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March 19, 2024

Mr. John Elvidge, City Clerk
City Clerk's Office
100 Queen Street West
12th Floor, West Tower
Toronto, ON M5H 2N2

Dear Mr. Elvidge,

Re: Administrative Inquiry Regarding AI Quds Day

Councillor Pasternak submitted an Administrative Inquiry to seek information on public safety, by-law enforcement, and the City's planned response to the upcoming AI Quds day protest. The inquiry also requests details on how by-law enforcement responded to protests and rallies that have taken place since October 7, 2023. This letter provides a response to this request. It has been developed in collaboration with Municipal Licensing and Standards, Corporate Security, People & Equity, Legal Services, and the Toronto Police Service.

Introduction

City divisions ensure appropriate action is taken in response to the application of multiple policies, procedures, and laws related to hate activity. As previously reported to City Council ([2019.EX5.3, Hate Sponsored Rallies](#), [2023.IA5.1, Regarding an Update on Enforcement and Implementation of the City of Toronto Hate Sponsored Rallies Policy](#)), the City's [Hate Activity Policy](#) supports the prevention of hate speech on public property.

City divisions coordinate their efforts as appropriately with the Toronto Police Service which is responsible for responding to gatherings (such as protests, marches and demonstrations) in the city including those occurring on City property. The Toronto Police Service's response to hate crimes is found in Procedure 05-16 "Hate/Bias Crime" and is reported on annually to the Toronto Police Services Board. This Procedure provides clear direction to police officers responding to hate crimes, including potential hate crimes at rallies. An annual report provides insight into the Service's activities year to year in respect of Hate/Bias Crime. The Chief of Police also publicly releases monthly hate crimes statistics; this began in the fall of 2023.

When City staff become aware of rallies or protests on City-owned land, Bylaw Enforcement Officers (BEOs) are notified and dispatched to enforce City bylaws. Bylaw enforcement issues are addressed on a case-by-case basis to make sure reasonable, fair, and appropriate actions are taken. For example, *Toronto Municipal Code, Chapter 591, Noise*, prohibits unreasonable and persistent noise. As well, there may be charges issued under other relevant bylaws, such as *Toronto Municipal Code, Chapter 693, Signs*, which prohibits posterage on City property, except on designated City kiosk columns and message boards. Municipal Licensing and Standards (MLS) may also remove posters if BEOs are made aware of posters promoting hate.

BEOs do not respond to demonstrations, disorderly behaviour, or criminal activities. MLS collaborates with other enforcement agencies such as the Toronto Police Service to respond to these types of events.

There are established communication channels between the Toronto Police Service, the City's Corporate Security personnel, and staff in MLS' Bylaw Enforcement team. When either the Toronto Police Service or City staff become aware in advance of a protest or demonstration, staff across teams communicate with one another so that existing protocols may be activated. This is summarized in [Addendum 1 - Corporate Security Flow Charts](#) of the staff report in [2019.EX5.3, Hate Sponsored Rallies](#).

Representatives of Corporate Security and the Toronto Police Service meet regularly to review any protests or demonstrations and their potential impact on City property. If during this review Corporate Security identifies information to suggest a protest or demonstration may occur on City property, such as Nathan Phillips Square, City staff will work on a Security Plan in partnership with the Toronto Police Service. If Corporate Security becomes aware of any incidents that are believed to violate any laws City staff immediately bring this to the attention of the Toronto Police Service for applicable action and response.

Response

Please find below responses to each of the questions submitted.

1. Have any by law infraction charges been laid against individuals participating in protests and rallies since October 7, 2023?

The City's by-laws do not regulate the activity of protesting or participating in a protest or demonstration. The City does have by-laws which generally regulate conduct such as street vending and other conduct, including noise and other by-laws recently described in [2024.IE10.7 – Highway 401 Overpass Safety](#).

Before laying a charge, the City's by-law enforcement staff must determine whether a breach of a City by-law has occurred. Additionally, enforcement is taken independently of any City Council direction on a case-by-case basis based on the individual facts and circumstances which exist.

During the period described, no charges have been laid for by-law offences related to protests or rallies.

2. If no charges have been laid, what are the reasons by law enforcement is not supporting police services and enforcing City of Toronto by laws?

Demonstrations and protests do not fall within scope for by-law officers as they do not intervene or control large crowds for safety or other purposes. Where hate activities and other criminal activity is identified as real or potential, City staff engage the police who have the appropriate enforcement powers to respond to these circumstances. Municipal Licensing and Standards and other City staff provide support to the Toronto Police Service as appropriate. This includes remaining in contact with police to assist with City by-law matters where appropriate. Enforcement happens independent of City Council and on a case-by-case basis considering the facts at hand. Additionally, enforcement activities must be carried out in a manner that is consistent with the Charter of Rights and Freedoms, and this is assessed on the particular facts in each situation.

3. What response and enforcement actions have city staff taken under the Hate Sponsored Rallies policy between October 7, 2023, and March 11, 2024.

The City of Toronto does not have a Hate Sponsored Rallies policy, however, the City of Toronto's [Hate Activity Policy](#) affirms the City's commitment to eliminating hate activity and advancing a hate-free City. The purpose of the Hate Activity Policy is to assist in the prevention and identification of a hate motivated crime or incident. The City's [Hate Activity Procedures](#) set out procedures for reporting and handling hate activity incidents under the Hate Activity Policy.

The Hate Activity Policy applies to City of Toronto employees, volunteers, Accountability Officers and their staff, and elected officials and their staff. Members of the public who interact with City services or attend City owned facilities and City property are expected to adhere to the policy and applicable laws. The Hate Activity Policy does not apply to property outside the City's jurisdiction. City Agencies and Corporations are expected to have their own consistent policies.

The City of Toronto requires authorized users of public space, facilities and properties, and recipients of City grants utilizing such space to agree to the terms of the City's [Declaration of Compliance with Anti-Harassment/Discrimination Legislation and City Policy](#). The Declaration requires authorized users to certify that they will not be conducting any business that violates the City's [Human Rights and Anti-Harassment/Discrimination Policy \(HRAP\)](#), Hate Activity Policy and governing legislation, including the Ontario Human Rights Code and the Criminal Code of Canada.

The City of Toronto has a number of tools to utilize where Hate Activity incidents occur, which may include revoking permits, enforcing contractual rights, issuing Trespass Notices; removal under the Trespass to Property Act, and/or contacting Police. Between October 2023 and March 2024, the City did not revoke any permits based on non-compliance with the City's Hate Activity Policy or Human Rights and Anti-Harassment/Discrimination Policy. During this timeframe, permits have been denied when identified as protests, demonstrations, or rallies. No Trespass Notices have been issued under these policies during this timeframe.

The City does not issue permits for rallies or protests. Where the City becomes aware of individuals or groups wishing to hold a rally or protest in a public space they should be directed to complete the [Toronto Police Notice of Demonstration](#).

MLS has worked with the Toronto Police Service when requested to address in-scope bylaw violations, particularly illegal vending (e.g., flags and t-shirt sales). The City has successfully pre-empted this activity with the assistance of the Police. Voluntary compliance was reached without the need for charges.

4. What options are available to seek an injunction to prevent [this year's Al Quds Day] event from taking place or what other measures are available to stop this gathering?

Where enforcement action is taken by by-law officers, City staff seek advice from Legal Services on whether injunctions are appropriate in a given case. This is a contextual assessment based on the facts in a particular circumstance. Enforcement and prosecutorial decisions are made independent of City Council based on the relevant context in a given matter.

The City's enforcement activity must always comply with the Canadian Charter of Rights and Freedoms. The City Solicitor has previously reported on Charter considerations in this area, and that advice can be found in the [2019.EX3.3 – Administrative Inquiry on Hate Sponsored Rallies](#).

5. What plans are in place to keep the public safe from gatherings of this nature [such as Al Quds Day]?

The primary role of Toronto Police Service at demonstrations and protests is the preservation of the peace and public safety. The Toronto Police Service ensures that individuals are able to lawfully exercise their rights pursuant to the Canadian Charter of Rights and Freedoms, such as freedom of assembly and freedom of speech.

Recognizing that some demonstrations and protests are contentious and attract counter-protests, the Toronto Police Service takes additional specific steps to ensure public safety during such events. The Police mobilize resources to ensure the effective collection of evidence during these events, should there be any incidents of violence or other criminal behaviour. Unlawful conduct may be the subject of police enforcement either immediately, when an officer deems it safe to do so, or at a future time.

Sincerely,



Paul Johnson
City Manager

cc:

Chief Myron Demkiw, Chief of Police

Will Johnston, Deputy City Manager, Infrastructure Services

David Jollimore, Deputy City Manager, Corporate Services

Wendy Walberg, City Solicitor

Mary Madigan-Lee, Chief People Officer

Carleton Grant, Executive Director, Municipal Licensing and Standards

Patrick Matozzo, Executive Director, Corporate Real Estate Management

Dwaine Nichol, Director, Corporate Security