



May 8, 2020

Sent via email

Honourable Mike Farnworth
Minister of Public Safety and Solicitor General
PO Box 9010 Stn Prov Govt
Victoria, BC V8W 9E2

Re: Enforcement of Ministerial Order 150

I am writing on behalf of the British Columbia Civil Liberties Association (“BCCLA”) to call upon the province, the Cities of Vancouver and Victoria and associated police agencies not to take enforcement actions in relation to Ministerial Order 150 (“the Order”). This is the Order passed today to evict people from the encampment at Oppenheimer Park in Vancouver on May 9, and from the Pandora Corridor and Topaz Park encampments in Victoria on May 20.

The Order recognizes that the COVID-19 pandemic poses a significant threat to the health, safety and welfare of British Columbians, and “threatens to disproportionately impact the most vulnerable segments of society.” We 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 opioid overdose public health emergency that continues to persist.

For the reasons set out below, we urge you and your counterparts not to enforce the Order once the eviction dates and times for the three encampments have passed. We are also, through a separate letter, calling upon the cities, Vancouver Park Board, and Metro Vancouver Regional District to suspend enforcement of their respective bylaws requiring homeless people to move on a daily basis in between sheltering overnight in public space.

Inadequate Housing and the Ongoing Criminalization of Homeless People

Homelessness has been on the rise across British Columbia and Canada for decades. As highlighted in the National Protocol for Homeless Encampments in Canada, encampments must be understood in the context of historical and ongoing structural racism and colonization towards Indigenous peoples as well as historic and systemic disadvantaged endured by 2SLGBTQ+, Black and other racialized communities, people living with disabilities, and people who are

criminalized.¹ Encampments - such as the three targeted by the Order - are therefore the result of structural conditions and ongoing government failures.

Amidst the increase in homelessness, governments have not only failed to prioritize housing needs and engage in reconciliation and decolonization in good faith, but have responded through criminalization. Governments, and particularly municipalities, police the survival behaviors that people engage in, as homeless people have no choice but to live in public space. This includes ticketing people for sitting on sidewalks, seizing their belongings, and constantly displacing homeless people from any space they occupy.

The enforcement of the Order has the significant potential to further criminalize these vulnerable members of our communities. The police are the only enforcement officers with authority to enforce non-compliance with the Order. They can use discretion to issue a violation ticket of \$2300 (\$2000 fine and \$300 victim surcharge levy) or an appearance notice to face the charges the court, in which case a person can be liable to imprisonment for a term of not more than one year and/or a fine of up to \$10,000.

It would be unconscionable to have the police threaten the already vulnerable security of the people staying in the encampments through any attempt to enforce the Order. We stress that the use of force to displace the residents is unacceptable. Issuing fines to people who cannot afford housing is not only fruitless and absurd but also cruel in that it would further contribute to their over-policing and under-protection.

Daily Displacement Causes Physical and Psychological Harm

Government actions pushing homeless people to the margins of society are detrimental even outside of public health emergencies such as the COVID-19 pandemic and the opioid overdoses. As the Court accepted in the case of *Abbotsford (City) v. Shantz*, "the result of repeated displacement often leads to the migration of homeless individuals towards more remote, isolated locations as a means to avoid detection. This not only makes supporting people more challenging, but also results in adverse health and safety risks." These health and safety risks include "impaired sleep and serious psychological pain and stress."²

We want to draw your attention to a growing number of public health organizations and advocates calling on government actors to stop displacing homeless people for the duration of the COVID-19 pandemic:

- Guidance from: **U.S. Department of Health & Human Services** (via the Center for Disease Control):

¹UN Special Rapporteur on the Right to Housing, [A National Protocol for Homeless Encampments in Canada](#), April 30, 2020 at page 5.

² Add citation

“Prevention measures

Encampments:

- Unless individual housing units are available, do not clear encampments during community spread of COVID-19. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.
- Encourage people staying in encampments to set up their tents/sleeping quarters with at least 12 feet x 12 feet of space per individual.
- Ensure nearby restroom facilities have functional water taps, are stocked with hand hygiene materials (soap, drying materials) and bath tissue, and remain open to people experiencing homelessness 24 hours per day.
- If toilets or handwashing facilities are not available nearby, provide access to portable latrines with handwashing facilities for encampments of more than 10 people”³

- Statement from: **National Law Centre on Homelessness and Poverty (USA):**

“Alternatively, while encampments are not a long-term solution, preserving individuals’ ability to sleep in private tents instead of mass facilities through repealing—or at least pausing enforcement of—ordinances banning camping or sleeping in public would ensure people can more safely shelter in place, maintain social distancing, and reduce sleep deprivation. Encampments should be provided with preventative solutions—like mobile toilets, sanitation stations, and trash bins—to further reduce harm.”⁴

- The **United Nations** has also issued a clear directive against displacement of people in encampments during COVID-19:

This document calls for immediate emergency housing, and in the interim “moratoriums on forced evictions of informal settlement”, and the provision of the following to all those “living in homelessness or grossly inadequate housing”: “cease all evictions... ensure that the enforcement of containment measures (eg: curfews) does not lead to the punishment of anyone based on their housing status; provide equal access to testing and health care;”⁵

The Provincial Government is aware that homeless people across the Province are subjected to daily displacement pursuant to municipal, regional, and at times provincial laws. The Province could work with the community to order municipalities to allocate lands for homeless people to shelter on a more than overnight basis; but instead, the Province is now using its powers under the *Emergency Powers Act* to close a few of the only spaces where homeless people were safe from displacement.

³ <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>

⁴ <https://nlchp.org/housing-is-the-next-step-to-mitigating-coronavirus/>

⁵ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727&LangID=E>

Two Public Health Crises

The COVID-19 pandemic and associated government emergency responses compound the existing public health emergency declared in 2016 to respond to the significant rise in opioid-related overdose deaths in the province. Measures taken to protect people from COVID-19 must not compromise efforts taken by people to protect themselves from the overdose emergency that continues to persist.

In the context of intersecting public health emergencies, encampments such as those targeted for eviction are crucial in enabling residents to engage in social-distancing and self-isolation while also effectively serving as pop-up overdose prevention sites. These are spaces where vulnerable substance users can access harm reduction supplies and peer-witnessing. For instance, in the case of Vancouver, Oppenheimer Park contains the only 24/7 Overdose Prevention Site in the Downtown Eastside and there is no plan for an alternate overnight service. The eviction of people from such encampments will therefore create a greater risk of both overdosing and acquiring COVID-19. This is especially true given that the Province's emergency housing is almost entirely governed by total guest bans completely contrary to public health directives that "housing providers continue allowing visitors... so people do not use alone in their rooms."⁶

No Enforcement Unless Adequate Housing Provided to All

We are calling on the government to prioritize the health needs of **all** people in their efforts to fight the spread of COVID-19. Enforcing the Order with police officers will severely threaten the health and well-being of people using these encampments to social distance and self-isolate for COVID-19 purposes and for overdose prevention sites. Unless safe adequate housing is provided to all the homeless people wishing to shelter in encampments, enforcing the Order will only threaten their health and safety and exacerbate their ongoing criminalization in our community.

Sincerely,



Meghan McDermott
Senior Staff Counsel – Policy

⁶ <https://vancouver.ca/news-calendar/overdose-deaths-spike-amidst-covid-19.aspx>

Cc: Honourable Adrian Dix, Minister of Health
Mayor Kennedy Stewart, City of Vancouver
City Manager Sadhu Johnston, City of Vancouver
Chief Constable Adam Palmer, Vancouver Police Department
Mayor Lisa Helps, City of Victoria
Chief Constable Del Manak, Victoria Police Department