

Community Safety and Well-being

Bylaw Review

Recommendation

That the March 24, 2021, Citizen Services report CR_8484, be received for information.

Previous Council/Committee Action

At the July 6/8, 2020, City Council meeting, the following motion was passed:

2. That Administration:

- d. As part of the forthcoming bylaw review, include an analysis of bylaws commonly used in pretence policing (e.g. loitering, jaywalking, interfering with lawn furniture, riding a bicycle on a sidewalk), including suggestions for clarification, revision or repeal.

Executive Summary

The City has the power to create and enforce bylaws for municipal purposes. Municipal bylaws are designed to create a framework of rules and guide citizen behaviour. Fines are generally set to be proportionate to the severity of the offence and act as a deterrent.

Other orders of government can also influence the City's enforcement powers by modifying programs and powers. For example, in November 2020 new guidance regarding use in the setting of street checks and carding was released for police officers by Alberta Justice and Solicitor General; the City would also implement these guidelines in their peace officer program.

Administration reviewed bylaws that most commonly affect marginalized individuals and found six that cover public safety, civil conduct in public and maintaining community standards and cleanliness. Analysis of enforcement statistics highlighted seven offences within three of the bylaws that could be perceived as being connected to the notion of pretence policing and impact specific groups of people. Proposed actions include developing a communications plan to bring awareness to and about diverse communities, amending bylaws where improvements have been identified, introducing enhanced staff training initiatives, developing a more robust accountability framework, improved collaboration with social agencies and considering new and different regulatory approaches when dealing with marginalized populations.

Report

The City of Edmonton is committed to ensuring the safety and well-being of all community members. These efforts are guided by the City's cultural commitments and leadership competencies, as well as the goals of ConnectEdmonton and the City Plan. As an organization, the City remains committed to doing the right thing and adjusting course when issues are identified.

In June 2020, City Council held a non-statutory public hearing to hear from the public on their experiences with systemic racism and interactions with local enforcement agencies. Through this process, it became clear that systemic racism is prevalent throughout Edmonton and the City's institutions. Additionally, some of the efforts enacted by the City to keep our community safe have unintended consequences which cause harm.

Making meaningful changes to address systemic racism must include addressing enforcement instruments that cause harm. Bylaws are created and enforced in an attempt to ensure the safety of all Edmontonians. Those who are marginalized by poverty, addiction, and other systemic issues are often further marginalized by the application of these rules and fines. The enforcement of bylaws can also be subjective and officers may exercise discretion differently.

As part of the July 2020 motion, City Council directed Administration to review bylaws that most commonly affect marginalized individuals. The principles of this review include:

- regulatory components are intended to create conditions for a safe society,
- existing instruments used to create safety for the community contribute to systemic racism and must be adjusted to not cause harm, and
- City-building is anchored in inclusion and compassion, not just enforcement.

The *Municipal Government Act* authorizes the City to create and enforce bylaws to maintain the health, safety, and wellness of the community. These bylaws provide rules on governance, operations and service delivery by the City. This review will focus on the following six bylaws that cover public safety, civil conduct in public and maintaining community standards and cleanliness in Edmonton:

- Bylaw 2202 - Parkland Bylaw
- Bylaw 5590 - Traffic Bylaw
- Bylaw 8353 - Conduct of Transit Passengers Bylaw
- Bylaw 13145 - Animal Licensing and Control Bylaw
- Bylaw 14600 - Community Standards Bylaw
- Bylaw 14614 - Public Places Bylaw

Offences under these bylaws include loitering, jaywalking, public urination and defecation, riding bicycles on sidewalks, obstructing sidewalks, harassing or jostling pedestrians, proof of payment (fare evasion) and interfering with street furniture.

Analysis of enforcement statistics demonstrate that these bylaws are also the most frequently used for enforcement by the City's enforcement officers (Attachment 1).

Bylaw Review Process

Administration conducted data analysis to identify commonly-enforced bylaws to be included in this review, a legal review of the existing bylaws, and a jurisdictional scan of equivalent bylaws from across Canada (Attachment 2). The application of bylaws in Edmonton in terms of the impact of each bylaw to vulnerable populations and the black, indigenous, and people of colour communities was also considered.

The review of each bylaw was based on the intent of the legislation, the overall desired outcome, and the practicality and effectiveness of the enforcement. Administration seeks voluntary compliance through education and awareness and root cause analysis and develops initiatives and approaches to deal with complex social issues. Formal sanctions are generally the last action used when all other possibilities have been exhausted.

Analysis Results

Based on the bylaw review, seven areas from three bylaws were identified as offences that could lead to pretence policing based on the frequency of tickets issued (Attachment 3 and 4):

- *5590 Traffic Bylaw - Section 49 - Ride Bike on Sidewalk*
- *5590 Traffic Bylaw - Section 59 - Jaywalking*
- *8353 Conduct of Transit Passengers Bylaw - Section 5 - Proof of Payment*
- *8353 Conduct of Transit Passengers Bylaw - Section 10 - Harassment*
- *8353 Conduct of Transit Passengers Bylaw - Section 12 - Loitering*
- *14614 Public Places Bylaw - Section 4 - Littering*
- *14614 Public Places Bylaw - Section 5 - Urination and Defecation*

Similar sections were found in the majority of municipalities across Canada.

Next Steps

Administration will:

1. Carry out the actions as identified in the bylaw review on educational, legislative or training based approaches (Attachment 3).
2. Prepare any necessary bylaw amendments as recommended in Attachment 3 or as identified upon further review of relevant bylaws or based on recommendations from groups such as the Anti-racism Advisory Committee or the Community Safety and Well-being Task Force.
3. Continue to work to create sustainable and responsive social support networks with other orders of government and community partners. This includes infrastructure and programming like supportive, transitional and permanent housing, mental health and addiction services, employment readiness and/or life-skills training.

4. Work with the Anti-racism Advisory Committee to review practices, policies, processes and approaches from an anti-racist lens and seek continued input on approaches for the development and training of officers.
5. Continue to develop anti-racism and scenario-based live training on interacting with vulnerable persons or marginalized populations.
6. Continue to explore other behaviour-changing options or sanctions rather than specified fine amounts.
7. Initiate a robust engagement campaign through the insight community, open houses or surveys to gather input from a variety of perspectives.
8. Develop a communications plan to bring awareness to and about diverse communities; employing modes such as social media platforms, communities of practice, social marketing and community asset or strengths building.
9. Create opportunities for communities of diversity and enforcement agencies to share experiences and establish a common understanding of practices and the outcomes or impacts on both parties with an emphasis on building or rebuilding relationships with the community(s).
10. Ensure compliance approaches understand the current, seasonal and cyclical context of the changing nature of social supports, COVID, resource availability and capacity restrictions.
11. Collect relevant information and race-based data to inform policy development and enforcement approaches.
12. Develop a metrics and accountability framework and provide updates to City Council regularly.
13. Identify funding requirements and sources for additional program development, addressing root causes and implementing harm reduction strategies.

Legal Implications

Peace officers have a limited scope of legal authorities. Although Administration and individual officers can institute training, create policies to shape enforcement action, and develop partnerships to help mitigate any harmful effects they may have on vulnerable populations, they are bound by these provincial authorities and City Council direction. The development of non-enforcement, community-focused options and supports is critical in providing peace officers with options that do not involve fines or enforcement action.

Corporate Outcomes and Performance Management

Corporate Outcome: Edmontonians are safe and secure in our community			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Minimizing pretence policing and enforcement efforts amongst vulnerable populations	Number of officer initiated enforcement complaints	2019: 6,557	Lower than prior period

	Percent of officer initiated enforcement complaints to total enforcement complaints	2019: 18%	Lower than prior period
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Attachments

1. Bylaw Enforcement Data
2. Jurisdictional Scan (Summarized)
3. Bylaw Offence Analysis
4. Use of Warnings and Violation Tickets Data
5. Learnings and Observations

Others Reviewing this Report

- G. Cebryk, Deputy City Manager, City Operations
- C. Owen, Deputy City Manager, Communications and Engagement
- M. Persson, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- K. Fallis-Howell, Acting City Solicitor