

July 8, 2020

Attn: York Region Chair and Councillors,

Re: Masks by-law

I understand you are currently considering a by-law to make masks mandatory inside commercial establishments. I'm a lawyer who lives in Guelph where we have a mandatory masks order. I just wanted to share how successful the measure has been and to caution you regarding the correspondence you received from the Ontario Civil Liberties Association (OCLA).

Masks work - important source control measure

Briefly, masks work. They help to reduce the potentially virus-laden droplets and aerosols exiting your mouth and nose from entering the surrounding environment and infecting others. Are they perfect? No. Neither is hand-washing nor keeping two meters away from someone. Masks are a harm reduction tool that add an important layer of protection, particularly as we begin to re-open our economies and increase interaction and potential for transmission.

No evidence of false sense of security

Public health experts in the [Lancet](#) have found no empirical evidence for the claim that "mask wearing could engender a false sense of security in relation to other methods of infection control such as social distancing and handwashing." Importantly, studies from [Italy](#) and [Germany](#) show that masks actually increase physical distancing. Why? Without masks, things seem "normal" and we fall into our usual habits. Universal masking provides an important visual reminder that we're living in the middle of a pandemic and we adjust our behaviour accordingly. Consistent with this, research from [McMaster](#) and [EKOS](#) shows that mask use is associated with a greater adherence to other preventative measures across the board.

Why mandatory? Need high usage to be effective

If few people wear masks, it won't have much of an effect on transmission. If something in the order of [80% or higher](#) wears masks, studies show that this can have a significant impact on transmission. The only jurisdictions that reach these levels of usage seem to be places in which the use of masks were either a pre-existing cultural norm or where they have been mandated. Recommendations just don't seem to get us there.

We've also seen how legislation can be an important tool in increasing the usage of other safety interventions. For example, in 1976, Ontario passed a law mandating the use of seat belts. As a result, usage [more than tripled](#) that year. The same is true for bicycle helmets: one systematic review [showed](#) that "the odds of helmet use more than quadrupled with legislation."

Mask usage in Guelph increased to 90-100% after our order came into effect

Before our masking order came into effect, I observed maybe 5-10% of people in my grocery store wearing masks. The weekend that our order came into effect, I visited two stores and saw 100% of staff and customers wearing masks in both places. Dr. Mercer, our Medical Officer of Health, said in an [interview](#) with TVO that “Sometimes it’s probably very close to 100 percent... certainly well over 90 percent of the people in indoor retail establishments are wearing masks.” When she issued the order, she was explicit that it would not be “policed”.

Laws help create social norms - enforcement shouldn’t be overemphasized

I think Guelph’s success is the result of at least three things. In the past, there’s been mixed messaging on masks and that’s still informing our discussion today. Making masks ‘mandatory’ unequivocally communicates their value and increases usage in a way that recommendations have consistently proven unable to do. Second, the law also has a tremendous power to communicate community values and shape social norms. Finally, for the most part, Canadians are law-abiding folk. Even if some don’t abide by the mandate, 100 percent compliance is not the objective. A handful of people will qualify for an exemption and, even if there are a few trouble-makers seeking online fame, there’s no need for friction in stores as some percentage of non-mask use is accounted for in modelling studies. As always, education is preferred to enforcement.

Masks as a high return on investments and important economic tool

Wearing masks can save a significant amount of taxpayer dollars and hasten a return to normal economic activity. For example, [research](#) from a group of economists and public health experts at Yale University finds:

"We estimate that the benefits of each additional cloth mask worn by the public are conservatively in the \$3,000 - \$6,000 (USD) range due to their impact in slowing the spread of the virus... This estimate is conservative with respect to the benefits, as it does not include the economic benefits from a quicker resumption of normal activity. And our estimates above suggest that the effect of masks could be 5 - 6 times as large."

Researchers from Berkeley, London, Cambridge, Paris, and Helsinki, [also conclude](#) that the widespread use of masks is important from an economic, social, and mental health perspective:

"Taken in tandem, our theoretical models and empirical results argue for urgent implementation of universal masking in regions that have not yet adopted it as policy or as a broad cultural norm. As governments plan how to exit societal lockdowns, universal masking is emerging as one of the key NPIs (non-pharmaceutical interventions) for containing or slowing the spread of the pandemic. Combined with other NPIs including social distancing and mass contact tracing, a ‘mouth-and-nose lockdown’ is far more

sustainable than a 'full body lockdown', from economic, social, and mental health standpoints."

Given that the fabric in a cloth mask might only cost \$1 to \$2, universal masking represents an incredibly high return on investment. By reducing incidents of transmission, masks can also help prevent another costly lockdown and keep local businesses open..

Do we have enough evidence? How much evidence did we have for other measures?

[According to](#) Dr. Ashish Jha, director of Harvard's Global Health Institute:

"The evidence [on masks] has shifted substantially over the last two months... [there] are now dozens of studies that are coming out, I think we feel very confident that masks are a really important part of getting this virus under control. Unto itself, it is not enough, but as a part of a broader strategy, I think it's pretty critical that we get into mandatory mask wearing whenever people are out and about." [emphasis added]

In other words, the evidence is there. Instead of sharing the multitude of studies that are now available on masks, consider if perhaps we've created an impossible evidentiary burden or are applying an evidentiary double-standard to masks. For example, let's look at the evidence in support of the social distancing measures that we all took for granted.

A 2018 [systematic review](#) on the effectiveness of workplace social distancing measures in reducing influenza transmission found that, "Modeling studies support social distancing in non-healthcare workplaces, but there is a paucity of well-designed epidemiological studies." So modelling studies are sufficient for mandating social distancing measures but not masks? Similarly, a 2020 [systematic review](#) on social distancing measures (e.g. isolating ill persons, contact tracing, quarantining exposed persons, school closures, workplace measures / closures, and avoiding crowding) concluded "the evidence base for these measures was derived largely from observational studies and simulation studies; thus, the overall quality of evidence is relatively low." So observational and simulation studies are sufficient for mandating social distancing measures but not masks?

It seems like there was little to no debate around a three-month lockdown that resulted in businesses shutting down, a substantial hit to our economy, a loss of personal savings, investments being wiped out, high unemployment, an increase in government support and debt, families being kept apart, being told to stay home 24/7, an increase in domestic violence, an increase in mental health issues, and so on, but what was the quality of the evidence to support these measures?

Moreover, why did we apply such little scrutiny to measures that have *extraordinary* costs and *greatly* infringe on one's mobility rights and ability to earn a living, but a seemingly infinite amount of scrutiny to a measure that carries virtually no costs? Shouldn't the former have

entailed a much higher degree of scrutiny? Surely a 'full body lockdown' is more infringing than 'mouth-and-nose lockdown' in limited settings with clear exemptions?

Ontario's SARS Commission report published in 2006 recommends that the precautionary principle "be expressly adopted as a guiding principle throughout" public health and that it guide actions "in any future infectious disease crisis" and that "reasonable steps to reduce risk should not await scientific certainty." Surely mandating the use of \$1 worth of fabric is a 'reasonable step'. Surely the evidence from around the world on masks has met this burden.

Ontario Civil Liberties Association - "questionable scientific basis"

With respect to the letter you received from the OCLA, I encourage you to take a few minutes to learn more about the organization, in particular Denis Rancourt, the author of the papers on which the letter is based. I encourage you to enter these into a search engine. I would also like to point out that the OCLA is not associated with the Canadian Civil Liberties Association.

In its letter to the WHO, the OCLA cites a paper at its first footnote entitled, "*All-cause mortality during COVID-19: No plague and a likely signature of mass homicide by government response.*" This paper was written by Denis Rancourt of the OCLA. In it, he concludes: "I postulate that the 'COVID peak' represents an accelerated mass homicide of immune-vulnerable individuals, and individuals made more immune-vulnerable, by government and institutional actions, rather than being an epidemiological signature of a novel virus." Or, as he puts it on social media, "There is no extraordinary killer pathogen, only extraordinary manipulation and idiocy." As I'm sure you are aware, this is not the prevailing scientific consensus. I encourage your Medical Officer of Health to briefly review this paper and offer his opinion.

His other paper relevant to the discussion is titled "*Masks Don't Work: A review of science relevant to COVID-19 social policy*". While I can spend some time pointing out fallacies in the paper, instead, I will simply bring to your attention the fact that the paper was removed from ResearchGate because it violated their terms of service. ResearchGate prohibits "the posting of non-scientific content on the platform" and found Mr. Rancourt's work had "questionable scientific basis". They added that the report went "against the public health advice and/or requirements of credible agencies and governments", "did not appear to have undergone quality control processes by the scientific community", and "had the potential to cause harm." Mr. Rancourt has made this information [publicly available](#) and, if asked, I trust the OCLA will corroborate this information.

Is COVID-19 a government conspiracy?

So what's really going on with SARS-CoV-2 and masks? The Ontario Civil Liberties Association researcher behind the letter you received has been fairly transparent over social media:

"The establishment purpose of masks is to cement the conviction that extraordinary viral

respiratory disease pathogens are among us and that only the State, state control, and vaccines can save us. Masks are a personal commitment to this lie anchored in fear. The winter-burden all-cause mortality has been statistically the same as with all past winters of the last many decades. There is no extraordinary killer pathogen, only extraordinary manipulation and idiocy. This is a frenzy, like a call to war."

"They must push face masks as a cover-up for their murderous mega crime. The face masks must be believed and adopted. The entire propaganda industry and institutions must be in overdrive to push face masks. They "did nothing wrong, only saved us". In fact, on the contrary, they have killed the Western middle and working classes, and left only the professional class and military to oversee their increasingly vicious globalism, which must not be captured by Chinese interests."



Denis Rancourt

July 1 at 8:43 AM · 🌐

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Denis Rancourt

21 hrs · 🌐

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MASK OR BE EXPOSED. Goldman Sachs says face masks could save the economy...

OKeee... Now we know how desperate they are. They must push face masks as a cover-up for their murderous mega crime. The face masks must be believed and adopted. The entire propaganda industry and institutions must be in overdrive to push face masks. They "did nothing wrong, only saved us". In fact, on the contrary, they have killed the Western middle and working classes, and left only the professional class and military to oversee their increasingly vicious globalism, which must not be captured by Chinese interests.

Civil liberties - Section 1 of the *Canadian Charter of Rights and Freedoms*

Finally, with respect to civil liberties, according to its website, the OCLA “advocates for unimpeded civil liberties and civil rights of all persons” [emphasis added]. The *Canadian Charter of Rights and Freedoms* takes a more balanced approach to living with others in a community. As you are aware, section 1 of the *Charter* guarantees rights and freedoms “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” There is no constitutionally-protected right in Canada to unilaterally increase someone's risk of exposure to a contagious virus in the middle of a global pandemic. A well crafted by-law that allows for appropriate exemptions and is not discriminatory in its application should address most concerns raised by more credible civil liberties advocates.

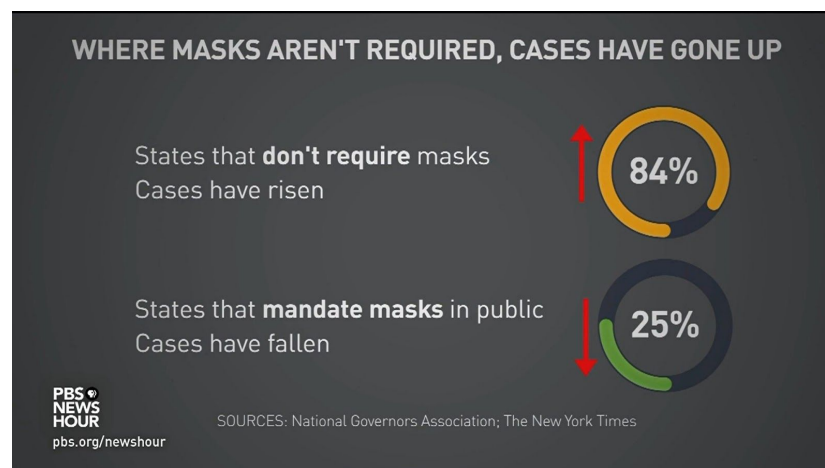
For a more nuanced perspective on the intersection of masks, the law, and civil liberties, please read, “[Making masks mandatory is not a civil liberties issue](#)”, published in The Toronto Star by Ewa Krajewska, Veronica Sjolín, and Teagan Markin, all lawyers at BLG, one of Canada's

largest law firms. The OCLA does not appear to have any lawyers on their advisory board, executive, or researchers, nor does its letter make any reference to the Canadian legal framework around rights and freedoms.

Let's not take unnecessary risks - let's protect each other

In writing this letter, I think of the thousands of Canadians who have passed away from COVID-19 and the tens of thousands who have supposedly “recovered” but still struggle every day and wonder, how many of these infections could have been prevented through the use of masks? And what of the high number of supposedly asymptomatic carriers? According to a [recent study](#), 57% of asymptomatic patients showed lung abnormalities on CT scan: “the coronavirus is often taxing a person's body more severely than their symptoms — or lack thereof — suggest.”

There's still so much about this virus that we don't know. Let's not take unnecessary risks. Let's join countries all around the world (including many US states and cities, [see below](#)) and other jurisdictions across Ontario and make masks mandatory.



I look forward to the day this pandemic is behind us and we're all able to take off our masks and see each other's smiles again. Until then, I will be wearing mine to protect others and hope that others do the same for me. I'm grateful to live in a community where, ever since our medical officer of health mandated masks, this has been the case. Passing this by-law would help maximize the use of masks in the York Region to protect your residents, protect local businesses, and provide an unimportant example of leadership for other jurisdictions to follow.

Sincerely,

Rob Shirkey, LLB, BBA

Please note that I am available for a phone call or Zoom to answer Council questions