



June 22, 2020

Sent via email

Mayor Lisa Helps
Councillor Marianne Alto
Councillor Sharmarke Dubow
Councillor Ben Isitt
Councillor Jeremy Loveday
Councillor Sarah Potts
Councillor Charlayne Thornton-Joe
Councillor Geoff Young

Re: Sheltering in Victoria City Parks

Dear Mayor Helps and City Council,

I am writing on behalf of the British Columbia Civil Liberties Association (“BCCLA”), the Union of British Columbia Indian Chiefs (“UBCIC”) and Pivot Legal Society to follow up on our letters we sent last month, and to make recommendations in advance of your upcoming vote about whether to reinstate the enforcement of all portions of the Parks bylaw.

We are calling upon you to take a transformative approach to the city’s relationships with people sheltering in parks, local Indigenous nations, Indigenous lands and inadequately housed Indigenous people displaced from other Indigenous nations and lands. If the political will to prioritize a reconciliatory approach is lacking, then we strongly urge you to at the very least extend the period of non-enforcement of the rule against daytime sheltering in parks, and to rescind all of the additional sheltering provisions imposed in the May 14 notice.

Reducing Harm in the Context of Two Public Health Emergencies

As we communicated to you in our letters dated May 19, 2020, the BCCLA, UBCIC and Pivot Legal Society are deeply concerned about the vulnerability of people with inadequate housing whose wellbeing is threatened not only by the COVID-19 pandemic, but also by the persisting opioid overdose public health emergency. Indigenous people in British Columbia are made

disproportionately vulnerable on both fronts, and reconciliation therefore remains a foundational priority in times of crisis.

Daily displacement due to inadequate housing and bylaw enforcement is always harmful, and even moreso during the COVID-19 state of emergency. We commended your decision not to take down homeless people's temporary shelters until the provincial emergency declaration in relation to the pandemic is lifted. This remains an obvious measure to enable people to protect themselves and others from the spread of COVID-19.

The overdose emergency compounds the risk of harm faced by vulnerable people in your city. Last month's total deaths represent the highest number of illicit drug toxicity deaths *ever recorded* in a month in B.C. – 170. More people died from fatal overdoses in May than all the COVID-19 deaths combined to date.¹ The Coroners Service drew particular attention to Vancouver Island in their May 2020 report; Island Health surpassed its highest monthly toll ever recorded by 36% (38 deaths in May; previous high was 28 deaths in Jan and Mar 2018).² Victoria is listed alongside Vancouver and Surrey as the “townships experiencing the highest number of illicit drug toxicity deaths in 2020.”

Allowing people to shelter in parks can mitigate the risks of using illicit drug through peer witnessing, harm reduction and the provision of privacy. Encampments are operating as *de facto* overdose prevention sites – with peers responding to rapidly to otherwise fatal overdoses. There is a lower risk of overdosing if people do not have to use illicit drugs alone and in the dark.

Inadequate Housing and Survival Services in Victoria

We understand that there are approximately 120 people sheltering in Victoria's parks and in other locations such as doorways and sidewalks. Even with the moratorium on renter evictions, people continue to become newly homeless.

Survival services remain limited in Victoria. Outreach organizations are only starting to figure out mobile delivery systems for survival basics. The emerging system will be undermined if people are forced to dismantle their shelters each day and move. At the time of the decampment of Pandora and Topaz there was an outcry from local outreach and health professionals over how the displacement undermined existing client relationships. Pivot Legal Society pulled together 15 statements, representing more than 20 peers, advocates and health professionals speaking to the harms of displacement, including the ways in which it undermined service provision and community relationships.³ Returning to a policy of daily displacement will replicate these harms for the foreseeable future.

¹ <https://experience.arcgis.com/experience/a6f23959a8b14bfa989e3cda29297ded>.

² <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf>

³ A copy of the letter and attached statements can be found here:

https://www.pivotlegal.org/decampment_of_topaz_park_and_pandora_avenue_corridor

Reinstating the enforcement of the entire parks bylaw will not create proper housing for people. If you decide to do this, your council will only be increasing suffering and pain for these already vulnerable members of your community. In this moment, where there is a mass call for divesting from police, you will be reinstating an approach that criminalizes survival – once against using the powers of enforcement to punish suffering rather than committing to systems of care.

Opportunity to Embrace a Transformative Approach

We encourage your city council to cease approaching homeless people in the city as a nuisance to manage through bylaw enforcement. One third of the homeless people in the city are Indigenous people, and we urge you to acknowledge and address the larger colonial system that causes this disproportionality.

We ask that you, as an emergency measure to stop further harm, direct the Bylaw Division to immediately suspend enforcement of all the provisions of the Parks Bylaw pertaining to people sheltering in parks.

We further ask that you revise the City’s approach to unhoused residents. For a sustainable future where human and Indigenous rights are upheld, Victoria’s approach needs to be reconciliatory, consider Indigenous ways of being, and respect International protocols, including the United Nations Declaration on the Rights of Indigenous Peoples.

After stopping the immediate harm, your Council should work with local nations and with homeless Indigenous people displaced from other nations to determine how to approach relations to Indigenous lands (including “parks”) and Indigenous people (including unhoused people) in anti-colonial ways, as part of an overall process around decolonization.

In the meantime, conflicts can be dealt with in ways that do not involve violence or threats of violence. Guidance from the United Nations provides a practical, actionable framework for that kind of interim approach. They provide a clear set of parameters, but remove violence from the equation.

- [COVID-19 Guidance Note: Protecting Residents of Informal Settlements](#)
- [COVID-19 Guidance Note: Protection for Those Living in Homelessness](#)
- [National Protocol for Homeless Encampments in Canada](#)

Such a fundamental change to how the city approaches governance, and how it maintains relationships, especially with Indigenous people, lands, and nations, would be a foundational commitment to Indigenous and human rights and a clear symbol that your city is willing to depart from unsustainable colonial frameworks.

Minimum Action Required

If city council is unwilling or unable to take the transformative approach that we recommend, then we urge you to take the following steps as a bare minimum this week:

- 1) Extend the period of non-enforcement of the prohibition on daytime sheltering. Non-enforcement needs to be **substantively** extended - not just on a month-by-month basis - so that unhoused people have some certainty about their situation and are not under constant threat of potential displacement.
- 2) Rescind all new/additional sheltering provisions imposed in the City's May 14 notice that we took issue with in our previous letters. The additional rules are not linked to any best practices that we are aware of, nor are they COVID-response measures. Further, the rules were established without any opportunity for public comment, as would normally happen with bylaw change. There was no input from the most affected community (homeless people).
- 3) Ensure that your engagement with encampments aligns with the recent guidance from Provincial Health Officer Bonnie Henry – including through the provision of basic resources, information and supports – while always remaining mindful of the needs of the specific individuals at a given encampment and how these guidelines cannot represent all circumstances.⁴

Thank you for considering our input in this vitally important matter. We look forward to hearing whether your council will use this opportunity to transform its approach and relationships to Indigenous peoples, nations, and lands, or if it will at the very least take the small steps necessary to prevent further harm for unhoused people in Victoria.

Sincerely,



Meghan McDermott
Staff Counsel – BCCLA



Anna Cooper
Staff Lawyer – Pivot Legal Society

On behalf of the Union of BC Indian Chiefs



Grand Chief Stewart Phillip
President



Chief Don Tom
Vice President



Kukpi7 Judy Wilson
Secretary-Treasurer

Cc: Honourable Adrian Dix, Minister of Health

⁴ https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/pho_homeless_encampment_responses_resource.pdf