

Essex County OPP –Tecumseh Detachment

In May 2020 a motion was put forth by the Tecumseh Police Services Board for the Ontario Provincial Police and Town of Tecumseh to review noise bylaws enacted recently in various communities in regards to loud vehicles and motorcycles. Recently the City Of Edmonton along with the City of Windsor and Toronto have created a by-law with respect to noise by-law infractions.

A review of the Noise By-law in Edmonton was undertaken. The following are key points in regards to specific by-law:

The Edmonton Police Service will charge violators at three benchmark noise levels tested when a motorcycle is stationary:

- Violators in excess of 92 dbA at idle for all motorcycles
- Violators in excess of 96 dbA at 2000 rpm for motorcycles having less than 3 cylinders or more than 4 cylinders
- Violators in excess of 100 dbA rpm for motorcycles with 3 or 4 cylinders. The fine for violation of this bylaw is \$250.00

Although the decibel levels above are specific to motorcycles, ALL VEHICLES are subject to noise laws as per sections of the *Traffic Safety Act*.

Edmonton has purchased equipment similar to photo radar that has the capability of taking photos of licence plates while analyzing sound. They have also added the human element to this to confirm the technology being utilized.

The Ontario Provincial Police has the ability to utilize the *Highway Traffic Act* (HTA) as a means to enforce loud vehicles, however, their powers are limited to the following as stated in the HTA:

75.(1) Muffler – Every motor vehicle or motor assisted bicycle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and excessive smoke, and no person shall use a muffler cut-out, straight exhaust, gutted muffler, Hollywood muffler, by-pass or similar device upon a motor vehicle or assisted bicycle.

75 (4) – portion from the section reads as follows: “nor shall the driver at any time cause the motor vehicle to make any unnecessary noise”

Data and analysis:

The OPP researched noise complaints specific to vehicles due to the vehicle itself and not from an alarm or loud music coming from the vehicle. A 5-year review from 2015 – 2020 in relation to noise complaints involving vehicles was conducted and resulted in 16 complaints during this time period. Out of those, 3 were specific to noise coming from the vehicle. The following were the results:

- Vehicle leaving residence was loud
- Two cars racing on residential street
- Race car being worked on in garage

Although the calls for service are low, it could be that residents are not calling in on those vehicles that are loud within the Town of Tecumseh.

Recommendations / Options:

Police have the ability to set up in the area where the complaints are believed to be occurring on Riverside Drive & Brighton to determine if exhaust systems are in good working order, etc. If a by-law was enacted in regards to specific levels, the following action could be taken on how to address the issue:

- By-law could enforce when vehicles are stationary by testing the decibels
- Police could be provided with decibel meters to enforce by-law
- Police / Bylaw enforcement could work in conjunction
- Town purchases a photo type system similar to Edmonton that captures violations and licence plates

Factors to consider:

- Cost of decibel reader – calibration and maintenance
- Cost of photo type system
- Cost of prosecuting By-Law infractions
- Prospect of conviction
- Low call volume in relation to these offences

The Ontario Provincial Police contacted a prosecutor from Provincial Offences court regarding Windsor's recent by-law. Unfortunately due to COVID19 and courts not being utilized to prosecute matters or set up for early resolution, a case has not been prosecuted involving the new noise By-law.

The HTA provides police with the ability to issue an infraction for "unnecessary noise" if the muffler system is in proper working order and has not been altered.

The OPP Traffic Inspector from West Region was also consulted on this matter. He was not aware of any By-Laws that were enacted by any communities policed by the Ontario Provincial Police. He cautioned on police officers utilizing decibel meters for investigations as their reliability could be challenged in court. The human element and utilizing the HTA might be the best course of action to deal with this issue.

In conclusion while s. 75(1) of the HTA deals specifically with mufflers, s. 75(4) is a general section that prohibits a driver from causing "the motor vehicle to make any unnecessary noise." The courts have prosecuted cases involving the spinning of tires and the revving of engines under this section.

In the opinion of Tecumseh OPP, utilizing the *Highway Traffic Act*, specifically Section 75, should be the first step to combat the issue. A By-Law at this time is not necessary.