensegmente suit le donneille ut ellais de set de certaines francier.		OPTION 1 Plea of Guilty – Voluntary Payment of Platdoyer de culpabilité – paiement	Total Payable: I plead guilty and will pay volontaire du montant total exigible; Je the total tayable (follow the instructions padre coupede fly palearal is montant total on the 'payment notice").  «Tayable (surve les instructions figurant surveighe (surve les instructions figurant surveighe (surveighe de palearent a).	OPTION 2	is as to fore a justice make mount of fine must attend s shown you for your	appearance before a justice. set at Inneur indiquées cuéssous. Vous focus tout to insert dates, times and devez avoir le présent avis avec voraparution devar un jugs. appearance methods available locally.]  Le tribunal indiquent les des pares, haures et formes de comparution offentes localement.]	Ontario Court of Justice, Provincial Offences Office [Court or Insert naming address, earls addresser act operation, webstel Court of pusice of 10 Tharrio, Bursau des Infractions provinciales (Adresse postale, adresse electronique, heures d'ouventure et sile Web ajoutes par le tribuna!

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FOR INFORMATION ON ACCESS TO ONTARIO COURTS FOR PERSONS WITH DISABILITIES: *(Court to insert information)* POUR OBTEWIR DES RENSEIGNEMENTS SUR L'ACCÉS DES PERSONNES HANDICAPÉES AUX TRIBUNAUX DE L'ONTARIO : [ajouter l'information]

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FIGURE 1.3 Computer Input (Note: back of page is blank)

Location Code Code	38	201	Offence Number	5	000740007***0007*******	UJ	71	U (	JP	
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Address Adresse			VG.Q1 781101	.,					intidis, mizz	1103
Auresse			Number	and street,	/Numéro et	nom de la n	ie			
Municipality/ <i>Mun</i>	icipalité		P.O./C.P.			Prov	ince		Postal code	/Code postal
Driver's lice	nce No./A	luméro d	e permi	s de co	nduire					Julis Aut. leg
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**FIGURE 1.4** Enforcement Agency Record/Enforcement Agency Notes

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FIGURE 1.4 Enforcement Agency Record/Enforcement Agency Notes (continued)

_	nforcement Agency notes/ <i>Notes de l'agence d'exécution</i>
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#### FIGURE 1.5 Payment Notice

Faire un chèque ou mandat à l'ordre du  La Ville de Barrie et écrire le numéro d'avis d'infraction au recto du chèque/mandat. Ne pas envoyer d'espèces ou de chèques postdatés avec votre paiement. Pour plus de renseignements, composez le 705-739-4291. Les chèques impayés sont assujettis à des frais administratifs et les renseignements concernant le montant impayé peuvent être transmis au service de recouvrement.			S		Option de paiement en ligne www.paietickets.ca
		OF INTELLOOPING MEMBERSAMENTO AND	Total Payable Montant total exigible	Date of Offence: Date de l'infraction :	Online Payment Option www.paytickets.ca
Marrie the state of the control of t	encentioning consistence are produced to the p	Carre Assessment the state of t	Total Payable Montant total	Date of Date de	Online P www.pi
Make cheque or money order payable to The City of Barrie and write the number of the offence notice on the front of the cheque/money order. Do not send cash or post-dated cheques with your payment If you have any questions, call 705-739-4231.  Dishonoured cheques will be subject to an administrative charge and the amount may be referred to collection services.	Cardholder's name Nom du détenteur de la carte Cardholder's signature Signature du détectour de la c	Signature du detenteur de la carte	3860		14 1 2
Provincial Offences Act, Ontario Court of Justice  Loi sur les infractions provinciales Cour de justice de l'Ontario <b>Payment Notice/Avis de Paiement</b> To pay the total payable shown, forward your payment of the total payable with this votre paiement, accompagné de cet avis et de l'avis notice and the offence notice to the d'infraction, a fadresse qui figure sur le présent avis. address shown on this notice. Sign the plea Noubliaz pas de signer le plaidoyer de culpabilité sur of guilty on the offence notice (Option 1).  Complete the following information / Veuillez donner les renseignements suivants	Address/Adresse	Telephone/ <i>Téléphone</i> Cheque/money order enclosed  Chéque/mandat joint		See oack of maining aduless and instructions ( <i>Tout compatie Fauresse postale et les instructions, p</i> riete de voir au verso.	
A67017	99		07FENCE NUMBER NO D'INFRACTION		

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FIGURE 1.5 Payment Notice (continued)

	j	
Sign the plea of guilty on the offence notice (Option 1) and mail the offence notice with this payment notice to	ray 10: Ontario colirt de .iiistice	Fayez A: Couir de Jiistice de l'Ontabio
Veuillez signer le plaidoyer de culpabilité sur l'avis d'infraction (Option 1) et adresser l'avis d'infraction accompagné de l'avis de paiement à l'adresse suivante	PROVINCIAL OFFENCES OFFICE THE CITY OF BARRIE 45 CEDAR POINTE DRIVE BARRIE ON LAN 5R7	BUREAU DES INFRACTIONS PROVINCIALES VILLE DE BARRIE 45, PROMENADE CEDAR POINTE BARRIE ON LAN 5R7

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#### FIGURE 1.6 Form 7: Summons

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# **FIGURE 1.7** Annotated Form 3: Offence Notice—Original Signature

Offence number

ICON Location Code

		_	fence s <i>d'in</i>						
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Name									
Nom			(family /	nom de	tamille)				
	(giv	en / prénc	nm)				(initia	als / init	iales)
AddressAdresse		(numbe	r and stree	et / numé	ero et no	om de la rue	)		
(municipality / mur	nicipalité)	(P.O.	/ C.P.)		provinc	e)	(postal co	de / cod	de postal)
Driver's licence no.	/ Nº de pe	ermis de	conduir	e			Jur	is / Au	ut. lég.
Birth date / Date de	naissanc	- OCX		ehicle inv		Collision i			nesses /
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contrary to							ect. art.		
			Juris ut. lég.	Commer Utilitaii	re	CVOR IUVU	NSC CNS	3	Code
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contrairement à	mmatriculation	1 A	ut. lég.	Utilitaii	re O	CVOR IUVU	NSC CNS	3	Code
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contrairement à  Plate n Plate n Nº de la plaque d'in  And I further certify personally upon the J'atteste également d'	CVOR I that I serve e person ch qu'à la date vis d'infraction	No NSO ed an off narged or de l'infra on à la pe	ience non the officersonne	Utilitaii  Y /  de l'IU  etice ence de signifié	VU - N ate.	CVOR IUVU  Y / O  du CNS  Or oth	NSC CNS	ce dat	te of:
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#### Important:

À compter de la réception du présent avis, vous avez 15 jours pour choisir une des options décrites au verso de l'avis.

POA 0848 (May 10, 2021 / 10 mai 2021) CSD

 This section does not need to be original.

When all the forms are still together, the officer fills out everything except the signature. This offence notice (Form 3) is removed from the snap set, signed (the signature must be original), and served to the defendant before the face of the ticket (Form 1, Certificate of Offence) is signed.

# **FIGURE 1.8** Annotated Form 1: Certificate of Offence—Officer Information

ICON Location Code Code d'emplacement du F	RIII		ence numbe <i>méro d'infra</i>				
Form 1, <i>Provincial Offe</i> Formulaire 1, Loi sur les					I. de l'Ont. 10	8/11	
	Cert	ificate of	Offenc	е			
	Procès	-verbal c	l'infrac	tion			
l,					<del></del>	,	Officer's
Je soussigné(e)		(print name /					name.
believe and certify tha crois et atteste que le		f Y/A	M / N	1 D/J Tin	ne / heure	М	
Name							
Nom		(family / nor	n de famille)				
	(given / pré	nom)		(i	nitials / initiales	;)	
Address	(5 - 1)	,		,		,	
Adresse	(num	ber and street /	numéro et no	om de la rue)			
(municipality / municip	nalitá) (D	O. / C.P.)	(provinc	a) (nosta	code / code p	osta/\	
Driver's licence no. / /			(provinc		Juris / Aut. L		
Divor o licence no. 77					rano / riac. L	-og.	
Birth date / Date de na	36/	/ Motor vehic	cle involved /	Collision involved	I / Witness	es /	
Y/A M/M	D/J Sex		impliqué	Collision	Témoi		
			N / N	□Y/0	□ Y /	U	NOTE:
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Did commit the offence A commis l'infraction of	e of	(maniopality / n	nunicipalite)				Certificate of Offence
Did commit the offence A commis l'infraction of	e of	(manopality / //	nunicipalite)				Certificate of Offence (Form 1) aft
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# **FIGURE 1.9** Annotated Form 1: Certificate of Offence—Offence Information

ICON Location Code Code d'emplacement			ence numbe néro d'infrac				J
Form 1, <i>Provincial</i> ( <i>Formulaire 1,</i> Loi sui					Règl. de l'	Ont. 108/11	
		tificate of s-verbal d		_			
l,							,
Je soussigné(e)	0 -1 - 0 - 1	(print name / r	nom en lettres <b>M</b> / <b>M</b>		Time / heu	ıre	
	elieve and certify that on the day of ois et atteste que le				<b>*</b>	N	Date and tir of offence.
Name							
Nom		(family / nom	i de tamille)				
	(given / p	rénom)			(initials /	initiales)	
Address							
Adresse	(nu	mber and street / i	numéro et no	m de la rue)			
(municipality / mu	ınicipalité) (	P.O. / C.P.)	(province	e) (po	stal code /	code posta	
Driver's licence no	. / Nº de permis	de conduire			Juris /	Aut. Lég	
							_
Birth date / Date de		ex / Motor vehicl exe Véhicule		Collision invo		Nitnesses / Témoins	
' ^     "			I / N	□ Y / 0		□ Y / O	Location
At					4		of offence.
À		(municipality / m	unicipalité)				
Did commit the off				4			Short-form
Did commit the off A commis l'infraction				<b>—</b>			wording of
A commis l'infracti							wording of offence (co
				sect			wording of offence (co a wordings
A commis l'infraction contrary to contrairement à	on de		mmercial	l'art.	NSC	Code	wording of offence (co a wordings fines book).
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# **FIGURE 1.10** Annotated Form 1: Certificate of Offence—Defendant Information

ICON Location Code Code d'emplacement du RIII		Offence numbe Numéro d'infrad				
Form 1, Provincial Offence: Formulaire 1, Loi sur les infra					. 108/11	
	Certificate Procès-verba					
l, Je soussigné(e)	(print na	me / nom en lettres	s moulées)		,	
believe and certify that on crois et atteste que le	the day of 2 0	//A M/M	D/J	Time / heure	М	_
Name						Defendant's
Nom	(family	l nom de famille)				name.
	(given / prénom)			(initials / init	iales)	٦
Address	(number and str	eet / numéro et no	m de la rue)			Defendant's
			,			address.
(municipality / municipalité)		(province	e) (p	ostal code / cod		Jurisdiction
Driver's licence no. / Nº de	e permis de condu —			Juris / Au	n. Leg.	where
Birth date / Date de naissa		vehicle involved /	Collision inv		esses /	driver's
Y/A M/M		icule impliqué □ N / N	Collisio		moins Y / O	licence was issued (e.g.,
At						for Ontario
À		y / municipalité)				write "ON").
Did commit the offence of A commis l'infraction de						
						Defendant's
contrary to			sec			driver's licence
contrairement à  Plate no.	Juris	Commercial	CVOR	NSC	Code	number.
Nº de la plaque d'immatricul		Utilitaire	Ιυνυ	CNS		Defendant's
CVC	OR No NSC No. / /		☐ Y / O du CNS	□Y/0		date of birth.
And I further certify that I s personally upon the person J'atteste également qu'à la c mains propres, un avis d'infr	n charged on the of date de l'infraction, j'a	ffence date. ai signifié, en		r service dat te de significa		
Signature of issuing Provi Signature de l'agent des			er No. l'agent	Platoon Peloton	Unit <i>Unité</i>	
		Total payable	includes set	fine, applicabl		
Amende fixée de Monta	oayable nt total exigible \$	fine surcharge exigible compr	end l'amend	le fixée, la sur		
Amende fixée de \$ Monta \$ \$ \$		fine surcharge	end l'amend applicable (	le fixée, la sur		
Amende fixée de Monta	Y / A  2 0  Ct. room / Salle	fine surcharge exigible compr compensatoire	end l'amend applicable d Time	le fixée, la sur et les frais. e I <b>heure</b> DA Office at / à	M la Cour	
Amende fixée de \$ \$ \$  Summons issued. You are required to appear in court on Assignation. Vous êtes tenu(e) de comparaître devan le tribunal le  Deemed not to dispute charge und	### **********************************	fine surcharge exigible comprompensatoire  M / M D / L  t the Ontario Courte justice de l'Ontario cial Offences Act. S	e applicable of Time t of Justice PC p, Bureau des Set fine impose	le fixée, la sur et les frais.  I heure  DA Office at / à infractions provii	M la Cour nociales au	
Amende fixée de \$ Monta \$ \$ \$  Summons issued. You are required to appear in court on Assignation. Vous étes tenu(e) de comparaître devan le tribunal le	### **********************************	fine surcharge exigible comprompensatoire  M / M D / L  t the Ontario Courte justice de l'Ontario cial Offences Act. S	e applicable of Time t of Justice PC o, Bureau des Set fine impose is provinciales	le fixée, la sur et les frais.  I heure  DA Office at / à infractions provii	M la Cour nociales au	

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# **FIGURE 1.11** Annotated Form 1: Certificate of Offence—Vehicle Information

Form 1, Provincial C			ourt of		Reg. 108/1					
Formulaire 1, Loi sur	les infractions	provincia ertifica	ate of		de l'Ontario e		le l'Ont.	108/11		
l,								,		
Je soussigné(e)			nt name / Y / A	nom en lettre M / N		Time /	heure		- 1	
believe and certify crois et atteste que		ay of 2	0					М		
Name Nom		(fa	mily / noi	m de famille)						
	(given	/ prénom)				(initia	als / initia	ales)		
Address									.	
Adresse		(number an	nd street /	numéro et n	om de la rue)				- 1	
(municipality / mur	nicipalité)	(P.O. / C	.P.)	(provinc	ce)	(postal co	de / cod	e postal)	.	
Driver's licence no.	/ Nº de perm	nis de co	nduire		1 1	Jur	is / Au	t. Lég.		
B										
Birth date / Date de	naissance /M D/J	Sex / M	Véhicule	cle involved / e impliqué	Collision in	ion	Tér	esses / moins Y / O		
A.				N / <i>N</i>	ΠY	70		1/0		a vehicle
At À		(munic	cipality / n	nunicipalité)						ot involve ne offence
A commis l'infraction						ect.			ir	ndicate he
A commis l'infraction	on de	Juri	is Co	ommercial	l'a	rt.	SC	Code	ir	ndicate he ehicle's pl
A commis l'infraction	on de	Juri Aut. L	.ég.	ommercial Utilitaire	l'a CVOR IUVU	rt. N: C:	SC NS	Code	. ir	ndicate he ehicle's pl umber.
A commis l'infraction	on de	Aut. L	.ég.	Utilitaire	CVOR IUVU	rt. N: Ci		Code	ir	ndicate he ehicle's pl umber. urisdiction
A commis l'infraction	on de	Aut. L	.ég.	Utilitaire	CVOR IUVU	rt. N: Ci	NS	Code	ir	ndicate he ehicle's pl umber. urisdiction there drive
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This value is the fine amount assigned to the offence (consult a wordings and fines book).

The total fine consists of the set fine for the offence, the victim surcharge amount according to the sliding scale in the wordings and fines book, and court charges.

If the offence involves a community safety zone speeding offence, the total fine represents the set fine from the community safety zone fine chart (higher than regular speeding fines), the victim surcharge amount, and court charges.

# **FIGURE 1.12** Annotated Form 1: Certificate of Offence—Out-of-Court Settlement

ICON Location Code Code d'emplacement	t du RIII			INUITI	éro d'infra	iction			
Form 1, <i>Provincial</i> Formulaire 1, Loi su	ır les infracti	Cer	ovinciale tificat	s, Cour te of (	<sub>de justice</sub> Offend	de l'Ontai C		le l'Ont.	108/11
	Pi	rocè	s-ver	bal d'	infrac	tion			
l, Je soussigné(e)			(print	name / no	om en lettr	es moulées)		••	,
pelieve and certify perior of atteste qu		e day	-	<b>Y</b> / <b>A</b> 0	M / /		Time /	heure	М
Name									
Nom			(fan	ily / nom	de famille)				
	(a	jiven / pi	rénom)				(initia	als / initia	ales)
Address	13		,				,		,
Adresse		(nui	mber and	street / n	uméro et n	om de la ru	9)		
(municipality / mi	unicipalité)	(F	P.O. / C.F	'.)	(provinc	ce)	(postal co	de / cod	e postal)
Oriver's licence no						•		is / Au	
Birth date / Date o	de naissand M/M D/			or vehicle /éhicule ii	involved /		involved /		esses / moins
				_	/ N		110		Y / O
λt									
id commit the off			(munici	oality / mu	nicipalité)				
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# **FIGURE 1.13** Annotated Form 1: Certificate of Offence—Mandatory Court Appearance

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Form 1, Provincial Offences Formulaire 1, Loi sur les infra			t of Justice, O	. Reg. 108/11		nt 108/11	J	
romulaire 1, Loi sui les lilliai	-		of Offeno		negi. de i Oi	10. 100/11		
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Nom		(family	l nom de famille)					
	(given / pré	énom)			(initials / ir	itiales)		
Address Adresse	(num	nber and str	reet / numéro et n	om de la rue)				
(municipality / municipalité)	(P.	.O. / C.P.)	(provinc	ce) (p	ostal code / c	ode postal)		
Driver's licence no. / Nº de	permis d	de condu	iire		Juris / A	lut. Lég.		
Birth date / Date de naissa	nce <sub>Se</sub>	x / Motor	vehicle involved /	Collision invo	olved / Wi	tnesses /		
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#### Owner's initial

The letter ("M" in this case) is the first letter of the owner's surname.

#### Owner's date of birth (DOB)

The owner's DOB is shown in the last six digits of the driver's licence number. The first two of these digits are the year, the next two are the month, and the last two are the day. For example, the last six digits here (810512) represent the 81st year, the 5th month, and the 12th day—or May 12, 1981.

#### Owner's sex

The owner's sex is also encoded within these last six digits. A male's DOB is represented as in the example above. For a female's DOB, 50 is added to the digits that represent the month.

#### Example

Sex: Male

DOB: May 12, 1981 Driver's licence number: **M0162 37658 10512** 

Sex: **Female**DOB: May 12, 1981
Driver's licence number:

#### M0162 37658 15512

Because a female's DOB is encoded by adding 50 to the month, it is deciphered by subtracting 50 from the month, as follows:

51 - 50 = 01 = January

52 - 50 = 02 = February

53 - 50 = 03 = March

54 - 50 = 04 = April

55 - 50 = 05 = May56 - 50 = 06 = June

56 - 50 = 06 = June57 - 50 = 07 = July

58 - 50 = 08 = August

59 - 50 = 09 = September

60 - 50 = 10 = October

61 - 50 = 11 = November

62 - 50 = 12 = December

# **FIGURE 1.14** Annotated Form 1: Certificate of Offence—Elements of a Driver's Licence Number

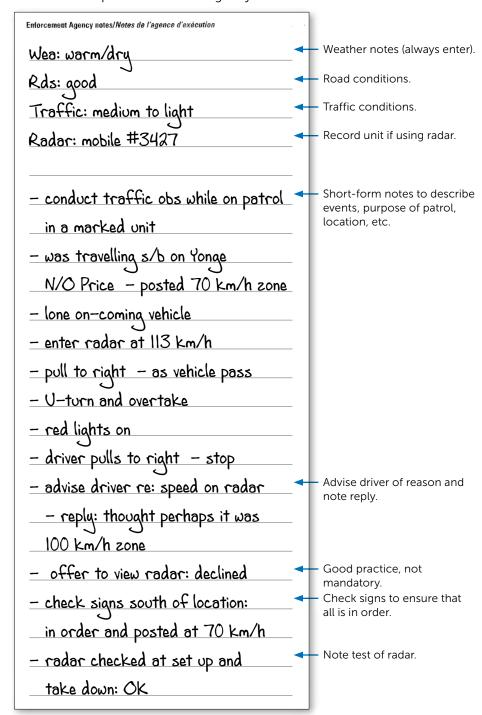
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Form 1, <i>Provincial C</i> Formulaire 1, Loi sur							e l'Ont.	108/11
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**FIGURE 1.15** Annotated Form 1: Certificate of Offence—Sample Enforcement Agency Notes



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#### **REVIEW**

Provincial laws are different from federal laws. Federal violations constitute criminal acts and may involve a criminal record supported by fingerprints. Both levels of laws have statutes and regulations and a contravention of either is an offence.

Arrest authorities are generally "found committing" by nature and are contained within the specific statute. Exemptions regarding found committing and the onus to prove mens rea are also found in some specific acts such as the LLCA and the Trespass to Property Act (TTPA).

The Ontario government e-Laws website provides a venue to locate an offence. Examination of a specific offence allows for identification of the appropriate section and the "facts in issue," or what is required to be proven in court.

The tiers of the POA provide for different applications, which in turn have different restrictions and require different forms. If the subject of any enforcement involves a young person, there are restrictions and a distinct onus placed on the provincial offences officer regarding process and notification.

The key to handling paperwork for enforcement relies on good work habits and the ability to make and keep notes.



### IT'S YOUR MOVE: OUTCOME

You have prepared a good background for your enforcement detail by confirming that the required controls are in place and functioning—in this case, the stop signs. This preparation is good practice for any enforcement, whether it is speed limit signs or traffic lights. Whatever control is supposed to be in place must be in good repair and functioning. You will be able to testify to these observations and refute any possible excuse, such as that the sign wasn't visible because it was obscured by a tree.

The observation position you have selected allows you to view the approach of any vehicle well before it gets to any of the stop signs, so you can describe a vehicle's speed and driver's actions before and at the stop sign. In checking the section of the HTA that deals with stop sign violations, you are reminded that there are different segments in this section. There is "fail to stop," which is self-explanatory, and also "stop wrong place." If the driver stopped before the stop sign, a bit back from the intersection, and you were unable to see that, it would result in your laying the wrong charge and enable a possible defence by the driver. Choosing the appropriate position allows you to be concise in your evidence as to what happened.

As you pull out to follow and stop the vehicle for investigation of this violation it is important not to lose sight of the vehicle. Otherwise how can you be sure who was driving at the time it went through the stop sign?

The driver's attitude and reaction to the violation are important to note, because they will present a reasonable overall picture for a justice of the peace at a possible trial, if the allegation is disputed.

(Continued on next page)

Your examination of the driver's identification confirms that the person you are naming in the certificate of offence is indeed the driver. This is one of the primary facts in issue.

In checking the set fines schedule you note that the fine is under \$1,000, thereby confirming your authority to issue a Part I Offence Notice. Using the short form wording for this section, you have prepared a faultless ticket and have confirmed the fine and surcharge amounts as well as court costs.

Once you have prepared your Part I ticket, removed the Offence Notice, and signed your name in the space provided, you serve it on the driver. Because you are a professional, you explain the ticket to the driver and the options available to respond to the ticket:

- 1. Plead guilty and pay the fine out of court.
- 2. Appear before a justice of the peace and plead guilty with an explanation.
- 3. Send notice to the court within 15 days that the driver intends to contest the ticket and request a court date.

Upon returning to your cruiser you sign your name in the box provided on the certificate of offence, certifying that you did in fact serve a copy of the ticket on the driver. You note that in the box for your signature it says "I did serve," past tense. If you signed the copy before effecting service, your signature would be a copy—not an original—and the statement would be false. As a professional, you ensure that you leave no room for criticism and defence arguments.

You are almost finished. While the situation is fresh in your mind, you make notes on the back of the ticket copy in a format that is clear and concise. These will be available for you to "refresh your memory" should a trial arise, perhaps many months down the road.

A further good practice is to enter the event in your notebook. This accounts for your activity and captures relevant data for the ticket, should it become lost. Enter into your notebook such data as:

- Date/time/location
- PON#
- Driver's name/DOB
- Vehicle's plate number
- Section of violation

Many will argue against making these efforts and dispute that they are required, but again, the following tenet is notable:

The key to handling paperwork for enforcement relies on good work habits and the ability to make and keep notes.

See below for a sample ticket and notes for this incident. You have been professional, and your work habits will serve you well as you advance into many other areas of enforcement. For an example, a detective's work is only as good as their notes.

#### **SAMPLE** PON: James Robert McCarthy

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Name McC/	ARTHY					
Nom <b>James</b>		(family / r	nom de famille)		R	
James	(given / p	rénom)				initiales)
Address 114 BL	ACK OAK RD				(	
Adresse	(nu	mber and stree	et / numéro et no	om de la rue)		
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(municipality / mu		P.O. / C.P.)	(provinc	e) (p		code postal)
Driver's licence no		de conduir 6 5 8	1 0	5 1		Aut. Lég. <b>ON</b>
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#### PROVINCIAL OFFENCES GRID COMPLETION ACTIVITY

Make a copy of the blank grid in Appendix B. Use this grid to summarize key information from this chapter. After you have completed the section for this chapter, compare your answers to the completed Provincial Offences Grid at the end of this chapter. Add any missing details from the completed grid to your grid and save your completed grid to use as a reference or a study tool for exams.

الد	JESTIONS	
1.	The House of Commons creates federal and provincial laws.  True False	<ul><li>11. Part II Offence Notices of the POA deal strictly with</li><li>a. Minor offences</li></ul>
2.	In law, the word "prescribed" often means "described in regulations."  True False	<ul><li>b. Serious offences</li><li>c. Parking offences</li><li>d. Punishments</li></ul>
3.	True False Provincial offence officers find their arrest powers within the POA.	<b>12.</b> An officer has days from the date of the offence to serve a person with a Part I Offence Notice.
4.	True False  The POA provides a limitation period of two (2) years from the date of the offence.  True False	<ul><li>a. 15</li><li>b. 7</li><li>c. 45</li><li>d. 30</li></ul>
	All the facts in issue must be proven before an accused can be convicted of an offence.  True False  The Act gives each province the authority to create laws to govern its	<ul> <li>13. Part III Offence Notices of the POA deal strictly with</li> <li>a. Minor offences</li> <li>b. Serious offences</li> <li>c. Parking offences</li> <li>d. Punishments</li> </ul>
8.	citizens.  The Provincial Offences Act provides the framework for provincial  Part I Offence Notices in the POA have a maximum fine of \$  Mens rea is a Latin expression that means	<ul> <li>14. The POA refers to a "young person" as one who at the time of the offence is</li> <li>a. Between 12 and 16 years</li> <li>b. Between 12 and 15 years</li> <li>c. Between 12 and 18 years</li> <li>d. Between 16 and 18 years</li> </ul>
0.	"" is a Latin expression that means "guilty act."	<ul> <li>15. To obtain a conviction for an absolute liability offence the prosecutor need only prove</li> <li>a. Guilty mind</li> <li>b. Guilty act</li> <li>c. General intent</li> <li>d. Negligence</li> </ul>

#### **ASSIGNMENTS**

From the situations described in the following questions, gather the necessary data required to complete a PON or summons. You will find these forms reproduced in Appendix A at the back of the text (it is recommended that you work on copies of these materials, as you will require more for assignments later in the text). To help you visualize the incidents and practise creating diagrams, it is recommended that you create sketches to illustrate the scenarios described.

You are the officer in these two situations, and your basic information is as follows:

- Badge #3345
- Platoon #2
- Uniform Branch of your police service

- · Court date: 2nd Tuesday of every month
- Court time: 0900 hours (9 a.m.)
- Courtroom: #7

Check the Ontario Court of Justice set fines website to see whether there is an approved offence wording and a set fine under \$1,000: http://www.ontariocourts.ca/ocj/how-do-i/set-fines as explained on page 16.

1. While travelling east on Cundles Road West, you stop at a red light at its intersection with Bayfield Street North. There is a vehicle to your right, in the curb lane, also stopped at the light. As the north and south traffic stops, a green arrow lights for left turns only. The female driver to the right of you attempts to drive through the intersection but almost collides with a vehicle travelling west and turning left onto southbound Bayfield Street North. She stops suddenly and allows the other vehicle to turn. When the light changes to solid green, she proceeds through the intersection and pulls over. You pull in behind her, get out, and approach the vehicle. She is upset and apologizes; she didn't see the green arrow, and she thought it would turn to a solid green light, which would allow her to proceed. She produces her licence, but she doesn't have anything else. Prepare a PON for her and complete the officer's notes using the following scenario information:

Driver: Ruth Martin

Home address: 127 4th Street,

Collingwood, ON L2T 3M5

Driver's licence

number: M0173 61435 45710

Vehicle: 2018 Toyota

**Current year** 

val tag for plate: ABCD 123

2. While on foot patrol, you perform a bar check at Nick's Bar and Grill, located at 45 Dunlop Street East in the city of Bradford. At 2130 (9:30 p.m.) the owner approaches you and says that there is a man at the bar who is using profane language and upsetting customers. The owner has told the man twice to finish his drink and leave, but he refuses. The owner asks you to speak to the man and get him to leave. You tell the owner that he must ask the man to leave a third time, but this time you will accompany him. You follow the owner to the bar, and he again tells the man to leave. The patron refuses, saying he is not doing anything wrong and the cops can't make him move, either. At this point, you tell the man he is under arrest for trespassing and take him by the arm. As you escort him out the door, he apologizes and says he didn't want to anger you, but the owner was really irritating him. You search him and locate his identification. After running a check on him through the dispatcher, you prepare a summons for him and complete the officer's notes concerning his refusing to leave the bar when directed under the *Liquor* Licence and Control Act, 2019, using the following

Defendant: James William Knight

Home address: 244 Innisfil Street,

Barrie, ON L3M 3T2

Date of birth: May 22, 1992

information:

# PROVINCIAL OFFENCES GRID COMPLETION

#### **Common Offences and/or Provisions**

No offences are contained in the POA; rather, the Act governs all of the other acts. There are several provisions for young persons, including restrictions on revealing their identity, requirements to notify parents, and prohibiting the use of a Part I Offence Notice.

#### **Arrest Powers**

Under section 145, a police officer may arrest without warrant an individual fleeing from pursuit, if the criteria outlined in the section are met. Other powers are found in the individual acts.

#### **Search Powers**

None given by the POA without a warrant. If a search warrant is required, refer to the POA starting at section 158.

#### Use of Force

Under section 146, a police officer is authorized to use as much force as is necessary to do what the officer is required or authorized to do by law.

#### **Limitation Period**

Section 76(1) of the POA provides a general window of six months from the date of the offence. See the individual acts for specific limitation periods.

#### Non-Police Agencies Involved

- Game wardens
- Municipal law enforcement officers
- Ontario Court of Justice
- Other provincial offences officers