

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf.
Your File/V/Réf. 03 07-98-0096

DATE 21 July 1998

TO/DEST. Coordinator, Transportation Committee

FROM/EXP. Regional Solicitor

SUBJECT/OBJET **TRANSPORTATION COMMITTEE MEETING - 6 MAY 98 -
MOTION TC-1-98 - NON-POLICE TRAFFIC ENFORCEMENT**

DEPARTMENTAL RECOMMENDATION

That Transportation Committee receive this report for information.

BACKGROUND

At its meeting of May 6, 1998, the Transportation Committee approved the following motion:

That staff prepare a report regarding a request to the Province for special legislation giving the R.M.O.C. the ability to create a unit of non-police traffic enforcers for regional roads.

The issue of alternative traffic enforcement mechanisms is generally rooted in growing public concern about aggressive driving behaviour. A number of municipalities, faced with limited police resources, have begun expressing interest in methods of non-police traffic enforcement, including photo-radar and red light cameras. Current legislation, however, does not permit the implementation of such technological solutions nor the use of non-police enforcement personnel, which are the subject of this report.

In Ontario, the *Highway Traffic Act (HTA)* forms the basis for the large majority of driving offences. This legislation is supplemented by the traffic and parking by-laws of regional and local municipal governments. Responsibility for enforcement of those by-laws and the *HTA* falls to municipal police forces and to the Ontario Provincial Police. In addition, the *Highway Traffic Act* contemplates the appointment of non-police enforcement personnel. However, these officers must be employees of the Ministry of Transportation or another provincial Ministry. It is noteworthy that the range of their powers is somewhat more restricted than that of police officers. At present, municipalities have no legislative authority to appoint officers to enforce the *Highway*

Traffic Act. Also, the doctrine of paramountcy effectively precludes the enforcement of municipal traffic by-laws to the exclusion of *Highway Traffic Act* offences. Amendments to existing laws, or the enactment of special legislation, would thus be required to allow the R.M.O.C. to create a unit of non-police traffic enforcers.

DISCUSSION

While allowing municipalities to use non-police personnel for *Highway Traffic Act* enforcement may be appealing from a financial perspective, there a number of concerns that would have to be addressed prior to the implementation of such a program. Foremost among these would be the limited jurisdiction of such officers.

Looking at the *Highway Traffic Act*, it is apparent that a number of its provisions clearly contemplate enforcement only by police officers. Of particular importance is section 216, which states that the power to require a vehicle to stop rests exclusively with police officers, readily identifiable as such. In addition, the exemptions frequently necessary to apprehend violators, such as those in respect of speed limits and traffic signals, do not extend to other, non-police enforcement personnel. Clearly, where the intent is to prosecute moving violations, these powers are necessary in order to provide any form of meaningful enforcement. Similarly, the procedural restrictions of the *Provincial Offences Act* require that offence notices (i.e. tickets) be served personally on the offender. Where the violator is not stopped at the scene, compliance with the strict requirements of the *Provincial Offences Act* and the *Highway Traffic Act* is problematic and convictions inherently difficult to obtain. The powers of a police officer are therefore necessary to ensure effective traffic enforcement. It is unlikely, however, that municipalities would be granted the authority to appoint officers with police powers but who were not, in fact, sworn police officers.

On a topic related to the above, and which may be illustrative of the point, the Ministry of the Solicitor General and Correctional Services has demonstrated a reluctance to increase the number of Special Constables appointed in the Province. These officers have limited police powers and are generally employed in what may be termed as “quasi-police” roles (e.g. security). The Ministry has expressed concerns over the authority of Special Constables, the degree and effectiveness of their supervision and public confusion over the extent of their powers in light of the proliferation of the use of such officers.

Notwithstanding the above, the Provincial Government has recently stated that it is establishing a dedicated fund for the hiring of police officers for traffic enforcement. Announced in concert with Bill 26, the *Highway Traffic Act Amendment Act (Community Safety Zones), 1998*, the Province will make funds available to interested municipalities to allow them to devote increased resources to traffic policing. In light of the difficulties inherent in using non-police personnel for traffic enforcement, the use of such provincial funding may be a preferable alternative.

CONCLUSION

While the *Highway Traffic Act* does contemplate some enforcement by non-police personnel, the appointment of such officers is not within the legislative authority of the Region. Concerns surrounding the use of alternative enforcement methods would likely preclude the enactment of special legislation giving the R.M.O.C. the ability to create a unit of non-police traffic enforcers. However, recent provincial announcements concerning funding for new police traffic officers may provide a means by which the level of traffic enforcement in the Region can be enhanced.

This report is respectfully submitted.

*Approved by Donald W. Wilson
on behalf of J. Douglas Cameron*

JDC/DGW/sp