

Joint Statement Re: COVID-19 Response Update: Protecting People Experiencing Homelessness and Ensuring the Safety of the Shelter System

June 4, 2021

Human rights must be more than a moral claim; they must be enshrined in actions.

In reviewing the City Manager's report, [COVID-19 Response Update: Protecting People Experiencing Homelessness and Ensuring the Safety of the Shelter System](#), it is clear that the City of Toronto has taken unprecedented steps to augment its shelter system in the face of the on-going pandemic, which has placed unhoused people at particular risk for well over a year. We applaud steps taken to secure the leases on hotels to increase social distancing, as well as steps taken to create new supportive housing options via modular housing initiatives.

However, it must be acknowledged that the need outweighs the current options available to unhoused people living outdoors. As human beings and rights-holders, encampment residents both want and deserve housing and indoor spaces that are aligned with their definitions of safety, affordability, healthiness, cultural appropriateness, and accessibility. As per Leilani Farha, the Special UN Rapporteur, and Kaitlin Schwan's report, [A National Protocol for Homeless Encampments in Canada](#), "residents are entitled to meaningful participation in the design and implementation of policies, programs, and practices that affect them." As such, they must be engaged meaningfully to co-create safe indoor spaces and housing options. By extension, and in the interests of upholding their human rights as enshrined by the highest laws of this land – the [Canadian Charter of Rights and Freedoms](#) and the [Ontario Human Rights Code](#), let alone the city's own legal obligations to the [Right to Housing](#) – they must be supported where and as they are in the absence of appropriate housing and indoor space options. This is unfortunately where the City Manager's report regarding human rights falls into the area of moral claim, versus action. However, it is where Farha and Schwan's report presents a roadmap for engaging with encampments using a rights-based approach.

Alongside Farha and Schwan, activist groups such as the Shelter and Housing Justice Network and the Encampment Support Network, as well as key city partners, including the [Toronto Alliance to End Homelessness](#), [Daily Bread Food Bank](#), and [South Riverdale Community Health Centre](#), we urge the city to end encampment evictions. As well, we urge the city to listen to residents of encampments as well as the shelter system in the creation of a strategy for unhoused people. This must include opportunities for leadership and on-going, meaningful input by unhoused people which is given due consideration in any strategy that affects them. This includes the City Manager's report, which has clearly not sought input by unhoused people in its development.

While safety has been a key issue among all stakeholders invested in encampments, the City Manager's report highlights concerns that could be readily rectified by approaches other than eviction. In fact, without exploring these approaches, the city cannot feasibly suggest that it has exhausted its opportunities before resorting to evicting encampment residents.

Fire Safety:

In 2018, the provincial Office of the Chief Coroner released the [Grant Faulkner Inquest](#) report, following the death of Faulkner from a fire in his encampment. The report issued a number of recommendations to the city to augment fire safety in encampments, including the provision of safer camping equipment, such as fire-retardant tents and blankets, as well as safer camping stoves. The city has not acted on this recommendation, and as such cannot say that every avenue has been exhausted to mitigate fire risk in encampments. We agree with the Office of the Chief Coroner that safer camping equipment must be provided to people sleeping rough. The provision of such equipment would also maintain [compliance with international human rights law](#).

Garbage:

Given that ActiveTO is both urging and creating more opportunities for people to enjoy the outdoors, including public parks, the provision of garbage pick-up by Parks, Forestry, and Recreation (PFR) is absolutely necessary. However, given the increased use of outdoor spaces by all Torontonians, it is fallacious to suggest that increases in litter are exclusively the result of encampments. It is clear that further effort is necessary on behalf of everyone to continue to augment garbage collection services in public parks. To address discarded needles, an approach that would support the health and safety of all Torontonians would be to install metal needle disposal boxes in proximity to encampments, which would curb discarded paraphernalia from the ground and into a safe depository.

Water:

Beyond garbage collection, running water in parks that is accessible 24/7 would support the health and wellness of encampment residents as well as the broader public. More importantly, access to water is a necessity of life as well as good health, and it is a fundamental human right. As well, for encampment residents, of whom Indigenous people are overrepresented, the city's choice to not provide running water is active participation in a national crisis – that is, the lack of access to clean water experienced by First Nations communities. Referrals to spaces with bathrooms and drinking water by Streets to Homes is not a service, and in fact places the onus on the individual experiencing homelessness to 'fend for themselves' – this is high barrier, and ultimately fails to meet people where they are at. Instead, year-round, accessible bathrooms with running water should be increased in parks for the benefit of encampment residents as well as all Torontonians. This is true

during COVID as a means to prevent viral spread, but it is also in the interests of public health more broadly: accessible public bathrooms are an essential service. In addition to bathrooms, HT0 To Go water trailers should be deployed. In the first six months of the pandemic, [Toronto Drop-in Network members distributed over 185,300 bottles of water](#). TDIN currently liaises with its donation partner Project Foodchain to distribute 17,000 bottles of water a week. Much of this is being diverted to unhoused people living outdoors, and it represents a massive expenditure of labour and resources that could be made more efficient as well as healthier through the deployment of water trailers. The distribution of these bottles contributes significantly to garbage in and around encampments; thus, deploying water trucks would also alleviate some of the burden incurred by PFR in maintaining park space. As with the provision of fire-safe camping equipment by the government, [access to hygiene and sanitation facilities as well as waste management systems](#) are enshrined in international human rights law.

In addition to these issues, there are aspects to the framing of park space in the City Manager's report that require response. Firstly, the report suggests that the presence of encampments is disrupting use of the park by all community members. There is no substantial evidence attached to this claim in the report. Related to this, the report prioritizes recreational space over the need for individuals to have space to live, which clearly does not reflect a rights-based perspective. As well, the report suggests that BIAs will be allowed to utilize park space, and that this is being impeded by encampments. BIAs should not be given precedence to utilize the public land of parks for private profit. A business is not a person, and prioritizing the needs of business over people undermines park space as a site enshrined for the public good – which in turn undermines arguments made in the report.

On top of utilizing the above safety concerns to justify encampment evictions, we must also comment on the processes currently in place to evict people. In addition to not exploring every viable alternative to promote safety before evicting residents, the encampment eviction process is deeply harmful. To begin, Streets to Homes workers and Park Ambassadors are no longer present during encampment removal; instead, corporate security and Toronto Police Services ultimately enforce evictions. This renders any "choice" by encampment residents to stay or go as highly coercive – that is, residents are forced to comply or else face criminalization, including a potential \$10,000 fine. This in no way reflects a human rights-based approach, and in fact contravenes recommendations made in A National Protocol for Homeless Encampments in Canada to shift away from criminalizing, penalizing, or obstructing homeless encampments. It also represents an unnecessary use of city funds to deploy police and parapolic in public parks, the explicit function of which is to criminalize people experiencing poverty, of whom Black and Indigenous community members are over-represented. Moreover, for those who do not enter into an indoor space, the displacement of an encampment resident from one outdoor space to another is not only illogical, it's harmful. That is, displacement entails a disruption of services, supports, and grounding relationships for the displaced person, which can lead to days, weeks, or months of no contact – and, it

must be recognized, some people go missing permanently, or even die. If people refuse to enter into an indoor space, they must be allowed to remain where they are and supported until a viable indoor space or housing option is presented (with full information given) and freely accepted. Pushing people further away from their communities and supports is a dangerous strategy that will put lives at direct risk, and potentially create more situations that mirror the tragedy of Grant Faulkner's death.

The city must also recognize that Indigenous people have a legally enshrined right to self-determination and to assert their Treaty rights, which includes and intersects with the right to construct survival shelters to secure their person. Through the city's own engagement with encampment residents – which by no means constitutes meaningful engagement, which must be on-going and acted upon, as well as incorporate leadership opportunities – 27% identified as Indigenous. The [2018 Street Needs Assessment](#) similarly showed that 32% of people sleeping rough identified as First Nations, Inuit, or Métis. In this case, the clearing of Indigenous encampment residents is in direct violation of their treaty rights. It is also in violation of international human rights law, which strictly forbids the [forced eviction, displacement, and relocation of Indigenous Peoples in the absence of free, prior, and informed consent](#). The city must understand that declarations of encampments as “unsafe” and “unhealthy” are racist and colonial condemnations of Indigenous housing traditions and cultural practices, including seasonal migration. It must also realize that the choice to evict encampments under threat of criminalization both replicates and participates in genocidal systems of Indigenous erasure and assimilation. The city is responsible for understanding the rights of First Nations people to assert their jurisdiction across the land. This includes recognizing that the criminalization of people living outside is part of a tradition of settler practices of evicting the camps of the Anishnawbe, Haudenosaunee, and Mississaugas from Treaty 13 territory.

We recognize that the solution to encampments and homelessness more broadly is housing. We appreciate that the City Manager's report recognizes this as well. While substantial efforts to create new, healthy, affordable, appropriate housing are underway, we acknowledge that these ultimately cannot match the current need in our city. In addition to [81,000 households being on the social housing waitlist](#), the City Manager's report also details that 20,000 unique people have experienced homelessness during COVID-19, with 3,672 individuals experiencing chronic homelessness. This is to say that what is currently planned in terms of housing is not able to accommodate the number of people who are or will experience homelessness in Toronto. We appreciate that the report recognizes that substantial contributions from other levels of government are required to address the homelessness crisis, and we agree. However, until the housing supply can match the need, unhoused people will continue to live in the shelter system as well as outdoors in encampments. Neither is ideal, and both must be made safer – with safety defined first and foremost by residents.

Further recommendations for safer shelters would be to end congregate settings, and to ensure that every shelter is equipped with a supervised consumption site. Even when the pandemic concludes, this must still be the case, and plans can and should be made to not only extend the leases on hotels until at least the end of 2022, but to create a fulsome transition plan for when leases expire that does not default back to congregate settings. Such settings have never been safe or dignified, and having set the bar higher through the creation of shelter-hotels, the city must continue to hold this standard. All this said, the city must understand that declarations of shelters being ‘safe’ does not, in fact, make those spaces safe for everyone, and as such people will continue to live outdoors. Through the city’s own surveys, 44% of encampment residents choose to remain outside because of the “sense of community, including a sense of belonging and the ability to live with partners, friends, and family,” which cannot be guaranteed in shelters. An additional 44% of encampment residents choose encampments for reasons of “privacy and control over daily schedule and space” – that is, autonomy and self-determination, which also cannot exist in shelters, but only in housing and encampments. It must also be recognized that the shelter system simply does not have the capacity to shelter everyone experiencing homelessness: indeed, and by the city’s own admission, there were, as of April 2021, 7,516 individuals actively homeless, and approximately 6,000 shelter spaces. According to data from Fact Check Toronto, [an average of 38 individuals seeking a shelter bed are turned away each day by Central Intake](#). This is to say that beyond a preference by many for encampments, people who do wish to enter into the shelter system are not always able to do so.

We urge the city to act in compliance with human rights legislation at the provincial, national, and international levels by enacting a truly rights-based approach to engaging with encampments. While [by-laws exist that prohibit erecting structures, such as tents, in Toronto’s public parks](#), the by-laws are superseded by the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. We urge the city to act in compliance with this legislation, and adopt the principles outlined in A National Protocol for Homeless Encampments in Canada. We also remind the city that [successful Charter challenges to anti-camping by-laws have been won in British Columbia](#), with rulings that find such by-laws in violation of Section 7 of the Charter, which guarantees life, liberty, and security of the person. There are four legal precedents, [presented in Right to Housing’s Encampments Rights Review](#), which can be applied to the city’s enforcement of encampment evictions, and which frame them as unconstitutional. Thus, our request to adhere to a rights-based approach stems beyond an ask, and in fact is a legal imperative. Human rights cannot be named, as they are in the City Manager’s report, without being acted upon. Uphold the law. End the eviction of encampments now.

Signed,

Toronto Drop-in Network (*Co-author*)
Shelter and Housing Justice Network (*Co-author*)
Accessible Housing Network

ALAB Clinic
All Saints Church-Community Centre
Health Providers Against Poverty (HPAP)
Homeless Connect Toronto
Interfaith Coalition to Fight Homelessness (IFCH)
Older Women's Network Housing Committee
Osgoode Environmental Justice and Sustainability Clinic
Progress Toronto
Sanctuary Ministries
Showing Up for Racial Justice (SURJ) - Toronto
Social Justice & Advocacy Committee of the Anglican Diocese of Toronto
Spadina-Fort York Community Care
Street Nurses Network (SNN)
The Stop Community Food Centre
Toronto Tiny Shelters

To co-sign your organization, please contact engage@tdin.ca.