

Ombudsman Toronto

Enquiry into the City of Toronto's Communication and Enforcement of COVID-19 Rules in City Parks in Spring 2020

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Listening. Investigating. Improving City Services.

INTRODUCTION

- Spring of 2020 was a very difficult time in Toronto.
 - COVID-19 presented unprecedented challenges for City leaders and staff and they went to extraordinary lengths to respond.
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- We sincerely commend them for their efforts.
- But fairness in the delivery of public services is concerned with the impact on the people being served, not the effort or good intentions that went into the service delivery.



WHAT WE HEARD FROM PEOPLE ABOUT PARK USE

- All complainants knew there were restrictions, but did not know the extent of the closures.
- Many were unclear whether they could use benches and picnic tables.
- Some said areas they thought they could use were not clearly marked, and City signs didn't explain what amenities were closed.
- Some complained that yellow caution tape attached to closed amenities had blown away.
- A common theme was that they felt penalized not for flouting the rules, but for being unaware of or not fully understanding them.
- All feared returning to parks out of concern they would be ticketed again.



OMBUDSMAN TORONTO'S ENQUIRY

- We looked at three issues—whether the City provided adequate:
 - Public information on the COVID-19 rules affecting park use
 - Guidance, direction, and training to MLS by-law enforcement officers to enforce COVID-19 rules in parks
 - Public information about how to challenge a ticket for a violation of COVID-19 rules in parks.

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- We focused on the time period of April 2 to May 15, 2020.



SOME OF OUR FINDINGS: COMMUNICATION

- City communication was fragmented, confusing, and in some cases, inconsistent.
- Public health advice and legal rules were often mixed together in the same City communications, causing the public added confusion and fear of prosecution.
- Park benches were a particular source of confusion. They were on the Province's list of closed amenities, but never on the City's.
- The City knew people were confused about them, yet its messaging about benches was unclear.



SOME OF OUR FINDINGS: ENFORCEMENT

- By-law enforcement officers were unclear about management's "zero tolerance" directive and whether they could exercise judgement and discretion.
- The number of tickets officers issued to people in City parks significantly increased immediately following the "zero tolerance" directive.
- Some officers did not feel comfortable raising operational concerns for fear of reprisal.
- Officers have not received adequate training on how to exercise judgment and discretion in a fair and equitable way.
- Two independent investigations found that by-law enforcement officers had discriminated against Black people.



SOME OF OUR FINDINGS: TICKET DISPUTES

- The tickets people received contained outdated, inaccurate information on how to fight them.
- By-law enforcement officers did not tell people how they could dispute their ticket or the fact that the information on the ticket was wrong.
- Provincial Offences courtrooms, public counters, and email and call centre services were closed, and Court Services staff were not responding to emails or answering telephone calls, so it was hard for people to get answers to their questions.



A CLIMATE OF UNFAIRNESS

- In the Ombudsman's opinion, the cumulative effect of public confusion about the rules, inadequate training of by-law enforcement officers on how to equitably enforce those rules, and insufficient communication about how people could exercise their right to dispute a ticket was a climate of unfairness.



IMMEDIATE CHANGES

- At the Ombudsman's recommendation in spring 2020:
 - The City updated its website to include better information about the COVID-19 rules for park use, including benches.
 - Court Services updated its website to provide better information about the ticket dispute process during the pandemic.
 - Strategic Communications, with help from Legal Services, prepared a 'buck slip' for by-law enforcement officers to hand out with tickets, with accurate information about dispute options.



SOME OF OUR RECOMMENDATIONS

The City should:

- Create an organization-wide policy to ensure timely, accurate, coordinated and accessible information about changes to City services and facilities
- Develop a process to address public complaints about City communications in a timely and effective way
- Make public anonymized summaries of the findings and systemic recommendations of two independent investigations into allegations of racial profiling and discrimination by by-law enforcement officers, to promote transparency and public confidence.



SOME OF OUR RECOMMENDATIONS (cont.)

MLS should:

- Stop using a zero tolerance approach
- Create a policy and training materials for by-law enforcement officers on how to exercise judgment and discretion fairly and equitably
- Develop a plan to hear directly from community organizations, particularly ones serving vulnerable and marginalized people, and ensure that feedback from Toronto's communities informs enforcement activities
- Develop an anti-racism strategy to eliminate racial profiling from by-law enforcement, and explore adopting a race-based data collection strategy.



THE IMPACT

- People in Toronto rely on their local government every day. They need to be able to turn to it for clear guidance and information, especially during challenging times. And they need to know it will treat them fairly.
- The recommendations from this Enquiry will help ensure that:
 - People in Toronto can rely on their local government for accurate information about City services
 - The City enforces rules in a fair and equitable way
 - The public can trust in their local government.



THE CITY'S RESPONSE

- The City administration supports and accepts the Ombudsman's recommendations and has undertaken to implement all of them.
- Ombudsman Toronto will review its progress quarterly.



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