

ADMINISTRATIVE PENALTIES FOR VEHICLE-BASED CONTRAVENTIONS

(AUTOMATED ENFORCEMENT SYSTEMS)

Municipalities are responsible for all aspects of their Administrative Penalty (AP) program, subject to the rules and procedures included in the *Highway Traffic Act* (HTA) and its regulations. Municipalities are also responsible for ensuring that their AP programs provide a fair, transparent alternative method to adjudicate contraventions captured by automated enforcement systems, while maintaining public trust.

This document is intended to support municipalities in developing effective, efficient, and responsible AP programs. It is not meant to be legal document. In the event of a conflict between this document and the regulation, the regulation prevails.

GENERAL PROGRAM FEATURES

- [Ontario Regulation 355/22 \("Administrative Penalties for Contraventions Detected Using Camera Systems"\)](#), enables the use of Administrative Penalties for vehicle-based contraventions captured by automated enforcement systems (i.e., Automated Speed Enforcement, Red Light Camera, School Bus Camera and Streetcar Camera). This new regulation is distinct from and in addition to existing regulations that enable the use of Administrative Penalties for other purposes (e.g., parking infractions).
- APs are an alternative method to adjudicate these contraventions (i.e., adjudicated outside of the traditional *Provincial Offences Act* (POA) court system).
- APs are not considered offences and do not go on a driver record; demerit points are not imposed.
- A municipality may adopt an AP framework if it wishes to do so. If municipalities prefer to continue to rely on the POA court system, they may do so.
- A municipality could operate both an AP program and continue to file charges via POA courts at the same time. However, it is not permissible for a vehicle owner to be charged for a POA offence and be issued a Penalty Order under the AP regime for the same incident.

ISSUANCE OF AN ADMINISTRATIVE PENALTY AND APPEAL PROCESS

July 15, 2022

- Only Provincial Offences Officers can issue a Penalty Order. Provincial Offences Officers are not permitted to also be screening or hearing officers (see below for details as to the appeal process).
- Provincial Offences Officers currently designated for the equivalent POA charge can also issue a Penalty Order, provided that all requirements in s.4 of O. Reg 355/22 are met (e.g., a Provincial Offences Officer must be employed by the municipality and be designated by the Minister of Transportation for the purposes of Parts XIV.1, XIV.2, XIV.3 and/or XVI.4 of the HTA).
- A Provincial Offences Officer may only issue a Penalty Order within 23 days of the contravention taking place.
- There is nothing preventing a Provincial Offences Officer from being employed by a different municipality than the one where the contravention occurred.
- Municipalities can use the existing Joint Processing Centre (JPC), or they can set up similar arrangements independent of the JPC, such as another processing centre or joint processing centre.
 - **In the case of setting up a new processing centre or joint processing centre**, municipalities may set up Joint Municipal Service Boards. In this instance, the Provincial Offences Officers must be employed by a municipality. Additionally, any required MTO or MAG agreements must be signed directly with any participating municipality, not the Joint Municipal Service Board. Furthermore, the operations of the new joint municipal processing centre must ensure that obligations under the MTO data sharing agreement with the municipality are met. Any interested municipality should also ensure that all other privacy obligations are met, such as conducting privacy impact assessments and consulting with the Information and Privacy Commissioner.
- If the contravener wishes to appeal an AP, **the appeal is to be conducted as described below:**
 - The contravener can appeal to a screening officer, who would be an individual employed by the municipality where the contravention occurred. The screening officer can confirm, vary or set aside (i.e., cancel) the AP.
 - If not satisfied with the screening officer's decision, the contravener can appeal to a hearing officer, who must be appointed by the municipality where the contravention occurred (see s.10 of the regulation for more information). The hearing officer can confirm, vary or set aside the AP. The screening officer and the hearing officer cannot be the same individual.
 - A municipality can choose whether hearings are to be conducted orally, electronically or in writing. The screening and hearing officers retain authority to conduct the hearing in a different format (see s.12(1) of the regulation for more information). The adjudication process is designed to be similar in nature to that of parking APs (note: these APs and parking APs have other differences with

respect to the enforcement process and access to the Authorized Requestor Information System).

- To maintain the integrity of the program and to avoid the perception of a conflict of interest, Provincial Offences Officers (who issued the Penalty Order) **cannot** also be screening or hearing officers (since they are responsible for the appeals process). **MTO does not need to approve or designate screening or hearing officers.**

DESIGNATION OF PROVINCIAL OFFENCES OFFICERS

- Prior to designating an individual as a Provincial Offences Officer, MTO must have sufficient assurances that the individual has been adequately trained to review all elements of the contravention and issue an AP or lay a POA charge. Please contact the Government Information Services Unit, Information Services Office, MTO, at GISU@ontario.ca for more information.

ROLES

Provincial Offences Officer	Screening Officer	Hearing Officer
<ul style="list-style-type: none"> • Reviews evidence captured by camera system. • Issues the Penalty Order. • Must be employed by the municipality and be designated by the Minister of Transportation for the equivalent POA charge. • Cannot be a screening officer or a hearing officer. 	<ul style="list-style-type: none"> • Reviews Penalty Order in the first step of the appeals process. • Must be employed by the municipality. However, the screening officer could be a part-time employee or have various other job responsibilities with the municipality. • Cannot be a Provincial Offences Officer or a hearing officer. 	<ul style="list-style-type: none"> • Reviews Penalty Order in the second step of the appeals process. • Must be appointed by the municipality. A hearing officer can be appointed by multiple municipalities. • Cannot be a Provincial Offences Officer or a screening officer.

COMPONENTS OF AN ADMINISTRATIVE PENALTY

- An administrative penalty consists of three components, all to be paid by the contravener:

1. **Contravention amount:** this is comparable to POA set fines. Please note that the contravention amount is comparable to existing POA set fines for the corresponding offence of speeding in a community safety zone (CSZ), irrespective of whether the contravention occurred in a CSZ or school zone (i.e., the contravention amount is doubled). The contravention amounts are noted in O. Reg 355/22.
 2. **Victim Component (VC):** this is the same as the POA victim fine surcharge, except where the penalty amount is varied on appeal. Please see the VC section of the program guidelines for further information, as well as ss.6(2), 6(3), 6(4) and 6(5) of O. Reg 355/22.
 3. **Authorized Requestor Information Services (ARIS system) fee for plate owner information product:** the amount of \$8.25 reflects the costs incurred by the municipality to access the name and most recent address of the person who is subject to the penalty order and will also be paid by the contravener. **Note:** when obtaining plate registrant information, the registrant's most recent address must be obtained, and not the address on the date that the contravention occurred.
- **NOTE: unlike parking APs, there are additional limits as to what municipal fees can be added to the AP total** (see section 22 of the regulation).
 - Municipalities can make by-laws to charge fees in relation to services rendered (e.g., transcripts, photocopies, recordings), provided that the fee is collected before or at the time that the service is rendered. This amount cannot be added to the AP amount.
 - Municipalities can add \$60 to the AP amount if an individual does not appear at a scheduled screening or a hearing.
 - Municipalities cannot add a late payment fee to the AP amount.

UNPAID ADMINISTRATIVE PENALTIES

- The AP is payable within 30 days, unless an appeal is commenced or the time to pay is extended by a screening or hearing officer. An appeal must be commenced within 30 days of the Penalty Order having been deemed to be served.
- After 30 days, a municipality **may** report the unpaid AP to MAG's Defaulted Fine Control Centre (DFCC) – this is not a requirement. A municipality can use other enforcement and/or collection efforts that they are currently permitted to take.
- If a municipality notifies the DFCC of the unpaid AP, the contravener's licence plate will go into plate denial and they will not be able to renew their licence plate without paying the amount owed. While the fee for licence plate renewal was recently waived, licence plate renewals are still required and an individual in plate denial will not be permitted to renew their plate until the AP is paid at ServiceOntario (in-person or online).

- Once the DFCC has collected the unpaid APs, the full penalty amount will be remitted to the municipality. For defaulted fines, the financial reconciliation of the VC will occur once municipality receives payment of the defaulted AP.
- In order for the DFCC to process the unpaid AP, the municipality is to send a plain text file with a specified layout to Production.Control.GTA@ontario.ca using a secure file transfer service. Further information will be provided to municipalities at the time that they sign the contract with MAG.
- Further details can be found in the agreement municipalities will sign with MAG.

VICTIM COMPONENT (VC)

- The APs VC amount is the same as the POA victim fine surcharge except where the penalty amount is varied on appeal. Please see the table below for the victim component based on the contravention amount to be included in the original Penalty Order.

Contravention Amount			Victim Component
\$			\$
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	-	1000	125
Over 1000			25% of Contravention Amount

- Municipalities must remit the VC to MAG prior to retaining any portion of the payment. The previous month's collected VC is to be remitted within 10 days following the end of each month.
- Municipalities are also required to submit monthly reports within 10 days following the end of each month, as well as semi-annual reports on outstanding VC accounts receivables (to be submitted in October and April). All reports re to be uploaded to MAG's AP VC SharePoint site and must comply with the requirements outlined in the agreement that the municipality must sign with MAG. A unique link to the site will be shared with each municipality following signature of the MAG agreement.
- MAG is responsible for reconciling the monthly reports against the remittances and may inquire with the municipalities should there be discrepancies.
- If the AP is reduced on appeal, the VC will be reduced on a proportional basis in line with the penalty reduction.

EVALUATION AND REPORTING

- On a semi-annual basis, the municipality is required to report to MTO similar data elements, (i.e., number of Penalty Orders issued, appealed, and confirmed) as would have been applicable if automated enforcement system-based POA charges were being issued in those circumstances. This information should be emailed to the Government Information Services Unit, Information Services Office, MTO, at GISU@ontario.ca.
- Municipalities are also required to report to MTO the specific dates on which the AP framework is adopted for automated enforcement system-based contraventions and the specific circumstance and the specific programs (i.e., ASE, red-light camera, streetcar camera, school bus camera) for which an AP framework was adopted.
- Additionally, the municipality is required to report specific statistics on AP appeals for each camera-based program (i.e, ASE, red-light camera, streetcar camera, school bus camera).
Aside from the red-light camera program, automated enforcement programs have not been subject to comprehensive, province-wide evaluation with respect to their road safety impact. Municipalities will be required in semi-annual reports to provide the Ministry with motor vehicle collision statistics from within the vicinity of automated enforcement camera deployments. In the case of automated speed enforcement cameras, data from control road segments (or comparable control data) will also be required. Reporting requirements here are similar to those required under the POA agreement for ASE but provide more flexibility in reporting options.

- For more information with respect to reporting requirements, please contact the Research and Evaluation Office, MTO, at REO@ontario.ca. These requirements will also be stipulated in the agreement a municipality will need to sign with MTO.

STEP BY STEP GUIDE TO SETTING UP AN AP PROGRAM

Step 1: Review legislative and regulatory framework

- Review legislative and regulatory framework to understand key components that will guide your Administrative Penalties (APs) program:
 - Section 21.1 of the *Highway Traffic Act* (HTA).
 - [Ontario Regulation 355/22 \("Administrative Penalties for Vehicle Owner Contraventions Detected Using Camera Systems"\)](#).
 - The *Municipal Act, 2001* or *City of Toronto Act, 2006* legislative and regulatory framework pertaining to parking APs.
 - HTA provisions pertaining to automated enforcement system -based enforcement programs (i.e., Part XIV.1, Part XIV.2, Part XIV.3 and Part XIV.4).
 - Program guidelines for regulatory highlights and regulatory framework to understand roles and responsibilities.

Step 2: Set up AP program:

- A municipality may wish to examine its methods and procedures currently used for parking APs given that they are similar in nature to these new APs for vehicle-based contraventions captured by automated enforcement system.
- A municipality may wish to enact a bylaw prior to adopting an AP framework, in alignment with this new provincial regulation.
- Municipalities are responsible for creating IT solutions to track Penalty Orders issued, appealed, or resolved, and track the collection, remittance and reporting of the AP Victim Component (VC), and reporting specified information to MTO.
- Municipalities are responsible to ensure that privacy impact assessments and consultations with the Information Privacy Commissioner of Ontario are conducted to provide assurance of compliance with applicable privacy legislation.

Step 3: Municipalities to sign contracts with MTO and MAG:

- Municipalities will need to sign a contract with the Ministry of Transportation (MTO) for each automated enforcement system program (i.e., ASE, red light camera, streetcar camera, school bus camera) to access the plate registrant information delivered through Authorized Requestor Information Services (ARIS). The contract will also stipulate what information the municipality will be required to remit to the ministry. Municipalities can contact GISU@Ontario.ca to obtain a copy of the contract and to further discuss reporting requirements.
- ARIS access for Automated Enforcement Programs (i.e. ASE, RLC, SBC, SCC which are part of HTA enforcement) falls outside of MTO's Authorized Requester Program (ARP) ARIS access (e.g. enforcement of municipal parking by-laws would fall under the ARP).
- Municipalities will also need to sign a separate contract with the Ministry of the Attorney General (MAG). This contract will contain:
 - Provisions outlining the VC requirements;
 - Requirements for sending plate licence denial requests to MTO via MAG's DFCC interface for the purposes of enforcing unpaid APs; and,

- Reporting requirements to MAG.
- The VC, which is similar to the victim fine surcharge, paid on all APs must be remitted to MAG monthly (to be credited to the Victims' Justice Fund). MAG will share the banking information for remittance of the VC upon signing of the agreement.
- Municipalities can contact VVPD.AP.VC@ontario.ca to obtain a copy of the contract and for inquiries related to the VC.

Step 4: Provincial Offences Officer designation (can only be done once the municipal employee has completed the training specific to the automated enforcement program they will be designated for. Must be done before program launch):

- Municipalities must request that the Minister of Transportation designate the Provincial Offences Officers (POO) as they are the only individuals who can issue a Penalty Order under this new framework. A Provincial Offences Officer designation for a POA automated enforcement system-based enforcement charge is a requirement for a Provincial Offences Officer to issue a Penalty Order.
- Note: Any existing Provincial Offences Officer designated for automated enforcement system -based enforcement programs must meet the criteria stipulated in s.4 of O. Reg 355/22 to be able to issue either an AP or POA charge.
- Provincial Offences Officers must be designated by the Minister of Transportation for each separate section pertaining to automated enforcement system -based enforcement program of the HTA that they will be enforcing. Designation requests can be submitted to MTO's Driver and Vehicle Services Branch (GISU@Ontario.ca). Municipalities would need to provide MTO with assurances that the Provincial Offences Officers have been properly trained prior to the Minister of Transportation designating an individual as a Provincial Offences Officer.

Step 5: Operational requirements:

- Municipalities should ensure the program is set up with:
 - Proper coding so that APs can be sent through to MTO via DFCC when unpaid.
 - A mechanism for payment of the VC for every AP collected, as well as a system for submitting monthly reports and semi-annual reports regarding VC collection to MAG in accordance with the requirements set out in the MAG agreement.

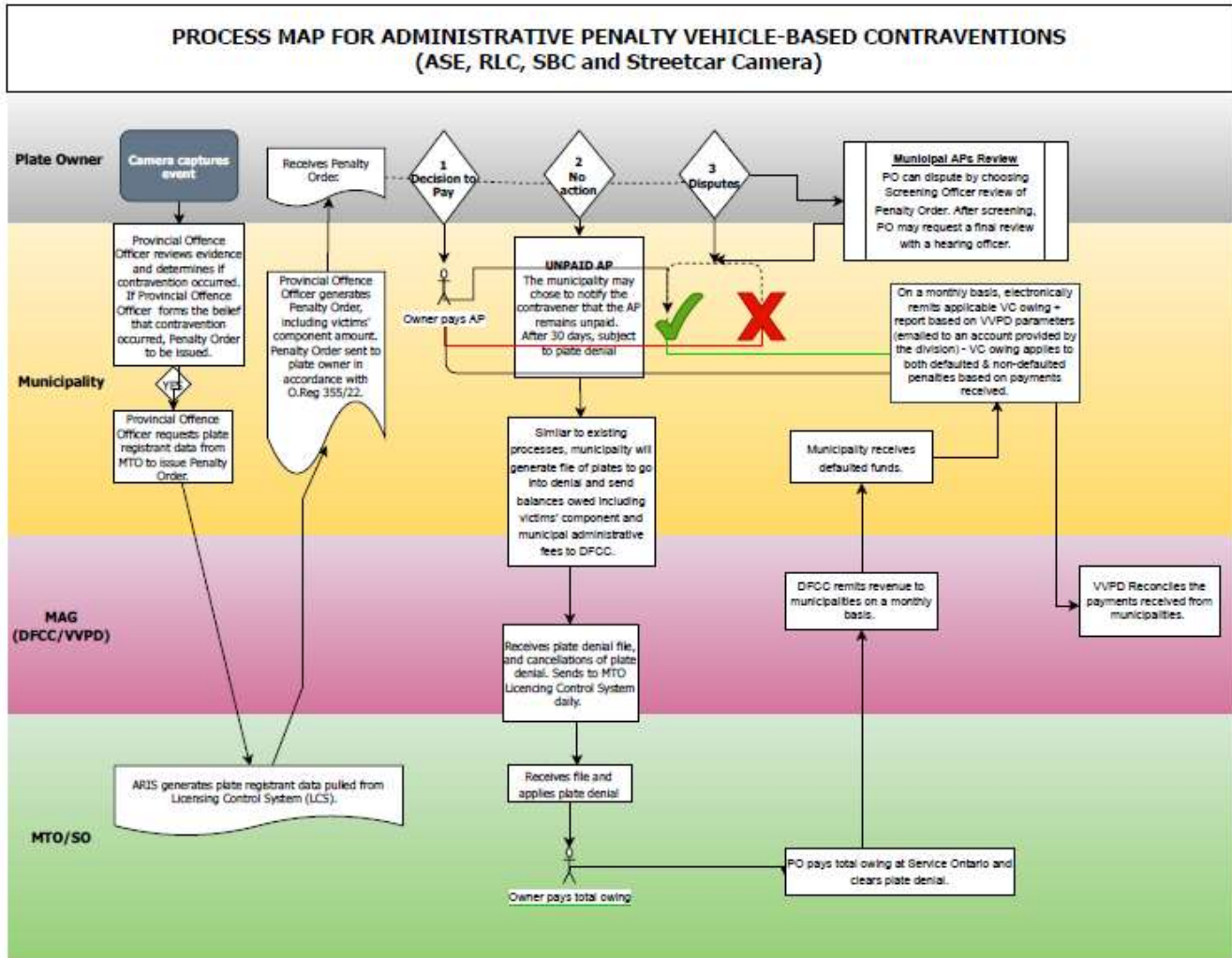
Step 6: Program launch

- Municipality should consider public education/awareness about new APs program and new appeals process.

Step 7: Reporting requirements:

- Several mandatory reports must be submitted by the municipality to MTO on an annual or bi-annual basis, including the number of APs issued, contested, and paid (please see guidelines and MTO agreement for further information).
- Reports must also be submitted to MAG on a monthly and semi-annual basis outlining the amount of VC collected and the outstanding VC that are still in accounts receivable (aging report). Municipalities must also submit an annual declaration. More details will be outlined in the MAG agreement.

ADMINISTRATIVE PENALTIES: PROCESS FLOW



LEGEND:

- APs - Administrative Penalty
- ASE: Automated Speed Enforcement
- ARIS: Authorized Requester Information Services (Ministry of Transportation mid-tier system which delivers information products such as plate registrant information)
- DFCC: Defaulted Fines Control Centre (Ministry of the Attorney General)
- LCS: Licensing Control System (Ministry of Transportation system)
- PO: Plate Owner
- RLC: Red Light Camera
- SBC: School Bus Camera
- SO: Service Ontario
- VC: Victims' Component
- VVPD: Victims and Vulnerable Persons Division (Ministry of the Attorney General)