



Legal and Court Services Department

## Memorandum

To: Committee of the Whole

From: Dan Kuzmyk, Deputy Regional Solicitor

Date: Thursday November 5, 2020

Re: **Enforcement of COVID-19 Rules and Regulations Under the Reopening Ontario Act, 2020**

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This memorandum provides Council with information related to the enforcement of Provincially legislated COVID-19 rules and regulations. It includes a high-level discussion of potential offences and penalties available under Provincial legislation and describes enforcement activities in York Region to date and potential enforcement and compliance strategies to be applied going forward.

**Provincial Orders made under the *Emergency Management and Civil Protection Act* have been continued under the *Reopening Ontario (A Flexible Response to COVID-19) Act***

On March 17, 2020, the Premier of Ontario declared a Provincial Emergency under section 7.0.1 of the *Emergency Management and Civil Protection Act* ("EMCPA"). An Emergency under the EMCPA was declared by Regional Chairman and CEO, Wayne Emmerson, on March 23, 2020.

The Provincial Emergency Declaration was followed by numerous Orders made pursuant to the EMCPA as a means of controlling the spread of the COVID-19 virus. The Provincial Emergency was terminated on July 24, 2020, but many of the orders made to support the Public Health pandemic response were continued under successor legislation, the *Reopening Ontario (A Flexible Response to COVID-19) Act* ("ROA"). The ROA came into force on July 24, 2020.

**The focus for achieving compliance with COVID-19 rules and regulations has been on education and persuasion, supported by enforcement activity where appropriate**

During the “First Wave” of the COVID-19 pandemic, York Region’s Medical Officer of Health, Dr. Kurji, consistently advocated for an “education-focused” approach to achieving compliance. This approach, supported by enforcement measures where appropriate, had a positive effect on reducing transmission of the virus during the First Wave and resulted in many of the initial restrictions being loosened.

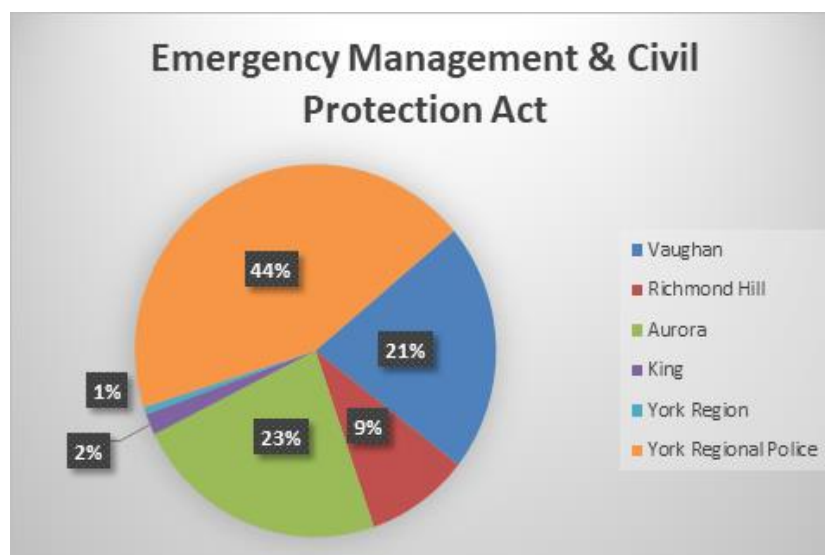
Table 1 indicates the number and type of EMCPA charges respectively laid by local municipal bylaw officers, York Region Public Health inspectors and York Regional Police (YRP) from March 2020 to September 2020. These figures are provided by the Province and will be updated in mid-November to include October 2020.

**Table 1**  
**Mar - Sept 2020**

<b>Agency</b>	<b>Part 1 POA</b>	<b>Part 3 POA</b>	<b>Total</b>
Vaughan	35	-	35
Richmond Hill	15	-	15
Aurora	34	3	37
King	3	-	3
York Region	1	-	1
York Regional Police	69	2	71
	157	5	162

Figure 1 shows the percentage breakdown of enforcement activity by local bylaw officers, York Region Public Health inspectors and YRP to the end of September 2020.

**Figure 1**



As shown in Table 2, YRP have played a significant role in responding to EMCPA and ROA complaints and calls for service. Table 2 describes YRP enforcement activity from March 2020 until October 2020 and also includes calls for service and warnings issued in addition to charges that were laid.

**Table 2**

Month	Calls for service	Tickets	Warnings
March	214	3	9
April	1723	33	145
May	1004	32	22
June	366	1	1
July	207	1	2
August	88	1	0
September	188	2	2
October	265	82	4
<b>Totals</b>	<b>4055</b>	<b>155</b>	<b>185</b>

**To respond to the COVID-19 “Second Wave”, more assertive enforcement will support public health objectives, leveraging significant penalties in the *Emergency Management and Civil Protection Act* and the *Reopening Ontario Act***

With the advent of the expected “Second Wave”, a more assertive approach to enforcement, where appropriate, is supported by Dr. Kurji. This more assertive approach aligns with direction from the Province on this issue.

The COVID-19 rules and regulations currently in effect include offences related to general compliance, screening, physical distancing, face coverings, regulation of businesses and limits on gatherings. These rules and regulations are informed by public health advice and are primarily intended to reduce virus transmission through close contact.

Assertive enforcement supports the priorities of the Provincial COVID-19 Response Framework: [Keeping Ontario Safe and Open](#) (the “Response Framework”) dated November 3, 2020. The Response Framework priorities are to avoid business closures, keep schools and childcare open, maintain health care and public health system capacity and protect vulnerable populations.

There are a range of possible penalties available upon conviction of an offence depending on whether EMCPA or ROA charges are laid under Part I or Part III of the *Provincial Offences Act*

(POA). Under Part I, a “ticket” may be issued for less serious offences and convictions may result in a set fine or a fine determined by the Court. Under Part I proceedings, the maximum fine is \$1,000.

Upon conviction in a Part III proceeding, a person may be required to pay a fine imposed either at the discretion of the Court or pursuant to minimum and maximum penalties which, in some cases, may be very significant. For example, under the ROA, an individual host or organizer of a public event or other gathering at a residential premises who exceeded the maximum number of people allowed would be subject to a minimum fine of \$10,000 and a maximum fine of \$100,000 if convicted. For corporate officers/directors and corporations, respectively, the maximum fines increase to \$500,000 and \$10,000,000, respectively.

### **Enforcement of COVID-19 rules and regulations will be enhanced through collaborative partnerships between municipal bylaw enforcement staff, York Region Public Health and York Regional Police**

Since the beginning of the pandemic, local municipal bylaw enforcement staff have been leveraging existing partnerships with York Region Public Health inspectors and York Regional Police to support efforts to educate communities and enforce rules and regulations. This enforcement activity has been and will continue to be reported to the Ministry of the Solicitor General.

York Region Public Health inspectors assist the case management process through onsite workplace cluster investigations and attend along with YRP when individuals are not following isolation requirements. Public Health Inspectors follow-up on complaints to educate operators and employees and to ensure that regulatory requirements are being followed under the *Reopening of Ontario Act*. They enforce and lay charges under the *Act* and work collaboratively with York Regional Police, municipal Bylaw Officers and the Alcohol Gaming Commission of Ontario to educate and enforce through numerous combined initiatives.

YRP and municipal bylaw staff have a long-standing relationship as partners in enforcement. YRP supports municipal bylaw enforcement through its Community Oriented Response (CORE) Units located in each of the five District Headquarters. The CORE Units work closely with municipal bylaw staff through established processes to effectively support enforcement activities. YRP and municipal bylaw staff meet frequently to share information, education and strategies for keeping the peace. The processes for each CORE Unit’s work with a municipality are reflective of unique community needs and the resources that may be available in that community.

**Additionally, the support of a Provincial Multi-Ministry Team is expected to enhance the existing enforcement partnerships within York Region and support an effective enforcement strategy**

The work of enforcement officials has been complicated by the evolving nature of the pandemic and the associated response. To assist, in mid-October 2020, the Province announced the establishment of a multi-ministry COVID safety awareness and compliance team (Multi-Ministry Team) to support enforcement work. The support of the Multi-Ministry Team adds a visible Provincial component to enforcement efforts demonstrating a united effort across all levels of government.

The Multi-Ministry Team will be using collected data to collaborate with local enforcement on campaigns targeting locally identified areas of concern. These areas of concerns can include specific sectors, settings, businesses, or locations.

A handwritten signature in black ink, appearing to read 'Dan Kuzmyk', with a large, stylized flourish above it.

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Dan Kuzmyk  
Deputy Regional Solicitor

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