

**Community Services Report to
SPC on Community and Protective Services
2019 November 13**

**ISC: UNRESTRICTED
CPS2019-1424**

School Safe Zones

EXECUTIVE SUMMARY

On 2019 April 8, Council directed Administration to collaborate with Calgary school boards and districts to understand concerns regarding harmful expression around school sites and determine municipal authority to regulate activities on public spaces.

The City is responsible for protecting Calgarians' freedom of expression in public places while also protecting the psychological integrity of students - often young, vulnerable children - from being unwittingly exposed to advocacy messaging by external interest groups which may trigger confusion, trauma and emotional harm.

Administration has determined that The City, through authority granted by the *Municipal Government Act*, can enact bylaws to protect people, property and public spaces. Accordingly, through this report, Administration is recommending that a bylaw be developed to address the concerns identified in the Notice of Motion.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Community and Protective Services recommends that Council direct Administration to draft a bylaw to restrict advocacy messaging by external interest groups on public property around schools and report back to Council through the Standing Policy Committee on Community and Protective Services no later than 2020 Q3.

RECOMMENDATION OF THE STANDING POLICY COMMITTEE ON COMMUNITY AND PROTECTIVE SERVICES, 2019 NOVEMBER 13:

That Council adopt the Committee Recommendations contained in Report CPS2019-1424.

OPPOSITION TO RECOMMENDATIONS: Councillor Farkas

PREVIOUS COUNCIL DIRECTION / POLICY

On 2019 April 8, Council approved Notice of Motion C2019-0446: School Safe Zones (Attachment 1) directing Administration to report back no later than 2019 Q4.

BACKGROUND

Citizens have expressed concerns to councillors about advocacy messaging by external interest groups located in the immediate vicinity of schools, which may have a harmful impact on students, particularly younger children. The Calgary Police Service has fielded calls from citizens voicing similar concerns.

Efforts have been undertaken by governments to protect vulnerable audiences from exposure to unwelcome or harmful images. In 2016 November, Council approved amendments to the Community Standards Bylaw 5M2004 to prohibit the distribution of flyers to homes that post a *no flyers* sign or notice on their mailbox. This bylaw addresses the rights of citizens to protect their family from unwittingly viewing disturbing or offensive materials delivered to their homes.

In Alberta, the *Protecting Choice for Women Accessing Health Care Act*, mandates no-protest zones around abortion clinics. The rules establish "access zones" of 50 metres for the clinics

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and ban protesting, interfering with or intimidating a patient, physician or service provider within an access zone.

Further, Calgary Transit and Roads utilize the *Canadian Code of Advertising Standards* as a guide on the appropriate content for signs, banners, and advertisements.

Currently, The City does not have any regulatory mechanism to restrict the harmful impact of advocacy messaging by external interest groups that is directed at students attending school.

On 2019 April 8, during the debate on Notice of Motion C2019-0446 (Attachment 1), councillors shared examples of citizens who had experienced trauma or triggering episodes as a result of having unwittingly been exposed to graphic images. Of particular concern were such images displayed by an external advocacy group directly outside of schools and at other locations where there were young children present, including the Children's Festival. In considering the Notice of Motion, Council also heard concerns about how to define "harmful" expression and how to achieve a proper balance between protecting freedom of expression while also safeguarding the psychological integrity of students who are exposed to advocacy messaging by external interest groups.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

To respond to the Notice of Motion, Calgary Community Standards consulted with Law, Calgary Police Service, Calgary Neighbourhoods, Roads, and Calgary Transit. Three areas of investigation informed this report:

1. Review of Municipal Jurisdictional Authority: Section 7 of the *Municipal Government Act*, ("MGA") grants Council the authority to enact bylaws relating to: the safety, health and welfare of people and the protection of people and property; people, activities and things in, on or near a public place or place that is open to the public; and nuisances. This includes regulating activities that occur on The City's public streets. Pursuant to this authority, The City must ensure that it is acting within its jurisdiction and does not infringe upon freedoms guaranteed under the *Canadian Charter of Rights and Freedoms* ("Charter"). While freedom of expression is protected under section 2(b) of the *Charter*, The City may, in appropriate circumstances, restrict freedom of expression in limited circumstances where it can provide a proper justification for doing so.
2. Stakeholder Engagement: In response to Council direction in the Notice of Motion, Administration engaged with all seven Calgary school boards and districts to review concerns regarding exposure to advocacy messaging by external interest groups around schools. Concerns shared through the engagement were similar to those that councillors have heard from citizens. The engagement also highlighted the fact that advocacy messaging by external interest groups often has a deeper impact than on the children directly affected. Parents and teachers were similarly impacted by the messages and the feedback indicated that the messaging often had a distracting and harmful effect on the teaching/learning environment at the affected school. A detailed summary of the stakeholder feedback is provided in Attachment 2.
3. Canadian Municipal Scan: Canadian municipalities were scanned for relevant incidents, bylaws and council reports/presentations and notices of motion to understand how other

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cities have addressed harmful expression targeting children and schools. The scan identified that while there are currently no existing bylaws in place in other municipalities, some municipalities have identified similar issues and are considering approaches to address these concerns. Attachment 3 provides a summary of the municipal scan.

Analysis

Through the authority under the *MGA* identified above, The City has the jurisdiction to enact a bylaw addressing issues that both citizens and stakeholders have expressed regarding the harm caused by the display of advocacy messaging by external interest groups on public property near schools. While it is recognized that this type of expression is generally protected speech in public spaces, the concern is that advocacy messaging by external interest groups positioned directly outside of schools creates a captive audience of unwitting viewers who cannot avoid exposure. This captive audience is comprised of young, vulnerable and often unprepared students, as well as their parents, care-givers, and teachers, who may experience psychological trauma, confusion, upset, and fear when exposed to this kind of messaging.

Administration Recommendation

Administration recommends that a bylaw be developed to restrict advocacy messaging by external interest groups located on public property within the immediate vicinity of schools during days in which schools are in session. This bylaw would exclude school-sanctioned activities from its application. Administration believes that such a bylaw, if properly tailored, would withstand a *Charter* challenge.

Stakeholder Engagement, Research and Communication

All seven Calgary school boards and districts were invited to participate in the interview process. There were 24 interviews completed which included representation from all seven boards and districts. A detailed summary of the stakeholder feedback is provided in Attachment 2.

Strategic Alignment

This report aligns with One Calgary 2019-2022 Citizen Priority: A City of Safe and Inspiring Neighbourhoods and specifically to Council Directive (N1): Calgarians want neighbourhoods and public spaces that are safe, accessible and inclusive for all Calgarians, including seniors and the disabled.

Social, Environmental, Economic (External)

Administration is committed to achieving an approach which balances the public's freedom to engage in expressive activity while ensuring that public spaces in the immediate vicinity of schools are safe and accessible to students, parents, and teachers.

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Financial Capacity

Current and Future Operating Budget:

There are no current operating budget impacts associated with this report. If Council approves the recommendation, all costs associated with bylaw enforcement would be absorbed into the existing operating budget.

Current and Future Capital Budget:

There are no current or future capital budget impacts associated with this report.

Risk Assessment

There is a risk that the bylaw would be challenged in court. To mitigate that risk, Law's drafting of the bylaw will ensure that The City's authority to regulate public behaviour is considerate of the *Charter* and Law is prepared to defend the bylaw if a court challenge is made.

Both Community Peace Officers and the Calgary Police Service would be responsible for enforcing the bylaw but would work with external interest groups to obtain voluntary compliance. Calgary Community Standards would engage with Law to ensure that the issuance of any violation tickets is appropriate and can withstand a constitutional challenge.

If Council approves the recommendation to draft a bylaw, there is a risk that service performance benchmarks may be impacted as Community Peace Officers would be expected to enforce these new bylaw requirements. Mitigating this risk includes monitoring 311 service requests related to the bylaw infractions to determine whether additional resources are required.

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| <p>REASON(S) FOR RECOMMENDATION(S): This report is in response to the Notice of Motion C2019-0446 approved at the Combined Meeting of Council on 2019 April 08.</p> |
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ATTACHMENT(S)

1. Attachment 1 – Notice of Motion C2019-0446: School Safe Zones
2. Attachment 2 – Calgary School Safe Zones Stakeholder Report Back: What We Heard
3. Attachment 3 – Canadian Municipal Scan