

COOPER, SANDLER,
SHIME & SCHWARTZENTRUBER LLP

BARRISTERS AND SOLICITORS

MARK J. SANDLER, LL.B. *
JONATHAN A. SHIME, B.A., LL.B.
MEGAN M. SCHWARTZENTRUBER, B.A. (Hon), J.D.
WAYNE A. CUNNINGHAM, B.A., J.D.
AMANDA M. ROSS, B. A. (Hon), J. D.
BENJAMIN ELZINGACHENG, B.Sc., PhD, J.D.
LYSANDRA MORENO, B.A (Hon), M.A., J.D.

AUSTIN M. COOPER, Q.C., LLD (1929-2013)
(FOUNDING PARTNER)

*CERTIFIED BY THE LAW SOCIETY AS A SPECIALIST IN CRIMINAL LAW

SUITE 1900
439 UNIVERSITY AVENUE
TORONTO, ONTARIO
M5G 1Y8

TELEPHONE: (416) 585-9191
FAX: (416) 408-2372

E-MAIL: info@criminal-lawyers.ca
WEBSITE: www.criminal-lawyers.ca

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Delivered via Email: kentb@halifax.ca

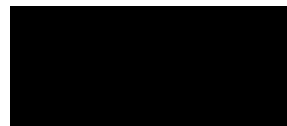
Ms. Becky Kent
Chair
Halifax Board of Police Commissioners
Halifax Regional Municipality
P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5

Dear Ms. Kent:

Re: Halifax Independent Civilian Review Into August 18 2021 Encampment Evictions

Having been appointed by the Halifax Board of Police Commissioners to conduct the Review described in the Board's Terms of Reference, dated May 3, 2023, I submit to the Board the Review's Report.

Sincerely,



Jonathan Shime

Halifax Independent Civilian Review Into **August 18 2021 Encampment Evictions**



Jonathan Shime & Wayne Cunningham
Cooper Sandler Shime & Schwartzentruber LLP
Suite 1900
439 University Avenue
Toronto, ON
M5G 1Y8

Halifax Independent Civilian Review Into August 18 2021

Encampment Evictions



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Halifax Independent Civilian Review into August 18 2021 Encampment Evictions:

Introduction and Overview

On August 18, 2021, members of the Halifax Regional Municipality (the “HRM”) Parks and Recreation Department (the “Parks Department”), the Halifax Regional Municipality By-law Standards, Building and Compliance Department (“Compliance”) and Halifax Regional Police (“HRP”) took steps to clear encampments at four locations across Halifax—Horseshoe Island, Peace and Friendship Park, the Halifax Commons, and the Memorial Library located on Spring Garden Road.

The clearing of the encampments at Horseshoe Island, Peace and Friendship Park and the Halifax Commons took place early in the morning on August 18, 2021. While the removal of unhoused people from their encampment homes was undoubtedly difficult and traumatic for the residents, the removal of the encampments at the first three locations proceeded without any serious conflict between those living in the encampments and the authorities. The residents complied with HRM staff and HRP direction to clear the areas and no significant police intervention was required.

On the basis that the first three clearings had proceeded largely without incident, a last-minute decision was made to clear the encampment located in front of the Memorial Library. That location had several tents along with two wooden structures that had been erected by an organization called Halifax Mutual Aid (“HMA”).

It was 8:30 a.m. by the time the HRM staff and HRP attended at the site of the Memorial Library and the city was waking up. Given the time of day, and the challenge of removing the wooden structures, there were some HRM staff and HRP officers who suggested that the clearing of this encampment should *not* proceed at that time. However, their suggestion was not followed by more senior officers and the decision to clear the area proceeded.

The clearing of the encampment at the Memorial Library proved disastrous for the city and the residents of Halifax.

News travelled quickly on social media that the encampment residents were going to be evicted and their tents and structures removed. Protesters arrived on site and the crowds grew throughout the day. Dozens if not hundreds of people attended to observe and protest the clearing of the encampment. There was a standoff between the protesters on one side and HRM staff and police on the other.

HRM staff and police removed one of the wooden structures after a protracted struggle that required officers to forcibly escort a Bobcat carrying the structure through the crowds and onto a flatbed truck. A protester had jumped on top of the second wooden structure and prevented any further action from being taken for several hours. Tension between the protesters and police escalated as more and more protesters arrived on site. A police negotiator eventually talked the individual off the structure, at which time he was arrested, which caused the protesters to become even more agitated. The scenes that followed were chaotic with the police using force. Injuries were suffered by both civilians and police officers.

Given the clear impossibility of moving the second structure through the crowd, a decision was made to use chainsaws to dismantle it. This was a poor decision and aggravated the situation.

What resulted, explained in greater detail in the body of this Report, was a day of chaos for all those involved: the people being evicted from the site, social support workers who tried to assist the unhoused, the protesters who arrived to protest the removal, civilians who were on site to observe the situation, the city workers tasked with clearing the site, and members of the HRP.

The standoff between the HRM staff and HRP officers on one side, and protesters on the other, devolved into name calling, swearing, pushing, shoving, the throwing of objects, violence, the use of pepper spray by police, and twenty-five (25) people being charged. The situation grew so out of control that a general call was issued by officers on scene for every available officer to attend the location. Dozens more officers attended the site and were met by hundreds of protesters and members of the public. The clash between the protesters and the police was violent and traumatic.

As a result of this situation, significant questions were asked about the decision-making process that led to the clearing of the encampments, as well as the tactics used by HRM staff and the HRP to affect the removal of the encampments at the Memorial Library.

In October 2021, the Halifax Board of Police Commissioners (the “Board”) voted to conduct an independent civilian review related to the protests and police conduct on August 18, 2021. On May 3, 2023, the Board retained our firm, Cooper, Sandler, Shime & Schwartzentruber LLP to conduct an independent review and issue this Report.

Our Terms of Reference directed that we review:

1. The adequacy or appropriateness of Board policies and rules, and the adequacy or appropriateness of HRP’s priorities, objectives and goals, as well as any programs or strategies to address those priorities, objectives and goals, insofar as such policies, rules, priorities, objectives, goals, programs or strategies may relate to the eviction or potential eviction of unhoused and/or underhoused individuals from public spaces or the handling of protests by the HRP;
2. The adequacy of oversight and governance mechanisms and practices employed by the Board to address related policing activities and to ensure that police services are delivered in a manner consistent with community values, needs and expectations;
3. To address the subject matter of the Review, the Reviewer may consider, among other issues, the following:
 - (a) The existing or appropriate interplay between the HRP, the Board and the Halifax Regional Municipality, including communication strategies and decision-making relating to potential evictions of unhoused and/or underhoused individuals from public spaces, and enforcement action related thereto, including ticketing such individuals for trespassing;
 - (b) The existing or appropriate communication, engagement or consultation strategies of the HRP and/or the Board in relation to community organizations, service providers, other stakeholders and the public, as they relate to relevant policing activities before, during and/or after such activities take place;

- (c) The adequacy of existing policies, standards, strategies or practices to ensure that officers involved in policing activities involving the public are identifiable;
- (d) The adequacy of existing policies, standards, strategies or practices to ensure that the media's ability to report on policing activities is preserved, to the fullest extent possible;
- (e) The adequacy of existing policies, standards, strategies or practices to de-escalate potentially confrontational situations relevant to this Review, while appropriately addressing public safety, including the safety of those in crisis shelters;
- (f) The adequacy of existing policies, standards, strategies or practices to address the use of force (including the use of pepper spray) and/or to prevent any disproportionate use of force in relation to the types of police activities relevant to this Review;
- (g) The adequacy of existing transparency and accountability mechanisms to address the types of police activities relevant to this Review; and
- (h) The adequacy of existing HRP strategies, programs, and competencies to build and maintain positive relationships with marginalized or vulnerable community members who are unhoused and/or underhoused, recognizing the principle of "intersectionality", that is, that unhoused and/or underhoused community members may be marginalized or vulnerable for multiple reasons (for example, as members of Indigenous, Black and/or LGBTQ2S+ communities)

While the focus of our Review is to examine the role of the Board of Police Commissioners, and the adequacy of its policies, rules, governance and oversight of the HRP, we were also required to examine the conduct of the HRP and HRM in the events leading up to and on August 18, 2021, and what steps, if any, have been taken since August 18, 2021, by the Board, HRP and HRM to address these issues. (See for example 2(a), 2(b), 2(e), 2(g) and 2(h) above).

We cannot assess the Board's current policies, rules, governance and oversight without examining what happened on August 18, 2021, the organizations involved and their respective roles in the events, what progress has been made since August 18, 2021, and what still needs to be done.

This requires, among other things, that we report on the state of housing and homelessness in Halifax. The starting point for this discussion is the reality of the unhoused in Halifax. If Halifax had no unhoused persons and no encampments, then the events of August 18, 2021, would not have occurred. And this Review would not have been required. The genesis for this Review is the relationship between Halifax and its unhoused communities, and how that relationship was and is now being managed.

It was the increase in homelessness in 2020-2021 that resulted in the spread of encampments, which led to HRM trying to come to a political solution. That eventually led to the HRP being called upon to enforce the encampment evictions. That is the context in which this Review was commissioned, and those governmental bodies and their respective responsibilities cannot be easily compartmentalized. The role of the Board, and the adequacy of the Board's policies, rules, governance, and oversight can only be understood and analyzed in the broader context of the HRM's approach to homelessness and the unhoused.

One cannot understand and make recommendations to the Board without understanding the HRP's role and approach to the issue of homelessness. And one cannot separate out the role and approach of the HRP without understanding the position of HRM. For example, if HRM and the HRP decided that the HRP should play the primary role in responding to the unhoused, that would dictate a certain approach to oversight by the Board. If, on the other hand, the HRM and HRP decided that the HRP should play a less active role in responding to issues related to the unhoused (as they have and quite appropriately so in our view), that would dictate a different type of oversight by the Board.

We have found that the Board as an entity was not aware in advance of the planned evictions on August 18, 2021, the details of the encampment evictions, and/or the specific role to be played by the HRP. While some members of the Board who were also city councillors were generally aware that the police may be engaged in the eviction of the encampments on some future date, they had no specific information about when the evictions would occur, who would be involved and what the HRP would be expected to do.

Moreover, the *Police Act* statutorily limits the Board to governance and oversight. Pursuant to the statute, the Board is directed not to involve itself in the day-to-day operations of the HRP.

Between the lack of institutional knowledge of the details of any encampment removals and the Board's statutory limitations under the *Police Act*, there was little if any opportunity for the Board to take steps in advance of August 18, 2021, to address the issue of the appropriate role of HRP in encampment removals.

The relationship between a police board and the police force it oversees is often a complicated one. Broadly speaking, police boards are restricted to oversight and governance and not permitted to involve themselves in the day-to-day operations of the police force they oversee. However, where one draws the line between "oversight" and "day to day operations" is often unclear. Many police boards and forces have struggled with understanding and implementing this distinction.

Our Review is not the first to consider this thorny issue. There have been at least three well-regarded public reviews that addressed the role that police boards should play in executing their oversight responsibilities.¹

Broadly speaking, those Reports recommended that police boards play a more assertive role in overseeing, governing and holding the police forces they govern accountable. Further, police boards have a duty to obtain information and ask questions relating to incidents that are relevant to their oversight mandate. Of course, the Board requires a real partnership with the police service to be able to engage in effective oversight; this means that the Chief of Police must advise the board about significant police operations and share relevant information about those engagements both before and after they occur.

¹ Justice Morden's 2012 Independent Civilian Review into Matters Relating to the G20 Summit; Justice Epstein's 2021 Report of the Independent Civilian Review into Missing Persons Investigations; Justice Rouleau's Report of the Public Inquiry into the 2022 Public Order Emergency.

In accordance with that approach, we are recommending that the Board adopt a more assertive role in overseeing the HRP. That starts with a change in culture and perspective at the Board. It also requires the Chief of Police to keep the Board apprised of important HRP operations. While the Board cannot and should not direct day to operations, as per the *Police Act*, it is certainly entitled to be aware of these significant police operations before and after they occur and ask questions about how those operations will be conducted.

While there was little opportunity to play such a role prior to August 18, 2021, the Board and Chief of Police now have that opportunity. Should such a significant police operation be considered in the future, we recommend that the Chief of Police advise the Board of the relevant information, and that the Board be more assertive in seeking information and asking questions.

Going forward, the Board can also be more assertive in adopting its own policies to assist in providing direction to the HRP on issues such as human rights, the policing of encampments and unhoused individuals, the need for officers to be identifiable, and the use of force, including the use of pepper spray. We have included such policies in our recommendations.

The Board's process for reviewing and amending policies, both its own and those of the HRP, is also somewhat unclear. Accordingly, we also recommend that the Board have a more transparent and effective mechanism to review its own policies, and those of the HRP, and make or recommend any necessary changes.

As noted above, one cannot merely isolate the Board and assess its role without considering more broadly the context of homelessness in Halifax and the role of the HRM and HRP in responding to the issue. Accordingly, our Review has examined the state of the housing crisis and homelessness in HRM and made recommendations to the HRM and the HRP that will compliment and support recommendations made to the Board.

Of course, our recommendations are not binding, and the targets of our recommendations can choose to follow them or not. However, we believe that our recommendations, taken as a whole, will allow all the relevant parties (i.e., the Board, HRP and HRM) to develop a comprehensive approach to improve the situation. Such a united "team" approach is necessary to address the very complex issue of homelessness.

In fairness to the HRM, it is not the only jurisdiction to have encountered the problem of homelessness, and/or the role of the police in responding to encampments. Similar scenarios have unfolded across Canada as municipalities struggle to help the unhoused and manage the encampments that are increasingly common. Similar encampment clearings, some also punctuated by violence, have occurred in Edmonton, Fredericton, and Toronto, among other cities.

At its core, this is a nation-wide problem about the lack of affordable housing not only in Halifax, but across Canada. There is a housing crisis in Canada that must be addressed. This lack of affordable housing has led to a serious homeless problem in Canada. The number of unhoused people in Canada is growing and is, frankly, an embarrassment for a country that has such vast resources and wealth at its disposal. States of emergencies on homelessness have been declared in multiple cities, including but not limited to Hamilton, Niagara Falls, Ottawa, and Toronto.

There are solutions to house the unhoused, but they take time, resources and require a long-term commitment from all levels of government (federal, provincial, and municipal). The starting point is for all branches of government to acknowledge the issue and then work together with the unhoused, the private sector, and community service agencies to fix it. More must be done by all levels of government to work in unison to create permanent and affordable housing as urgently as possible.

In the absence of a nationwide commitment from all levels of government and the creation of thousands of affordable housing units, Canada will continue to have unhoused people. More and more often, the unhoused congregate in encampments in public spaces. Like any societal phenomenon, there are positives and negatives to these encampments.

On the one hand, the encampments allow similarly situated people to build a community that can offer support and safety. On the other hand, encampments can create unsafe and even hazardous conditions including sanitation issues, concerns about criminal activity, and fire hazards. This results in municipalities being asked to address these issues when they often do not have the means or resources to do so. Not uncommonly, it is the municipal police service that is called upon to address the complex issues associated with encampments.

To its credit, HRM has taken significant and meaningful steps since August 18, 2021, to work more humanely with the unhoused. The city has designated up to eleven public sites for encampments, provided tents, and increased services to encampments to assist with sanitation and health (e.g., the provision of water and garbage clearing). HRM and the province have also built or repurposed spaces to create additional shelter spaces/beds and built modules and pallet homes to create additional housing. The HRP has also taken some positive steps to change their approach and support the HRM in taking the primary responsibility to address encampments and unhoused individuals.

However, these solutions are only temporary and do not address the core problem—the lack of affordable housing. Because of this housing crisis, the encampments continue to spread and grow as the unhoused population increases.

On February 7, 2024, HRM announced it was closing five of the eleven designated encampment sites. HRM's position was that the province had advised there were more housing alternatives that could house the people living in those five encampments. Between February 7, 2024, and March 14, 2024, the vast majority of the encampment residents relocated. On March 14, 2024, HRM attended at and cleared the encampments. The lack of planning and the violent features seen in August 2021 were not repeated—this is a positive. However, the result for the people living at those sites was the same; they were forced out of their homes and told to move elsewhere. Many of them will move to other locations, whether designated or not, and establish new homes in new or pre-existing encampments.

The cycle continues.

The unhoused of Halifax, like the unhoused across Canada, are people who have fallen on tough times. They are our grandparents, parents, siblings, and children. They are young and old. They are

families and couples and single people. They are employed and unemployed. They are from every racial, ethnic, and religious group, with Indigenous and Black communities overrepresented. They are straight, gay, lesbian, queer, non-binary, and transgendered. And while their homes may not look like a traditional brick and mortar house or condominium or apartment, and may be in public spaces, they are nonetheless someone's home. Whoever they are, wherever they may come from, and however they may have arrived on the streets, they and the homes they have created are deserving of the respect and dignity to which every person is entitled.

It is not possible, nor is it within the scope of our Review, to "solve" the problem of encampments or unhoused people in Halifax or elsewhere. Rather, our focus will be on trying to assist the Board of Police Commissioners, HRP, and the HRM with how encampments can and should be managed going forward. As noted, HRM has already taken many steps in that direction in the wake of August 2021. We hope to provide some additional guidance as Halifax looks to the future.

This Report will address the following:

- 1) The Process of the Review;
- 2) The Law Related to Encampments;
- 3) The Growth of Encampments and the "Empathetic Approach" of the HRM;
- 4) HRP Planning for and Deployment on August 18, 2021;
- 5) The Role of the HRM and HRP After August 18, 2021;
- 6) The Role of the Board of Police Commissioners After August 18, 2021; and
- 7) Our Recommendations

We were fortunate to interview over forty people from all walks of life including but not limited to the unhoused, the formerly unhoused, those who work at social service agencies, protesters, news reporters, members of the Board, HRM staff, police officers, police management, two Chiefs of Police, HRM councillors, and a provincial politician who was present at the library. Everyone we met was generous with their time and their thoughts about the events of August 2021. We are grateful to everyone we met and worked with in conducting this Review.

There may be a tendency to focus on the negative comments reproduced in this Report. That would be unfortunate since we found that HRM has much to be proud of and build upon. The challenge is to utilize the unfortunate events that prompted our work, and the legitimate issues identified during our Review, as an opportunity for the city to address homelessness in a thoughtful and compassionate manner.

The people we met clearly demonstrated that Halifax and Dartmouth are full of kind, caring, and diligent people who work every day to support and help the unhoused and dream of a city where every person is safely and securely housed. Those people have inspired us. Their dedication and compassion give us hope that the city will be able to address the plight of the unhoused effectively and humanely. We hope this Report is of some assistance in achieving that goal.

CHAPTER 1: The Process of the Review

The mandate of our Review is as follows:

WHEREAS s. 55(1) of the *Police Act* S.N.S. 2004, c. 31, as amended (the “Act”) states that the function of a board of police commissioners is to provide (a) civilian governance on behalf of the council of a municipality in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the community, and (b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department;

AND WHEREAS s. 55(2) of the Act states that, without limiting the generality of s. 55(1), a board shall, among other things, determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community, and ensure the chief officer establishes programs and strategies to implement those priorities, objectives and goals; further, a board shall ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies, and that police services are delivered in a manner consistent with community values, needs and expectations;

AND WHEREAS s. 8 of the Halifax Regional Municipality By-law P-100 states, in part, that the Halifax Board of Police Commissioners (the “Board”) shall provide civilian governance in regards to strategic planning and policy driven budget planning for police service delivery within the communities serviced by the Halifax Regional Police (the “HRP”), and pursuant to s. 8(2)(h), may carry out any studies or investigations regarding its civilian governance responsibilities;

AND WHEREAS s. 8 of the said Bylaw also permits the Board to make rules respecting standards, guidelines and policies for the administration of the police service and for the efficient discharge of duties by the employees;

AND WHEREAS s. 55(1) of the Act also states that the Board shall not exercise jurisdiction relating to (a) complaints, discipline or personal conduct except in relation to the chief officer (the “Chief of Police” or the “Chief”); (b) a specific prosecution or investigation; or the actual day-to-day direction of the police department;

AND WHEREAS concerns have been expressed about the role and involvement of the HRP in the eviction of unhoused and/or underhoused individuals on August 18, 2021, and in its handling of the related protests;

AND WHEREAS on June 20, 2022, the Board adopted the following motion:

THAT the Board of Commissioners prepare a draft of a mandate and terms of reference for an independent civilian review of the oversight, governance and policy aspects of the HRP’s handling of the protests on August 18, 2021, which mandate and terms of reference will be received and reviewed by the Board at a future meeting;

AND WHEREAS the Board believes it would be in the public interest, as well as beneficial and of importance to it in carrying out its responsibilities set out above, to direct an independent civilian review in accordance with the mandate and terms of reference set out below.

THEREFORE

The Board is appointing a Reviewer to conduct an independent civilian review (the “Review”) of the issues relating to the Board’s oversight, governance and policy responsibilities that arise out of the HRP’s role and involvement in the eviction of unhoused and/or underhoused individuals from various public spaces on August 18, 2021, and in its handling of the related protests;

For greater specificity, the subject matter of the Review will be:

1. A review of the adequacy or appropriateness of Board policies and rules, and the adequacy or appropriateness of HRP’s priorities, objectives and goals, as well as any programs or strategies to address those priorities, objectives and goals, insofar as such policies, rules, priorities, objectives, goals, programs or strategies may relate to the eviction or potential eviction of unhoused and/or underhoused individuals from public spaces or the handling of protests by the HRP;
2. A review of the adequacy of oversight and governance mechanisms and practices employed by the Board to address related policing activities and to ensure that police services are delivered in a manner consistent with community values, needs and expectations;
3. To address the subject matter of the Review, the Reviewer may consider, among other issues, the following:
 - (a) The existing or appropriate interplay between the HRP, the Board and the Halifax Regional Municipality, including communication strategies and decision-making relating to potential evictions of unhoused and/or underhoused individuals from public spaces, and enforcement action related thereto, including ticketing such individuals for trespassing;
 - (b) The existing or appropriate communication, engagement or consultation strategies of the HRP and/or the Board in relation to community organizations, service providers, other stakeholders and the public, as they relate to relevant policing activities before, during and/or after such activities take place;

(c) The adequacy of existing policies, standards, strategies or practices to ensure that officers involved in policing activities involving the public are identifiable;

(d) The adequacy of existing policies, standards, strategies or practices to ensure that the media's ability to report on policing activities is preserved, to the fullest extent possible;

(e) The adequacy of existing policies, standards, strategies or practices to de-escalate potentially confrontational situations relevant to this Review, while appropriately addressing public safety, including the safety of those in crisis shelters;

(f) The adequacy of existing policies, standards, strategies or practices to address the use of force (including the use of pepper spray) and/or to prevent any disproportionate use of force in relation to the types of police activities relevant to this Review;

(g) The adequacy of existing transparency and accountability mechanisms to address the types of police activities relevant to this Review; and

(h) The adequacy of existing HRP strategies, programs, and competencies to build and maintain positive relationships with marginalized or vulnerable community members who are unhoused and/or underhoused, recognizing the principle of "intersectionality", that is, that unhoused and/or underhoused community members may be marginalized or vulnerable for multiple reasons (for example, as members of Indigenous, Black and/or 2SLGBTQQIA + communities);

AND to conduct the Review, the Reviewer shall be provided with such resources as are required, and is authorized by the Board to engage lawyers, experts, advisors, researchers and other staff as the Reviewer deems necessary;

AND the Chief of Police will cooperate fully with the Reviewer in conducting the Review and will instruct all members employed by the HRP to cooperate fully with the Reviewer in conducting the Review;

AND the Chair, the Vice-Chair and the members of the Board will cooperate fully with the Reviewer in conducting the Review and instruct all personnel employed by the Board to cooperate fully with the Reviewer in conducting the Review;

AND the Reviewer may request any person, organization, the Chief of Police, members of the Board, and any member employed by the Board or the HRP to provide relevant information or documents to the Review, whether electronic or hard-copy, including

video recordings, where the Reviewer believes that person or organization has such information or documents in his or her or their or its possession or control;

AND the Reviewer may hold such public or private meetings, interviews and consultations, and make such procedural decisions in relation thereto, as the Reviewer deems advisable, in the exercise of the Reviewer's independent discretion, in the course of the Review;

AND the Reviewer will consult with affected community groups or organizations, stakeholders and community members in a variety of ways that maximize their participation in the process, and that ensure that their participation takes place in a safe environment, with accommodations where appropriate;

And the Reviewer may establish and maintain a website and may use other technology to promote accessibility and transparency to the public;

AND the Reviewer shall conduct the Review and prepare a report to the Board without expressing any conclusions or recommendations regarding the civil, criminal, regulatory or disciplinary liability of any person or organization and without interfering in any ongoing criminal, civil, or other legal proceedings;

AND the report shall be prepared in a form appropriate for release to the public, pursuant to any applicable freedom of information and protection of privacy legislation;

AND this mandate and terms of reference shall be interpreted in a manner consistent with the jurisdiction of the Board, and the desirability for a comprehensive, thorough report;

AND the Reviewer's final report shall be provided to the Board on or before May 31, 2024 or such other date as the Board may subsequently decide upon, on the recommendation of the Reviewer.

AND the report shall contain such findings and recommendations as the Reviewer believes are necessary to address the issues identified herein, and ultimately so as to enable the Board to discharge its responsibilities under the Act and pursuant to By-law P-100.

The first requirement for our Review was that our firm be fully independent and permitted to conduct the Review as we deemed appropriate. We were granted that independence and at no time did any member of the Board, the HRP, the HRM or anyone else attempt to influence our Review process.

We decided what information/ documentation we needed to review, and which witnesses we needed to interview to fulfill our mandate. We decided what topics to cover and what questions to ask.

The Board and the HRP were cooperative and provided us with the documentation and materials we requested. We reviewed over 10,000 pages of materials, including Board and HRP policies, minutes of municipal council meetings, internal memos, emails, action plans and media reports.

We also reviewed hours of video footage from the day in question, which was provided to us by various sources, including the HRP, media agencies and civilian observers who were on site that day.

In order to fulfill our mandate, we created a website that allowed people who were interested in speaking with us to contact us. We also created a list of people who we independently identified as having relevant information to give. In total, we interviewed over forty (40) people, both via Zoom and in person. That included unhoused and formerly unhoused people, civilians and protesters who were at the Memorial Library on August 18, 2021, counsel for the people who were charged, service providers, reporters, people from social service agencies, police officers, police management, city staff, city councillors, a provincial politician, and members of the Board of Police Commissioners.

We determined the questions to be asked and no one interfered in the interview process. We were free to ask whatever questions we felt were relevant to the Review. The only limitation was that we did not ask questions of certain witnesses, civilians, and police, that touched on specific cases that were before the courts, so as not to improperly interfere with any legal proceedings.

We also visited Halifax in person on two occasions: November 2023 and March 2024. While in Halifax, we conducted in person interviews and visited multiple housing encampments in and around Halifax and Dartmouth. We are grateful to Max Chauvin, the Director of Housing and Homelessness for HRM, who spent the better part of a day driving us around Halifax and Dartmouth to visit the various encampments.

We also spent a day at the Bridge shelter meeting with residents of the shelter, who were previously unhoused and, some of whom had been evicted by police from their tents at various times, including August 18, 2021. We are very grateful to Eric Jonsson and the staff at the Bridge for welcoming us and allowing us the opportunity to meet with some of the residents.

Unfortunately, we were not able to interview every person with whom we wished to speak. By the time our Review commenced (June 2023), a number of people had moved on from the positions they were in at the material time, either to other positions or retirement. Some we were unable to track down, while others we contacted elected to not speak with us. In particular, we were unable to formally interview Chief of Police Dan Kinsella prior to his retirement in September 2023. We did speak with him at the outset of the Review, and he was very cooperative and directed that we be provided with whatever materials and documentation we needed. However, by the time we were ready to formally interview him, he was retired and our efforts to reach him proved unsuccessful. We also attempted to interview the former Superintendent of Parks West, Parks Department, who played a key role in the development of the plan to clear the encampments and was on site at the library on August 18, 2021. Unfortunately, she was not amenable to being interviewed.

In that regard, our Report is limited. However, we did have the benefit of some of those people's written communications at the time, as well as the interviews of others who were able to provide some information about their roles in the event in question. This gave us some insight into their participation, but we would have undoubtedly benefitted from interviewing them, had we been able.

Undoubtedly, after this Report is issued, others may come forward and state that they were not interviewed but should have been. That is a common feature of these reports. We did our best to make ourselves known to the public, and available and accessible to as many people as possible. However, there are undoubtedly people who were involved and/or affected by the events of August 18, 2021, with whom we did not speak. To them, we apologize and hope that they have the opportunity in other forums, such as City Council meetings, Police Board meetings, the media, and social media, to say what they want to say.

Necessary Limitations on our Review

This was a systemic review, meaning we were examining the policies, procedures, and practices of the HRM, HRP and the Police Board and how they addressed the issue of housing and encampments in public spaces leading up to August 18, 2021, and after.

A systemic review is not designed to find individual fault or wrongdoing. It is not designed to find misconduct or criminal or civil responsibility. Indeed, such findings would be inconsistent with a purely systemic review and indeed unfair to those against whom findings might be made.

Findings of individual responsibility should only be made after a process in which individuals have the opportunity to confront those who might accuse them or fully respond to such accusations.

Equally important, it was wholly unnecessary to make findings of individual responsibility to successfully fulfil our mandate. The goal of the Review was to make recommendations to the Board to assist them with their governance and oversight of the police, promote a thoughtful and appropriate response to managing the issue of unhoused persons and encampments in Halifax, and to empower HRM to become a leader in addressing the issues raised here.

What these limitations mean, among other things, is that we did not ask any questions or invite any comments on the merits of any criminal charges before the courts. Indeed, the merits of these cases were not even discussed when we met with the police officers and people involved in those criminal charges. Our discussion was focused on issues of systemic importance.

CHAPTER 2: The Law Related to Encampments

The law related to housing, the existence of encampments and the removal of encampments is ever evolving. It varies from country to country, and even within countries, from jurisdiction to jurisdiction.

To provide some clarity, this Chapter will examine this issue from three perspectives:

- i. International Law;
- ii. The Law in Canada related to Housing and Encampments as of August 2021; and
- iii. The Law in Canada related to Housing and Encampments as of June 2024.

International Law

The right to adequate housing has been codified by a wide range of International legal instruments under the umbrella of the United Nations. These include:

- The Universal Declaration of Human Rights; and
- The International Convention on Economic, Social and Cultural Rights

Universal Declaration of Human Rights

The first important document that codified the right to adequate housing is the Universal Declaration of Human Rights (UDHR) adopted by the UN General Assembly in 1948.

Article 25 (1) states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The Declaration has been signed by all 192 member states of the United Nations, including Canada, but it is not a binding treaty.

International Convention on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966 and has been ratified by 164 States, including Canada in 1976. It is the most important instrument at the UN level that enshrines the right to housing.

Article 11 (1) is the most comprehensive provision in this context. It states:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation

based on free consent.

States party to the Covenant are bound to specific State Obligations under the ICESCR.

General Comments

The specific elements of the right to adequate housing have been further developed in two main general comments adopted by the UN Committee on Economic, Social and Cultural Rights in 1991 and 1997:

- General comment No. 4 (1991): The right to adequate housing (art. 11 (1) of the Covenant)
- General comment No. 7 (1997): The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions

In those General comments, the UN Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace, and dignity.

The characteristics of the right to adequate housing are clarified in these General comments. The right to adequate housing contains freedoms. These freedoms include:

- Protection against forced evictions and the arbitrary destruction and demolition of one's home;
- The right to be free from arbitrary interference with one's home, privacy, and family; and
- The right to choose one's residence, to determine where to live and to freedom of movement.

The right to adequate housing contains entitlements. Adequate housing must provide more than four walls and a roof. A number of conditions must be met before particular forms of shelter can be considered to constitute "adequate housing." These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, at a minimum, meet the following criteria:

- **Security of tenure:** Housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
- **Availability of services, materials, facilities, and infrastructure:** Housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.
- **Affordability:** Housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights.
- **Habitability:** Housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- **Accessibility:** Housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.

- **Location:** Housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.
- **Cultural adequacy:** Housing is not adequate if it does not respect and take into account the expression of cultural identity.²

The Report of the Special Rapporteur on the Right to Adequate Housing (2007)

The United Nations has Special Rapporteurs who investigate whether countries are meeting their international obligations and report back to the United Nations. In 2007, the Special Rapporteur on the Right to Adequate Housing visited Canada and issued a report on whether Canada was meeting its international housing obligations. He wrote:

53. The Special Rapporteur remains concerned about the significant number of homeless in all parts of the country and by the fact that the Government could not provide reliable statistics on the number of homeless. During the mission, he came across particularly severe situations such as in Downtown Eastside in Vancouver.

54. It has been stated that the widespread and rapid growth of homelessness in Canada since the mid-1990s is unprecedented since World War II. While the Homelessness Partnering Secretariat has estimated that there might be 150,000 homeless people across Canada, other experts have suggested that the actual number may be twice as large.

55. While the issue has been under discussion for a long time, Canada still doesn't have an official definition of homelessness. The Special Rapporteur is of the view that reaching an agreed definition of homelessness that includes a deep understanding of the systemic causes of homelessness is the first step to address the issue and is of crucial importance to draw efficient and cost-effective programmes.

56. The heavy impact of inadequate housing and homelessness on health and life has been documented. As early as 1999, the Human Rights Committee expressed concern that homelessness had led to serious health problems and even to death in Canada. It recommended "that the State party take positive measures required by article 6 to address this serious problem." The federal government has committed a one-time-only allocation of \$22 million per year for five years for a pilot project that will address mental health and homelessness.

57. While there are no reliable national numbers on homelessness, local surveys in communities like Calgary, Vancouver, Edmonton and Ottawa all report that homelessness continues to be on the rise. The city of Victoria states that "pressures on the streets of Victoria are reaching a breaking point. Victoria needs a community-owned solution to end homelessness for its residents." So-called "tent cities" are

²<https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing>

another manifestation of homelessness in various locations throughout the country.

58. Nunavut is the only Canadian jurisdiction with a minister for homelessness. The federal government named a cabinet minister with responsibility for homelessness in 1999, but in 2008, that responsibility is one of several assigned to the federal Human Resources and Skills Development Canada. In some provinces, the responsibility for homeless services is scattered among a variety of departments, including health, social services, housing, corrections, education and policing. This situation, it is argued, can result in a lack of coordination of services and uneven service levels for different populations in different parts of the country.

59. In its most recent review of Canada's periodic report, the Committee on Economic, Social and Cultural Rights called upon "federal, provincial and territorial governments to address homelessness and inadequate housing as national emergency by reinstating or increasing, where necessary, social housing programmes for those in need, improving and properly enforcing anti-discrimination legislation in the field of housing, increasing shelter allowances and social assistance rates to realistic levels, and providing adequate support services for persons with disabilities".

60. The CESCR has also called on Canada to "implement a national strategy for reduction of homelessness that includes measurable goals and timetables, consultation and collaboration with affected communities, complaints procedures, and transparent accountability mechanisms, in keeping with ICESCR standards".

61. Several Canadian provinces have announced a commitment to implement a comprehensive poverty reduction strategy, including specific plans to target homelessness and housing insecurity. Newfoundland and Labrador, and Quebec, both have plans in place; and Ontario has announced in December the outline of its poverty reduction plan restricted to children.

62. The lack of action to address homelessness has a high cost for society not only in moral but also in financial terms. Studies have also attempted to quantify the financial impact of homelessness and housing insecurity. For instance, it is estimated that it costs taxpayers more than \$50,000 per year to support each homeless resident in British Columbia and \$4.5 and \$6 billion annually for an estimated 150,000 homeless in Canada.³

Sadly, it appears that the homelessness situation has only become worse in Canada, and in Halifax, since 2007. Between 2018 and 2024, the number of homeless individuals in HRM grew from approximately 200 to 1,200 individuals. The number of people living without any shelter increased from approximately 18 to 200 in the same period.

³ PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari Addendum MISSION TO CANADA* (9 to 22 October 2007)

The Law in Canada related to Housing and Encampments as of August 2021

Legislation-The National Housing Strategy Act

In 2019, the Parliament of Canada passed the *National Housing Strategy Act* (“Act”).

Section 4 of the Act recognizes that the right to adequate housing is a fundamental human right affirmed in international law and commits the federal government to further the progressive realization of the right to adequate housing.

Section 5 of the Act requires the federal government to develop and maintain a national housing strategy to further the housing policy, taking into account key principles of a human rights-based approach to housing.

The Act also created a National Housing Council, which oversees the implementation of the National Housing Strategy.

The Act does not, however, advise municipalities what by-laws it can or cannot pass or enforce, nor does it provide the financial and other resources to municipalities in order to achieve the goals of the Act. This leaves many municipalities, like HRM, in the difficult position of striving to reach the goals of the Act, without having the necessary funds, land or housing to succeed. It also means they are often passing new by-laws, or enforcing old ones, in an effort to address the issue of people sheltering in public spaces. Those by-laws may very well be in conflict with the goals of the Act and/or the *Charter*.

This conflict has played out in Canadian courts of law over the last 20 years or so, as detailed below.

Court Cases 2008-2019

Between 2008-2019, there were several Canadian cases that addressed the issue of whether municipalities could forcibly evict unhoused people who were living in public spaces.

While there was some variation in the details of each case, the general scenario was the same. Typically, the municipality had a by-law that would restrict the use of public spaces and would issue a Notice to those living in the public space that they had to leave. Either the municipality or those living in the public space would apply to the courts asking to either allow the eviction to proceed or, if brought by the residents, to prevent their eviction. Typically, the residents would assert that their *7 Charter* right to life, liberty and security of person was being violated because *they had nowhere else to go (i.e., there was not enough housing/shelter spaces to house them)*. This feature of the cases, identified in italics in the previous sentence, is critically important. In some instances, the residents were successful in resisting the municipality’s intention to clear the encampment.

Those successes were interpreted by some as establishing a “right to housing” or “right to shelter” in Canadian law. However, that was not the case. Indeed, at least one Court in Ontario concluded that Section 7 of the *Charter* does not impose a positive obligation on the state to act to protect life, liberty or security of the person and, in particular, that s. 7 does not protect a right to affordable housing and does not impose an obligation on the state to provide it.⁴ The Court in that case felt it was an issue appropriately left to the legislative branch and not the judicial branch. That decision was upheld by the Ontario Court of Appeal.⁵

Rather, a proper review of those cases suggests a more nuanced interpretation; namely that under s. 7 of the *Charter*, everyone in Canada has a right to life, liberty and security of the person and that enforcing a municipal by law that prevents people from sleeping/living in parks when there are insufficient housing/shelter spaces to house all unhoused people, is a breach of that right to life and security of the person.

Notably, between 2008 and 2019, virtually every case on this issue was litigated in British Columbia or Ontario. From a legal perspective, this means that those decisions applied only in British Columbia and Ontario. In other words, there was no clarity on the state of the law in other provinces, including Nova Scotia.

2020

In 2020, there were at least two cases in Ontario that broadly addressed the issue of municipal by-laws and encampments in the context of COVID-19.⁶ In both cases, the residents of encampments sought to prevent a municipality (Hamilton and Toronto) from enforcing a by-law that prevented them from occupying/living in public spaces. In both cases, concerns were raised about the risk of contracting COVID-19 if the residents were forced into the shelter system. In both cases, the application judges found against the encampment residents and permitted the municipality to enforce the by-law, if they elected to do so.

Again, during this period, there were no legal decisions in Nova Scotia on the issue to provide guidance for Nova Scotians. In other words, at the time when HRM was trying to figure out how to manage the spread of encampments and the building of wooden structures, there was no binding legal decision that assisted the city, the police or residents to understand what was legal or illegal.

The Law in Canada related to Housing and Encampments as of June 2024.

In 2023, two Ontario courts were again confronted with the issue of the conflict between homeless encampments and municipal by-laws which aimed to prevent the use of public spaces for housing.

The first case, *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670 (CanLII) was decided on January 27, 2023. In that case, the Regional Municipality of Waterloo sought a declaration that homeless people who had erected shelters in public spaces were in breach of a municipal by-law preventing the building of such shelters and requiring them to

⁴ *Tanudjaja v. Attorney General (Canada) (Application)*, 2013 ONSC 5410 (CanLII)

⁵ *Tanudjaja et al. v. The Attorney General of Canada et al.*, 2014 ONCA 852

⁶ *Black v. City of Toronto*, 2020 ONSC 6398; *Poff v. City of Hamilton*, 2021 ONSC 7224 (CanLII)

vacate the property. In response, members of the encampment sought a declaration that the by-law was a violation of s. 7 of the *Charter* and of no force and effect.

The evidence presented to the judge demonstrated that there were insufficient shelter spaces and/or beds to accommodate all the homeless people in the Region. Accordingly, the judge rejected the Region's Application and declined to declare that the homeless individuals living in the encampment were in breach of the by-law.

Rather, the judge declared that the by-law violated s. 7 of the *Charter* by preventing the residents of the encampment from living on and erecting temporary shelters without a permit when the number of homeless persons exceeds the number of available accessible shelter beds in the Region.

A similar debate played out in a second case in Kingston, Ontario in the case of *The Corporation of the City of Kingston v. Doe*, 2023 ONSC 6662 (CanLII). The judge in that case ultimately found that the municipal by-law was a breach of s. 7 of the *Charter* to the extent that it prevented homeless people from camping overnight in public parks. However, the judge reaffirmed that there is no independent "right to housing" or "right to shelter". Rather, there is a right to life, liberty, and security of the person under s. 7 of the *Charter* and any by-laws that restrict the right to shelter in public places must be assessed, when challenged, through that prism.

Summary of the Jurisprudence

In summary, the law as determined in some provinces in Canada does not affirm that there is an independent right to housing or shelter in Canada. Rather, some provinces (B.C. and Ontario) have recognized that the existence of municipal by-laws that preclude sheltering in public spaces may be a violation of s. 7 of the *Charter*, *when there is an inadequate supply of accessible shelter spaces/beds to house all the unhoused people in the municipality.*

For the purpose of our Review, the takeaway is this: there was no jurisprudence in Nova Scotia at the time that would have directed the HRM or the HRP as to what was legal or illegal with respect to encampments in public spaces, the constitutionality of applicable by-laws or the legality or illegality of clearing those spaces. Rather, the HRM staff and police had to try to figure it out as best they could.

Unfortunately, despite the best intentions and efforts of many people, the events unfolded in a manner that resulted in a disaster, rather than success. That unfolding of these events will be described in the following chapters.

CHAPTER 3: The Growth of Encampments and the Empathetic Approach of the Halifax Regional Municipality

Background and Overview

In December 2020, the HRM adopted what it called an “empathetic approach” to people tenting and living in public parks. HRM committed to working with and supporting unhoused residents and attempting to have them voluntarily relocate to other housing, rather than evicting them from the parks.

However, shortly after the implementation of the empathetic approach, wooden Tyvek shelters began to appear in public spaces. These shelters were built and placed by an organization known as Halifax Mutual Aid (“HMA”), a group of anonymous citizens. While HRM made efforts to contact HMA, these were unsuccessful as HMA declined to discuss the issues outside of a public forum.

Virtually every person interviewed by the Review described the appearance of the Tyvek shelters as a landmark moment that changed the nature of the discussion around homelessness in HRM. These wooden structures were a challenge to HRM’s empathetic approach. The general sentiment was that these wooden structures were a markedly different problem than the use of tents, given their semi-permanent nature and safety concerns about fires. HRM staff decided the shelters had to be removed.

The goal was to find those living in the Tyvek shelters other accommodation, and then immediately lock and remove the structures. HRM also contemplated the use of evictions. While some residents relocated and voluntarily left the Tyvek shelters early on, new residents occupied them before they could be removed. The plan for evictions was initially delayed due to COVID restrictions, and then further delayed by the intervention of the Mayor and several councillors. After this intervention, HRM used the threat of eviction along with newly available temporary housing to relocate some of the Tyvek shelter residents and then remove the structures. With this strategy, HRM was able to successfully remove several, but not all, of the structures by early 2021.

While HRM had a particular focus on the Tyvek shelters, tent encampments persisted and grew during the spring and summer of 2021. As the COVID and housing crises worsened, and the weather got warmer, more and more tents were appearing across Halifax and Dartmouth. While the HRM was prepared to employ an empathetic approach when the number of tents was small and transient, there was less support for this approach as the encampments grew and became more permanent. There was mounting pressure from the public, business owners, HRP, and councillors to remove these encampments. After a brief period of focused attention on tents, the Parks Department determined they had reached the point of requiring “forceful evictions.”

In August 2021, Jacques Dube, the Chief Administrative Officer of the HRM (the “CAO”), engaged the HRP to assist the HRM with the evictions. This new approach culminated in the events of August 18, 2021, when HRM staff along with the HRP Public Safety Unit (“PSU”) attended four park sites in Halifax and Dartmouth and evicted the residents who called these parks home.

This Chapter will examine the evolution of the empathetic approach from its inception until its effective suspension, when the HRM enlisted the assistance of the HRP in August 2021.

Background on Homelessness and the Empathetic Approach

HRM has always had homeless residents, including some people who camped outdoors or were “living rough” (i.e., living and sleeping outdoors in a rough or makeshift shelters). Historically, the numbers were small. A 2018 Point in Time count estimated there were 197 homeless individuals in HRM, with 18 living unsheltered.⁷ These numbers were growing prior to the COVID pandemic, which accelerated the issue as pandemic-related unemployment increased. By 2022, a Point in Time count estimated there were 586 homeless individuals with approximately 108 living unsheltered. In the fall of 2023, the HRM estimated there were more than 200 people living unsheltered and that number grew to more than 1,200 homeless individuals by May 2024.

Even before the pandemic, increasing homelessness was on HRM’s radar. In 2018, HRM hired a Public Safety Advisor to bring a holistic, non-enforcement approach to address public safety concerns, including homelessness. This position was part of the CAO’s Office.

In 2018, the HRM also established a Public Safety Strategy with several actions related to assisting the homeless community and preventing homelessness. The proposed actions included increasing the inventory of affordable housing, increasing the availability of drop-in/warming centers, enforcing housing standards, and holding landlords accountable.⁸

During the pandemic, as the number of tents increased, HRM Council directed staff to prioritize homelessness and housing. This direction was motivated, at least in part, by the increasing number of unresolved and repeated calls to 3-1-1 and the HRP regarding tents in public spaces. Given the ongoing pandemic and the related fallout, HRM decided not to forcefully evict encampment residents until their housing needs were met.

The empathetic approach was formalized on December 4, 2020, in a briefing note prepared by the HRM Public Safety Advisor, Amy Siciliano. The author considered Canada’s international and national obligations, along with local factors in developing an appropriate response to homeless encampments. The author recognized that, “encampments do not pose risk to the general population” and that “forcing residents out of encampments without a viable alternative puts them at higher risk for crime and victimization.”

At the time, HRM did not specifically employ any staff to provide outreach and/or support to homeless communities. Rather, the outreach was handled by “Street Navigators,” who were funded by the HRM in partnership with the Downtown Halifax Business Commission and Spring Garden Area Business Association. The program employed two Street Navigators, who assisted unhoused and other marginalized individuals connect with services and housing.

The guidelines developed by HRM as part of the empathetic approach recommended that Street

⁷ A Point In Time count is used to measure the number of homeless persons in a community on a specific day.

⁸ A new strategy was published in 2023 which contains more comprehensive actions to support and reduce homelessness.

Navigators respond to most calls to 3-1-1 about encampments as the Street Navigators were “better equipped [than HRP] to assist homeless individuals find alternative housing” and confirmed that, “HRM will not force the eviction of residents from homeless encampments, but first help identify adequate housing solutions for residence.”

Before these guidelines were implemented, the HRP often responded to public nuisance complaints at encampments and enforced city bylaws. After the establishment of the empathetic approach, HRP still responded to criminal complaints related to encampments, but other calls were redirected to HRM staff, who in turn contacted the Street Navigators.

Despite the empathetic approach, the guidelines were not followed by all municipal departments. For instance, the Director of the Parks Department did not recall any change in policy or direction regarding having people removed from parks. The Review also heard evidence that the Parks Department and Building and Compliance (“Compliance”) officers continued to tell individuals residing in some HRM parks that they had to “move along.” It is difficult to reconcile these actions with the empathetic approach.

The Appearance of the First Emergency Shelters

In January 2021, HMA erected the first Tyvek shelters in Dartmouth. The Tyvek shelters were approximately 9’ x 6’ and lightly insulated. They did not contain windows, power, or washroom facilities. Through their website, HMA announced their mission was to build watertight, insulated shelters for anyone stuck outside during the winter. HMA recognized that the Tyvek shelters were not a solution to homelessness, but pledged to continue building shelters for those in need until individuals were permanently housed.⁹

The first occupant of an emergency shelter was a man named Paul. He was evicted from his home after he lost his job as a roofer in 2018. After spending time in a shelter, he slept rough for approximately 10 months before the shelter was constructed. According to media reports, it was a Street Navigator who originally approached Paul about occupying a Tyvek shelter. The Review was not able to confirm whether this report was accurate or not. Once he agreed, the shelter was built.¹⁰ A second shelter was built a few days later and was also quickly occupied.

Shortly after the initial shelter was erected, HRM staff issued a public statement outlining the “empathy-based human rights approach to homeless encampments,” which confirmed:

The municipality will not force the eviction of residents from homeless encampments unless and until their need for adequate housing is met.

This position was echoed by councillors in the media who indicated that tearing down the shelters, “is taking a bad solution and applying an even worse remedy to it.”¹¹

However, a few days after the appearance of the first Tyvek shelters, the CAO’s Office decided the

⁹ <https://www.halifaxmutualaid.com/>

¹⁰ <https://www.cbc.ca/news/canada/nova-scotia/homeless-urban-crisis-shelters-1.5882221>

¹¹ <https://www.cbc.ca/news/canada/nova-scotia/homeless-urban-crisis-shelters-1.5882221>; compare to Austin Waye’s later quote in 2022: <https://www.halifaxexaminer.ca/government/city-hall/Councillor-blames-halifax-mutual-aid-for-alleged-assault-in-dartmouth-park/>

shelters had to be removed. However, a few days after the appearance of the first Tyvek shelters, the CAO's Office decided the shelters had to be removed. The CAO was prepared to tolerate tents which were mobile, but the Tyvek structures were permanent and raised other safety concerns, including the risk of fire. By the end of January, the message from councillors also changed. Publicly some councillors indicated they would not evict people from the Tyvek shelters while they were occupied, but supported HRM removing the shelters if and when they were empty.

Tyvek structures were permanent and raised other safety concerns, including the risk of fire. By the end of January, the message from councillors also changed. Publicly some councillors indicated they would not evict people from the Tyvek shelters while they were occupied, but supported HRM removing the shelters if and when they were empty.

Some social services agencies released statements in support of the Tyvek shelters. For instance, the Sackville Area Warming Centre issued a statement: "Given our current housing crisis, we would welcome, and believe our guests would appreciate the safety and security of, Halifax Mutual Aids structures [Tyvek shelters]."¹²

In 2022, Adsum for Women & Children tweeted:

No one in Halifax should have to live in a tent, ATM, Tyvek hut, car, sleeping bag, park bench, blanket, building, hospital heating vent, mall, or shed. But growing numbers of people do. Housing ends homelessness. In this crisis, we commend @MutualAidHfx for taking action.

The reaction from Halifax residents was mixed. Once the shelters were erected, councillors and the Parks Department received calls from the public related to debris, drug use, and public urination. Other citizens recognized that permitting the unhoused to live in a Tyvek shelter was an act of compassion. Indeed, in late January 2021 there was a small rally in front of City Hall in response to a rumour that the shelters would be removed.¹³

The Initial Plans for Removal: February 2021 to June 2021

The CAO Office's Initial Response

On February 18, 2021, at the request of the CAO, senior staff in the CAO's Office prepared a briefing note entitled, "Proposed Approach to Address Immediate Homeless Needs." While the note was framed as a general guide to addressing homelessness, the focus was the removal of the Tyvek shelters. At the request of the Public Safety Officer, efforts were made to align the plan for removal with the empathetic approach.

The note proposed a two-part solution. The first step was funding of \$60,000.00, which came from the CAO's budget and did not require Council approval. The funding was intended to provide, "short term stays [in hotels] to the most vulnerable individuals who are currently sleeping outside, including those in temporary structures."

¹² <https://twitter.com/BeaconHShelter/status/1355888763558359042/photo/1>

¹³ <https://www.halifaxexaminer.ca/government/city-hall/a-man-gets-a-roof-as-halifax-quibbles-with-groups-band-aid-solution-to-homelessness/>

The second part of the approach was that once a person was placed in temporary accommodation, their name would be placed on the by-name list to wait for permanent accommodation.¹⁴ In reality, given the lack of available and affordable housing, the hope was that one of the provincially funded social service agencies would take over the cost of the hotel stay.

The note directed and was implemented by the CAO on the understanding that if residents accepted alternative options, the vacated Tyvek shelter would be quickly locked and then removed. The note included a deadline of April 30, 2021, for residents to voluntarily vacate the shelters.

The note also suggested an alternative to removal, namely finding municipal land onto which the shelters could be moved. There is no evidence that this suggestion was meaningfully pursued prior to the events of August 18, 2021.

On March 5, 2021, the CAO wrote to the Mayor and Council to address the “numerous unsafe sheds” that had appeared over the prior few months. He indicated they were working with stakeholders and the province to find solutions. After outlining the steps taken by the province, the CAO provided the briefing note to the Mayor and Council. He made it clear that the \$60,000 funding was contingent upon “concurrent removal of the shed at the precise time the [current resident] moved.” The CAO noted that HRM would, “provide resources to remove sheds and appropriate unarmed security (not police) to protect the safety of those involved.”

Councillors Sam Austin and Mayson Waye raised concerns about the plan, and particularly the proposed evictions. Ultimately, they appeared content with the plan on the condition that the residents were at least offered housing or at a minimum a hotel stay before the Tyvek shelters were removed.

In March 2021, to implement the plan contained in the briefing note, the CAO’s Office established a Social Assistance Group and an Operational Group drawn from various departments within HRM, the province and social assistance agencies. The former group focused on administering the funds, responding to complaints, and coordinating services/messaging with the province. The latter group developed a plan to remove the shelters. Members of both groups noted a lack of true coordination between them.

The Social Assistance Group

The Social Assistance Group consisted of members of the CAO’s Office, Street Navigators, housing support workers (from social service agencies) and representatives from the province (Department of Municipal Affairs and Housing). Whenever HRM received a report of an individual living in a tent or Tyvek shelter, one of the Street Navigators would visit with them, then work with them to try to secure other accommodations. The Street Navigators had always been tasked with assisting homeless people find accommodation and since the start of the empathetic approach they were, at least in theory, the HRM’s first response to complaints from members of the public. The biggest difference with the creation of the Social Assistance Group was a more formalized coordination among the members of the Social Assistance Group, including members of the province, and HRM.

¹⁴ This is a list of all known people in a particular community who are currently homeless and awaiting housing.

The Social Assistance Group had some success in getting people from the Tyvek shelters and tents into alternative accommodation. As noted above, the \$60,000.00 was used primarily to fund short hotel stays with the hope that other social assistance agencies, who had greater resources, would take over the funding. Funding hotel stays was not a new tool for the Street Navigators, but the additional funds allowed them to offer it to more people for slightly longer periods of time.

These hotel stays were not a panacea for unhoused individuals. First, rooms could be difficult to secure as hotels were reluctant to rent rooms to unhoused individuals and would sometimes simply decline to provide accommodation. Second, there were no wrap-around (e.g., mental health, addiction, and food) services, which everyone recognized made it difficult for unhoused individuals to manage in a hotel environment. Indeed, some of the hotels were located in areas that were far from where the tenant received services and support. While hotel stays superficially appeared to provide adequate housing, it was an awkward fit for many unhoused individuals even when a room could be secured. The lack of supports made hotels untenable for many unhoused individuals.

Unfortunately, the Social Assistance Group also lacked cohesion and a united approach. Members of the Social Assistance Group came from a variety of organizations and their priorities were not necessarily aligned. For instance, while HRM staff were discouraging people from camping in parks, both Street Navigators and provincially funded social service agencies were purchasing and distributing tents.

There was also distrust between the Street Navigators on the one hand, and HRM and provincial staff (who controlled the provincial parks) on the other. Some members of this group believed that HRM's primary goal remained the removal of Tyvek shelters and tents from HRM parks rather than ensuring adequate housing. The distrust flowed both ways. As discussed in the next section, HRM decided to not advise the Street Navigators of the planned evictions for August 18, 2021. While the decision was ostensibly made because it was a police operation, there is a compelling inference that it was also motivated by the perceived links between Street Navigators and individuals in HMA, and a concern that the Street Navigators would disclose the eviction plans to HMA.

The lack of cohesion among the Social Assistance Group impacted HRM's ability to remove the shelters. While no one believed that the Tyvek shelters were a positive, long-term solution, they were viewed by some members of the group as better than the alternatives that were available to unhoused individuals. Thus, some members of the group were hesitant to report empty shelters as they knew the shelter could improve housing for another person who remained unhoused.

The inability to remove the shelters was a significant point of frustration for the CAO and others in HRM as vacated Tyvek shelters were quickly occupied by new tenants. Throughout the spring, the HRM was not prepared to evict residents due to COVID restrictions. However, the inability to remove the shelters before new tenants moved in was offered as one of the primary reasons that evictions were necessary once the COVID restrictions were lifted.

The Operational Group

The Operational Group included individuals from the CAO's Office, the Parks Department,

Transportation & Public Works (Public Works), Compliance and HRP. The purpose of the Operational Group was to formulate and execute a plan to remove the Tyvek shelters when vacated if possible and through evictions if necessary.

On a few occasions the Operational Group was asked by councillors or the public about permitting shelters to remain at sites that could be designated or on private property. There was no evidence that this proposal was seriously considered. The response was always the same—the Tyvek shelters violated building codes and would not be permitted to remain on public or private land. The Review was told that building code violations (including concerns about fire safety and liability issues) were one of the primary reasons the Tyvek shelters needed to be removed. Notably, some senior staff in the HRM noted they were aware of other buildings in the HRM that were in violation and could be shut but were not. Given this and the fact that Tyvek shelters were allowed to remain in some locations after August 18, 2021, it is reasonable to conclude that the primary motivating concern was the shelters were permanent (as opposed to tents), and a genuine fear that if some were permitted to stay many more would start to appear. These concerns were candidly acknowledged by various HRM staff members interviewed by the Review and provide a better explanation for the rush to dismantle the shelters.

On April 18, 2021, the Operations Group held their first full planning meeting. At this time, eleven (11) Tyvek shelters had been placed on HRM property. This group sought to develop a framework for the removal of shelters and a protocol for intervening when new shelters were constructed. Throughout the spring, the Operational Group refined its plans, which generally were comprised of two stages: issuing Notices to Vacate, followed by the removal of the Tyvek shelters. Both the Operational Group's notes and updates, provided to Council by the CAO, demonstrate that evictions were always part of the plan for those who did not accept the other options that were offered. Notably, there were no mechanisms to assess whether the options that were offered were in fact suitable for the residents of the Tyvek shelters.

OrgCode

In May 2021, HRM hired OrgCode Consulting Inc. ("OrgCode"). OrgCode is a consulting company that works with community non-profits, cities and municipalities to train employees and workers on best practices for assisting homeless communities and removing encampments. OrgCode was engaged to develop a response guide to outline procedures to close encampments and train HRM staff in effective engagement with the unhoused. The initial retainer letter noted that "time was of the essence" and confirmed that a draft response guide (which outlined steps towards eviction) would be prepared in a week.

In May 2021, OrgCode hosted two training sessions for members of the Operational and Social Assistance Groups and prepared the *Halifax Regional Municipality Encampment Response Guide* (the "*Response Guide*"). The *Response Guide* outlined three stages to removal: Preparation, Mitigation, and Consent, with concrete advice on the tasks that should be completed at each stage. Several of the recommendations made by OrgCode were already in place, to some degree, including the existence of an Operational and Social Assistance Groups, and making efforts to dialogue with HMA.

It is not the purpose of this Review to evaluate the effectiveness of the OrgCode procedures. However, given HRM retained OrgCode to develop a guide, it is fair to compare the strategy HRM and later the HRP deployed in relation to the best practices and suggestions outlined in the *Response Guide*.

The *Response Guide* outlined a long-term strategy to clear encampments involving a broad spectrum of service providers and careful assessments to determine when closure (and eviction) was required.

However, the *Response Guide* had minimal impact on the way the actual plan unfolded. Indeed, many of the rudimentary elements of the OrgCode training, including ensuring a sufficient time between notice and evictions, and having social support on the scene during evictions were not followed during the August 18, 2021, operation.

It should be noted that according to interviewees, the framework suggested by OrgCode was more closely followed in the recent clearings of five designated encampment sites that were “de-designated” and cleared in the spring of 2024.

The Internal and Public Messaging

As HRM prepared for evictions in the spring of 2021, internal and public messaging shifted. At the direction of a senior member of the CAO’s Office, the briefing note outlining the empathetic approach was amended. The amendments were meant to be a compromise between those who supported the empathetic approach and those who were not comfortable with it, while articulating a clear position regarding the Tyvek shelters. With respect to the Tyvek shelters, the author added “Encampments that include built structures or other types of temporary infrastructure should not be permitted in any public spaces as they heighten health and safety risks to individuals residing there and to the general public.”

The guidelines regarding evictions were also amended as follows:

For these reasons, HRM will not force the eviction of residents from homeless encampments, but first help identify adequate housing solutions for the resident(s), *notwithstanding public safety or health concerns or other imminent risks unless and until their need to adequate housing is met.*

Similar modifications were made to 3-1-1 guides to respond to public inquiries and public facing statements, including media releases. For instance, 3-1-1 operators were provided the following script:

We have taken an approach of not evicting people from homeless encampments (usually tents) until we have identified and offered other housing solutions and/or the health and safety of the residents or public are at risk. This approach never condoned the installation of infrastructure associated with encampments. Housing as a human right does not mean that this right can encroach upon the rights of others. As the number of sheds and other encampments on our property has increased, so has this encroachment.

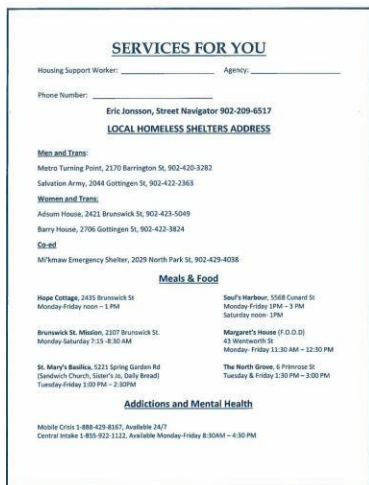
These changes reflected a slow shift away from the empathetic approach and provided additional

justifications for potential removal of shelters. The inclusion of broad categories to justify evictions, such as public safety risk, gave the HRM significant latitude in determining when encampments could be closed. This was identified as problematic by one person interviewed by the Review, as these broad categories provided wide and relatively unfettered discretion to close encampments without objective criteria.

The Initial Removal of Tyvek shelters

The Initial Plans in June 2021

While plans to remove the Tyvek shelters were being developed in the spring of 2021, no action was taken while COVID restrictions were in place. By the middle of June, the province had lifted the COVID restrictions and removal plans were finalized. HRM prepared a Notice to Vacate and created a handout to provide Tyvek shelter residents about the available alternative accommodations (the “Available Services Sheet”). After these were provided to residents, the plan was to proceed with evictions two weeks later.



The Available Services Sheet (reproduced on the left) was made in response to one of the actions suggested by OrgCode. The suggested action was the creation of an inventory of all social services available to be provided to encampment residents. The Available Services Sheet highlights the lack of services that were available at the time. The sheet provided contact information for two shelters each for men and women (which according to most people we spoke to were generally full as their capacity had been reduced during COVID) along with contact information for the Street Navigators. This sheet also reflects the superficial way some of the OrgCode suggestions were implemented.

Initially, the Operations Group planned to issue the Notices to Vacate on June 23, 2021, with a removal date set for July 7, 2021. The plan incorporated, to some degree, several of the suggestions made by OrgCode: there was a two-week period between the notice to vacate and removal; frequent visits from Street Navigators between the notice and removal dates; opportunities for relationship building between residents and Community Safety Officers (“CSO”); and providing residents with a list of available services. However, it is unclear to what degree these suggested procedures were followed. For instance, the Street Navigators could not recall a specific direction to intensify visits to specific sites prior to any removals.

The plan for eviction day was for HRM Compliance Officers and Parks Department staff to attend sites and advise individuals to leave. The residents would be provided with an hour to leave, and HRP would be present and assist if individuals were non-compliant or obstructing staff. HRM would provide individuals with transportation to other locations (e.g., hotels or shelters). Once residents had left, the sites would be cleaned up by HRM staff. No clear plans were made for the residents’ possessions that they could not carry with them.

On June 22, 2021, the Mayor's office was notified by corporate communications of the plan to issue Notices to Vacate the following day. In response, the Mayor's office contacted the CAO's Office and raised several concerns.

First, the Notices to Vacate would be issued while Mr. Dube was away, and Jerry Blackwood was acting as CAO. Given the sensitivity of the operation, they were concerned that the CAO would not be present. Second, the plan included a forced eviction. Finally, there were concerns that the plan was being executed without specific notice to Council or the Mayor. Ultimately, because of the Mayor's intervention, the plan was cancelled.

On June 24, 2021, a Tyvek shelter on Cogswell Street caught fire. The resident was not home at the time. While HRM planned to remove the shelter after the fire, it was taken away before HRM could do so. HRM presumed it was HMA that removed the shelter. While no one was injured, the fire added further justification for the need to remove the shelters.

The Revised Plans in July 2021

Shortly after the fire occurred on Cogswell Street, the Operational Group prepared a revised strategy for issuing Notices to Vacate. The decision to reinstitute the plan corresponded with a provincial plan to open the Out of the Cold Shelter on July 5, 2021, which would hold and offer spaces to individuals from the Tyvek shelters.

The new plan to issue Notices to Vacate was similar to the plan that was abandoned on June 23, 2021, with the addition of giving the Social Assistance Group time to discuss new options with the residents after the notices were issued. The most significant difference between this plan and the previous one was that forced removals were abandoned.

Indeed, after June 22, 2021, Mr. Dube had promised the Mayor and three councillors that he would not forcibly evict or remove any resident (we have not identified the three councillors). While HRM was not prepared to use forced evictions, the Notice to Vacate clearly threatened eviction and indicated that, "temporary shelters will be removed on or after July 13, 2021." Notably, this was shorter than the 14-day period that was proposed in June and suggested by OrgCode.

Another change was the approach to potential protesters. Concerns about protests had been present since the spring. Previous plans had "no-go" triggers and called for HRM staff to withdraw if protesters showed up to obstruct the operation. While the CAO had promised not to forcefully evict residents at this stage, he was prepared to use the police to deal with protesters. In a June 29, 2021, email he wrote:

If protesters show up to block the site or a vacated shed, we must take **all measures necessary to remove the shed and disburse the protesters**. I will not authorize forcible evictions but **will authorize the forced removal of protesters who are impeding our rights and those of residents who deserve quiet enjoyment of our parks**. [emphasis added]

Reliance on the idea of the public's "right" to enjoyment of parks began circulating in the late spring. This right should not be understood in the same light as the judicially recognized right (in certain circumstances) to camp in parks (see discussion in Chapter 2). While the public may have a

desire to use public spaces, there is not a legally recognized right to quiet enjoyment of a park. The times and uses to which public space can be used are determined by municipalities. The actions of HRM cannot be understood as protecting a preexisting public legal right to use the space, rather than positing one and then using it to justify evictions.

HRM decided to issue the Notices to Vacate on July 6, 2021. On that day, the Operational Group issued Notices to all eleven (11) Tyvek shelters by either providing the Notice to Vacate directly to the residents or stapling them to the shelters. HRM staff did not report any issues with the residents except for one person who was reportedly aggressive.

HMA immediately released a statement regarding the Notices to Vacate, outlining the underlying conditions that were contributing to an increased number of unhoused people in the community and indicated that they did not intend to remove the shelters. The statement also raised the possibility that removing the shelters would violate section 7 of the *Charter* (see discussion in Chapter 2).

By July 8, 2021, four of the residents from Tyvek shelters had tentatively accepted space at the Out of the Cold shelter. On July 9, 2021, three Tyvek shelters that were believed to be vacated were removed from Crathorne Park, Raymond Park and Victoria Park. During the removal, one of the HRM employees was approached, videotaped, and treated disrespectfully. On July 10, 2021, two more vacant shelters were removed from Fort Needham Park by HMA. In total, five of the eleven (11) Tyvek shelters were vacated and removed.

On July 9, 2021, HMA asserted that one of the Tyvek shelters removed by HRM had been occupied at the time of removal. This was supported by a concerned citizen who knew and contacted the Deputy Mayor and indicated that the shelter resident went to work and returned home to find it locked. While it cannot be determined whether the shelter was occupied, it is evident that HRM honestly believed it was empty and took steps to confirm this before it was removed. They had information from Street Navigators that there was no activity at the shelter in previous weeks and when it was opened, there were no personal effects inside.

The community reaction to the Notices to Vacate and removals was mixed. It was supported by some. However, many people on social media, through communications with 3-1-1 and councillors expressed concern about the removal of shelters, and questioned what options were being provided to unhoused individuals. Councillors received hundreds of emails opposing the removal of the shelters and many responded to the outpouring of concern by posting open letters. These letters supported the removal of shelters but recognized that there was and would remain unhoused people who were not being offered beds and more had to be done.

Approximately half of the Tyvek shelters had been removed by this initial operation and the Operational Group continued to monitor the Tyvek shelters for vacancy. On July 12, 2021, it was believed the shelter at Chebutco Park was empty as the resident had accepted a spot at Out of the Cold. However, it was reoccupied before it could be removed and HRM decided to let it remain. One of the Tyvek shelters at Spring Garden Road was also vacated after the Notices were issued, but it was also reoccupied before it could be removed.

The Shift Towards Tent Evictions

Until the summer of 2021, the tents in public parks garnered less attention from the Operational and Social Assistance Groups than the Tyvek shelters.

However, there is evidence that even after the adoption of the empathic approach, both the Parks Department and Compliance officers continued to advise tenters they could not remain in parks and to move along. It is difficult to reconcile these “soft evictions” with the empathetic approach. While there was a recognition that those who vacate one park simply moved to others, in early 2021, HRM staff seemed satisfied with this approach. Tents were viewed as manageable as they were small and movable.

By May 2021, the number of campers in parks was increasing and some tenters were refusing to leave when approached by Parks and Compliance Staff. As encampments grew and remained for longer periods, the tolerance for tenters among Council and HRM staff waned. Around this time, the Mayor’s office privately began advising constituents that the empathetic approach would only last as long as COVID restrictions, and all people were expected to “move on” once alternative accommodations became available.

At the end of May, Denise Schofield, Executive Director of the Parks Department, suggested to the CAO that tents be added to the eviction plans. However, the focus of the Operational Group remained the Tyvek shelters. As late as July 7, 2021, the Mayor was still publicly stating that tents were less of a concern and as of July 20, 2021, the direction from the CAO’s Office was to “sit tight” and not evict tenters.

On July 21, 2021, the Parks Department prepared the first plan for structured removal of tent encampments. The author of the plan, Alanna Tapper, the Superintendent of Parks West, has since left the HRM and declined to be interviewed by the Review. The plan did not include issuing Notices to Vacate (something the Executive Director of Parks had previously indicated was unnecessary despite a recommendation from OrgCode). Rather, the plan merely indicated that the Parks Department would post no camping signs while the Social Assistance Group would engage with residents about alternatives. HRM would then clean up the sites where people voluntarily left. The author sought direction from senior staff on what would occur if people did not voluntarily leave. A series of emails showed how the plan developed over the next few days to include issuing tickets to individuals who did not voluntarily vacate and involving the HRP if people refused to leave.

On July 26, 2021, the Parks Department and Compliance outlined a more detailed strategy and emailed it to Ms. Schofield to discuss with Mr. Dube. The strategy involved three steps: i) posting no camping signs and advising residents they were required to leave; ii) issuing tickets a week later; and iii) evictions after another week. The email confirmed that the Parks Department was already making attempts and had some success in getting people to vacate some parks. Notably, at this stage there was no evidence that tenters had received meaningful housing alternatives. The author also noted that designating areas for tents was not an option because there were no viable sites in the HRM.

While the final authority over the eviction plans always lay with the CAO, he and the Executive

Director of the Parks Department were more involved after the shelter removals in July. The CAO, who was initially supportive of the empathetic approach, was under significant pressure to address the encampments in parks. Business owners were calling the CAO and councillors about the impact on their business as they were attempting to recover from the pandemic; citizens were concerned (correctly or incorrectly) about their safety near the parks; and Dan Kinsella, the Chief of Police, was advising the CAO of serious criminality occurring at various sites, in particular, Peace and Friendship Park. While the CAO recognized clearing the encampments would likely just push many people to new locations, he also believed action was required.

After a meeting between Ms. Schofield and Mr. Dube on July 27, 2021, a memo to Council regarding the removal of tents was drafted. Rather than being left to the Operational Group to prepare the plan, the initial framework was fleshed out by the CAO's Office with input from the executive directors of various business units and the Chief of Police. The memo prepared by the executive directors included a plan to forcibly evict residents if they did not leave voluntarily, and to immediately remove any tents that returned. Indeed, the term "forcible eviction" was initially included, but then removed in one of the final edits and was not included in the final draft of the memo that was provided to Council.

The memorandum containing the plan was presented to Council on August 3, 2021. The August 3, 2021, Memorandum listed Peace and Friendship Park as the main priority, with the encampment at the Memorial Library (which contained tents and Tyvek shelters) to be addressed the following week. Notably, the plan was to address the remainder of the Tyvek shelters in September when further supports would be available from the province.

Prior to the completion of the August 3, 2021, Memorandum, members of the CAO's Office advised the CAO that they could not be certain Street Navigators and/or Housing Support workers had met with all the tent residents due to their transitory nature and the limited number of Navigators. It certainly was not the case that all the tent residents had been offered alternative housing. Further, they advised it was also known that one of the two Street Navigators was away for an extended period and unavailable to assist residents with obtaining alternative accommodations.

The plan presented in the August 3, 2021, Memorandum indicated that the Street Navigators would work with individuals in tents to identify alternative housing options. During the same period, Compliance and Parks would conduct daily visits to parks and tents to encourage people to leave and install no camping signs. However, there is no evidence that the Compliance and Park Department staff visited daily or that the Street Navigators were given specific directions to attend the targeted parks more frequently.

The following week Compliance and Parks Department staff were scheduled to return to sites with Community Safety Officers to reinforce the need for individuals to move and clear the encampments. The August 3, 2021, Memorandum was explicit about the possibility of police involvement:

At this point we plan to clear the Peace and Friendship Park of tents during the week of August 9 using all the resources at our disposal including police services as directed by the Chief of Police.

There was no evidence that councillors objected to this plan, as they had objected to earlier plans. Indeed, several councillors responded favourably to the initiative.

On August 6, 2021, Parks Department staff attended Peace and Friendship Park, posted no camping signs and met with a number of the residents, some of whom were receptive to discussing alternatives and accepted hotels.

By this point, the coordination between the Social Assistance Group and Operations Group was tenuous. Indeed, it was not until August 6, 2021, that the Spring Garden Area Business Association, which ran the Street Navigator Program, advised the CAO's Office the Street Navigators would no longer distribute tents. Nor did the Street Navigators receive any direction to step up their efforts to get people out of the parks or focus on locations where evictions were planned.

On August 10 and 11, 2021, Parks Department and Compliance staff visited various sites in Halifax and Dartmouth to advise residents they had to vacate the parks. Horseshoe Island, Peace and Friendship Park, the Memorial Library and the Halifax Commons were all visited. Some residents of all the sites except Memorial Library were open to alternative locations.

On August 11, 2021, the Communications Department sought input from the Parks Department about who would lead the removal. However, the Superintendent of Parks West indicated that the Parks Department did not have the ability to decide how tents would be removed or by whom. Ray Walsh, the Director of Parks, highlighted some of his concerns about the Parks led approach, indicating that many people were non-compliant and/or intoxicated and some had been aggressive toward staff. He indicated that Parks Department staff were not equipped to deal with this and HRP presence would be required as, "We are at the point of forceful removal of most sites." He noted that the CAO had indicated earlier that HRP would be involved, but he had not received a plan from HRP.

Within a day of this email exchange, the CAO had a telephone call with Chief Kinsella, and it was confirmed that HRP was working on a plan. During the call, Mr. Dube advised Chief Kinsella that Peace and Friendship was a priority and subsequently provided him with a copy of the email from the Director of Parks as justification for police involvement. Over the next several days, there were several exchanges involving Mr. Dube, Chief Kinsella, and legal counsel for HRM and HRP.

After these meetings, there were several changes to the plan that was contained in the August 3, 2021, Memorandum. First, the CAO directed HRM employees to prepare Notices to Vacate. Issuing written notices was understood to be a best practice (not a legal requirement), if there were court challenges to police arresting those who did not comply. It was also decided that no date should be given on the Notice to Vacate so there was less chance of protesters attending the sites.

The End of the Empathetic Approach

The HRM had taken a well-meaning step in December 2020 to recognize the harm that could be caused by evicting people from encampments and having Street Navigators, who were better equipped to assist unhoused residents, address issues at encampments rather than HRP. However, the HRM was not prepared to seriously consider more widespread policy changes such as designating certain sites for tenting or tolerating the Tyvek shelters, both of which were done after August 18, 2021. Moreover, while there was an empathetic approach in name, it is clear that the Parks Department still practiced “soft evictions” by having their staff, along with Compliance, try to have tenters vacate the sites without alternative and appropriate accommodation being offered.

Nonetheless, the members of the Operational and Social Assistance Groups, many with no background in homelessness, made their best efforts to remove the Tyvek shelters without resorting to forceful evictions. These plans were frustrated by a history of distrust between the HRM and social service workers and a group of community members, who believed that “four walls and a front door” was a better response than nothing for marginalized members of their city.

The lack of patience and inability to adapt the original approach to the appearance of Tyvek shelters and the increasing number of people in tents led HRM to call on the HRP to assist in forceful evictions. This decision was not made out of malice, but by senior staff who felt inaction was not an option, were not prepared to simply accept the shelters, and had no other resources available to deploy. The immediate impact of the decision to engage with the HRP will be examined in the next Chapter.

Chapter 4: HRP Planning for and Deployment on August 18, 2021

Background and Overview

As described in the last Chapter, HRM spent months discussing and planning the initial removal of the Tyvek shelters. In the spring of 2021, they formed Social Assistance and Operational Groups to relocate residents of the Tyvek shelters and then remove shelters when they were empty. The plan was to offer the occupants alternative accommodation and when vacated immediately take control of and remove the shelters. That proved to be challenging as new occupants often moved in immediately upon the prior resident leaving.

HRM achieved some degree of success in removing the Tyvek shelters. By the middle of July 2021, approximately half of the shelters had been removed after they were, or were reasonably believed to be, vacant. The remaining shelters continued to be of concern, as did the growing presence of tents and encampments in public spaces. In mid-July 2021, HRM's focus shifted as public and internal pressure mounted to address the expanding tent encampments.

On August 11, 2021, less than a month later, the Parks Department determined that they were at the "forcible removal stage" and the CAO engaged Chief Kinsella and the HRP to support the Operational Group in clearing encampments. Although it had been foreseen that at some stage forcible removal might be required, this signaled a stark change in approach. Before this date, much of the focus was on the empathetic approach, and the Mayor and councillors had intervened to prevent forcible evictions.

This Chapter contains a detailed review of the post-August 11, 2021, events, and in particular HRP's role in the planning and execution of the August 18, 2021, evictions. After the HRP were engaged, officers played a central and leading role in how the plan proceeded. The plan that was developed by HRP and HRM was to clear three encampment sites: Peace and Friendship Park, Halifax Commons and Horseshoe Island. There was no specific plan to clear the Memorial Library site, although the possibility of doing so had been considered before August 18, 2021.

The focus of this section is the decision by HRP and HRM to attend the Memorial Library site to remove the Tyvek shelters and tents located there. The decision to attend that day was made by the Public Safety Unit (the "PSU") commanding officers, after the clearing of Peace and Friendship Park, Halifax Commons and Horseshoe Island. The evictions at those three sites were executed early in the morning of August 18, 2021, without much resistance. On the basis that those clearings had been an operational "success", a decision was made to also try to clear the Memorial Library site.

Shortly after arriving at the Memorial Library site, the HRP members were met with resistance, which increased throughout the day and resulted in significant force being used against members of the public, including pepper spray. As detailed below, these events can be tied directly to the lack of planning, and the inability or unwillingness of PSU command to reevaluate the decision to clear this encampment once on the scene. As a result of these decisions, unhoused persons, civilian observers, protesters, HRP officers and HRM employees all suffered significant trauma.

Our Terms of Reference mandate that we examine specific features of HRP policies and procedures, and how those policies manifested in practice on August 18, 2021, including the identifiability of officers, the access provided to the media, de-escalation strategies, and the use of force. These are discussed at the end of the Chapter.

While the focus of this Chapter is the Memorial Library site and the conflict between HRP and protesters, the Review does not want to minimize the traumatic impact of the forceful evictions on unhoused individuals in other locations. Nor should our comments that the first three sites proceeded without incident be seen as an endorsement of the decision to evict individuals residing at those sites. Many of these people were removed from their shelters, given tickets they presumably could not afford, and were left without alternative accommodation. However, it is not within our mandate to assess the propriety or lack of propriety of that decision. That is best left for others.

The Halifax Regional Police Involvement's in Planning Encampment Evictions

Initial Decision to Enlist the Halifax Regional Police

On August 11, 2021, the Director of Parks told the CAO via email that, “we are at the point of forceful removal.”¹⁶ The Director of Parks told the Review that there was significant pressure on the Superintendent of Parks West, one of the leads of the Operational Group, to formulate a plan and a date for the evictions. Aware of the possibility of protests, he believed that his department was ill equipped to address the situation. In the April 11, 2021, email, referring to the August 3, 2021, Memorandum that was provided to the Mayor and Council, and which outlined the plan including the possibility of HRP involvement, he wrote that he “understood that HRP would take the lead” on the operation to clear the encampments.

Also on August 11, 2021, the CAO spoke to Chief Kinsella and enlisted the HRP to assist with clearing the encampments. The CAO provided Chief Kinsella a copy of the August 3, 2021, Memorandum and advised that the current priority was Peace and Friendship Park and then they would move onto other “hotspots.” Over the next two days, Chief Kinsella and the CAO discussed the possibility of obtaining an injunction to prevent people from returning (which was ultimately not pursued because the legal requirements had not been met) and determined residents should be given written notice to vacate the parks before the evictions occurred. Written notice had been omitted from the original plan that was presented in the August 3, 2021, Memorandum.

During the planning, the HRM and HRP made several decisions with a view to preventing protests from disrupting the evictions. These decisions also limited the support available to residents to obtain alternative accommodation. For instance, the CAO directed members of the Operational Group to prepare notices to vacate, *without a date for eviction. The date was omitted to avoid giving notice to protesters.* However, providing a fixed deadline, at least two weeks after the notices were issued, was one of the practices identified by OrgCode to assist residents to find suitable alternatives. Further, a decision was made to not notify the Social Assistance Group, including the Street Navigators, of the operation and simply provide residents with copies of the

¹⁶ The events preceding this email are outlined in the previous Chapter.

Available Services Sheet. The reason for not telling the Social Assistance Group was because this was a police operation. However, it is clear from the interviews that senior HRM staff believed members of Social Assistance Group were providing information to HMA. Accordingly, this decision is better understood as an attempt to avoid protests. Again, this decision limited the ability of Street Navigators, who were the primary frontline members of the Social Assistance Group, to be present and support those who were to be evicted. In fact, the most well-known Street Navigator, Eric Jonsson, who was unaware of the planned eviction, was on vacation on August 18, 2021. HRM was aware of his absence.

As a result of these decisions, Street Navigators and other social service organizations who provided support to those living in encampments were left to scramble to find housing and accommodations for the displaced individuals *as the evictions were unfolding*. Indeed, multiple service providers advised the Review that there were no alternative options offered or available on that date, and they were unable to secure hotel rooms to accommodate all the displaced persons.

While the CAO and HRM focused on attempting to offer and say they offered hotel stays, less attention was paid to ensuring the offer was meaningful. Street Navigator Eric Jonsson explained that it could be difficult to secure a room as some hotels would not rent a room when they learned it was for an unhoused person. Another social service worker told the Review that on the day of the evictions, some individuals could not obtain a hotel room, even when one was available, because the hotels required identification, which some unhoused individuals did not have. Offering a hotel room is fundamentally different than ensuring one is meaningfully available and accessible. While the former may have been contemplated by HRM staff, the latter was not.

Mr. Jonsson's absence, and the lack of notification to other social service agencies, raised suspicions from residents and others after August 18, 2021, that the date for eviction had been selected at a time when HRM and HRP knew that key supports for the residents would not be present. These decisions not only impacted the unhoused individuals in the short term but aggravated the already strained relationship between the unhoused community and social service supporters on the one hand, and the HRP and HRM on the other. This served to diminish the trust between those groups.

The PSU and the Operational Group

On August 13, 2021, Chief Kinsella assigned Sgt. Mo Chediac as Team Commander of the operation and asked him to assess the PSU's ability to support the encampment evictions.¹⁷

That same day, the Team Commander contacted the Program Manager of By-Law Standards, and the Superintendent of Parks West (members of the Operational Group from Compliance and the Parks Department, respectively), to discuss their respective roles during the evictions. During the initial call, a framework for the removal was discussed.

On August 16, 2021, there was another call between the parties where the plans were finalized. During these calls *three* sites were discussed for eviction: Peace and Friendship Park, Halifax Commons and Horseshoe Island. The Memorial Library Site was not discussed.

¹⁷ The PSU's mandate is described below.

The Review could not conclusively determine who specifically selected the eviction sites, other than Peace and Friendship Park, which was identified in the August 3, 2021, Memorandum. The Program Manager advised the Review that she learned of the sites from the Team Commander. The Team Commander could not recall who made this determination, but acknowledged the HRP were monitoring Peace and Friendship, the Halifax Commons and Horseshoe Island for some time as there were public safety concerns. Documentation shows that the Superintendent of Parks West (who is no longer employed by HRM and declined to meet with the Review) was aware that the plan was to clear the three initial sites (not the Memorial Library Site) before her initial meeting with the Team Commander. Given both HRM and HRP staff appear to have independently known about the initial three sites, it is reasonable to infer that it was senior staff with HRP and/or HRM who identified them.

On August 16, 2021, members of the Operational Group along with HRP Community Safety Officers (“CSO”) issued Notices to Vacate at 12 encampment sites, including Horseshoe Island Park, Peace and Friendship Park, Halifax Commons, and the Memorial Library. CSOs are assigned to areas in the HRM and work with residents and community-based organizations to address crime, disorder, and community safety issues. The CSOs had familiarity with dealing with encampments and previously worked with the Operational Group when its members needed support attending various sites.

On the same date, the Team Commander prepared an Incident Action Plan (“IAP”). The IAP identified the evictions as a joint operation. It noted that, “On Wednesday August 18, 2021, HRM Parks along with HRP will activate this Operational Plan which will see the safe removal of all tent encampments in enforcement of Municipal by Law P-6000 and the Protection of Properties Act.” The plan called for HRP members to, “preserve the peace and encourage tents owners to pack their belongings.” The IAP provided some background to the operation, including HRM’s attempts to secure alternative living arrangements for those in tents, and provided a purported justification for the removal of the encampments. The Team Commander wrote that, “The semi-permanent and long-term encampments had become a threat to public safety due to dispute calls made regarding the residents along with health concerns that were aggravated by the current heat wave.”

The IAP identified three sites for evictions: Peace and Friendship Park, Horseshoe Island, and the Halifax Commons. A staging area was identified for each site. While everyone recognized that demonstrations could arise at the various sites—indeed this was one reason the PSU was enlisted—the IAP contained little information on how protests would be addressed. The IAP outlined when rights to counsel should be given if arrests were made (on the scene) and noted these interactions should be video recorded (they were not). The IAP also cursorily dealt with what would occur if protesters attended HRP headquarters. Finally, unlike previous plans prepared by the Operational Group, the IAP did not contain a “no-go” trigger or consider the possibility of retreating to execute the plan on another occasion if problems arose. This was a critical oversight.

There was no consideration in the IAP of attending the Memorial Library site.

Memorial Library was undoubtedly the most complicated eviction as it required the removal of two Tyvek shelters from the downtown core. This would require the use of heavy machinery like forklifts and flatbed trucks. As a result of the lack of inclusion, there was no direction on where the heavy machinery would be located or where the police would stage. Nor did the IAP identify an area of control required for the peaceful completion of the operation. No explanation has been provided for this omission from the IAP. However, the obvious inference is that these issues were not properly considered or implemented, because it was never part of the plan to attend the Memorial Library site.

Indeed, even the possibility of attending the Memorial Library site was closely guarded information. Based on the interviews and documentation received by the Review, the Team Commander was the only person outside senior staff who was aware of this possibility prior to August 18, 2021. By failing to share this information with others, including members of the Operational Group, the HRP missed an important opportunity to get input from those who had previously handled removals and plan accordingly. Indeed, the Team Commander did not communicate with or obtain input from the HRP CSOs who had been working with the Operational Group and encampments, and as detailed below, were aware of the potential difficulties in clearing the Memorial Library site.

The Structure of the Public Safety Unit

The PSU is deployed to manage events with large crowds, protests, and demonstrations. Prior to August 2021 it was rarely used and there were no specific standing orders, policies or rules that governed their conduct. A policy was implemented in 2022, after the events that are the subject of this Review (the “2022 Policy”).

According to the 2022 Policy, the PSU’s mandate is to, “minimize the risk of personal injury and property damage by maintaining peace and order.” The policy refers to the command structure of the PSU, training, members of the unit, and circumstances in which they should be deployed. The 2022 Policy does not contain any guidance on use of force during a deployment or the consideration of withdrawal.

Before joining the PSU, members attend a weeklong training course and thereafter receive bi-annual training in the spring and fall. The training is offered internally by the HRP. Prior to August 18, 2021, members who joined the PSU remained part of the team indefinitely. This has since changed, and individuals are permitted to leave. Since August 18, 2021, the two HRP members who may be assigned as Team Commanders, Sgt. Joanne Sweeney, and Sgt. Chediac, have received further training in Ontario.

Members of the team explained that the PSU has a paramilitary structure. All decisions come from the top and must flow through the chain of command. This includes decisions to employ greater levels of force and to make arrests. At the top of the chain is the Incident Commander, who is located off site and oversees the operation, and then a Team Commander, who is the highest-ranking officer on the scene. Under the Team Commander are the Team Leaders who are each

responsible for a squad of officers.

On August 18, 2021, Supt. Matthews was the Incident Commander and Sgt. Chediac was the Team Commander. Collectively the Team Commander and Incident Commander will be referred to as the PSU Command Team. Sgt. Sweeney was second in command but explained her role was less well defined. The Team Leaders were Sgt. Power, acting Sgt. Mclver, Sgt. Palmeter, and Sgt. Sheppard. There was also a single Bicycle Rapid Response Team (“BRRT”), consisting of six officers, a Community Safety Officer (“CSO”), and three identification officers who were responsible for taking video and pictures throughout the day.

Many officers who met with the Review described the PSU’s role as something akin to mediation: keeping both sides safe, allowing protesters to exercise their freedom of speech, and not taking sides. This role may accurately describe PSU in some circumstances, but it is difficult to reconcile this view with how this particular operation unfolded.

HRP was involved in the planning and selection of sites for eviction. There was evidence (discussed below) that HRP directed HRM employees to issue tickets to the residents, made the decision to proceed to the Memorial Library site, and made the decision to continue with the operation in the face of growing protests and violence. The HRP did not make the initial decision to evict encampment residents, but clearly took a leading role once they were brought into the operation on August 13, 2021.

August 18, 2021: The Initial Three Encampments

Morning Briefing

On August 18, 2021, at 5:00 a.m. a briefing was held at HRP headquarters. The PSU team, including 41 officers, were present along with 12 HRM staff, who were involved in the operation.

During our Review, we asked multiple witnesses whether this meeting was memorialized in some fashion or if anyone made notes of the meeting. No witness recalled notes being taken. This is a concern. This was a significant operation, involving the HRP and HRM. It was inevitable that the decision to evict the encampment residents would be an issue of public discussion and scrutinized after the fact. Transparency requires that important decision-making by public officials, including police, be properly memorialized for public review. That was not possible here as this briefing was not memorialized.

Based on our interviews, we determined that the briefing lasted for about an hour, during which time the Incident Commander, the Team Commander and Chief Kinsella all spoke. While there were also HRM officials present, and this was characterized as a “joint” plan to clear the identified encampments, the fact that the primary speakers were from HRP supports the conclusion that the HRP played a critical and even leading role in the planning and unfolding of the events that day.

While the general plan with respect to the three initial sites was discussed, there was no mention of the Memorial Library site during the briefing. However, a senior member of the CAO’s Office recalls meeting with Chief Kinsella after he (the Chief) spoke to the entire group at which time he was advised that the HRP may attend the Memorial Library site if time permitted. The senior

member of the CAO's office reported that this was the first time he heard of the possibility of attending the Memorial Library site.

During the briefing, Compliance Officers recalled that HRP officers directed them to issue summary offence tickets ("SOCs") to all park residents. The Compliance team had internally decided to only issue tickets to people who did not voluntarily leave, were confrontational, or aggressive. The Team Commander told the reviewers he did not direct the issuance of tickets. Yet, one of his earliest commands over the radio to the PSU team was to, "just make sure compliance officers are supported there for what they need for identification so they can do their work with issuance of SOCs."

Units were assigned to each of the three sites that were identified. One PSU team (a Team Leader and six squad members) were assigned to each of Horseshoe Island and the Halifax Commons. The BRRT officers were also assigned to Halifax Commons. Two PSU teams were assigned to Peace and Friendship Park along with the CSOs. Each site also had an identification officer responsible for video recording and taking photographs. There was also a team of four HRM staff assigned to each site. In total, 41 HRP officers and 12 HRM staff were deployed to evict the occupants of 20 tents.¹⁸¹⁷

Notice to Council and Members of the Social Assistance Team

At 6:39 a.m., the Communications Department notified the Mayor and Council via email that HRM staff and HRP officers were attending various parks to clear encampments. (One councillor who spoke to the Review recalled a meeting on August 17, 2021, where Council was notified that a joint HRP and HRM operation would proceed the following day). The email included the media release, which did not use the word eviction. Rather, it indicated that, "Municipal Compliance officers are following up with tent occupants to aid the safe removal of tents from municipal parks. Staff members from Parks and Recreation and Halifax Regional Police are onsite to assist with removal efforts if required." It cited health and safety concerns arising from the proliferation of tents as the basis for removal. Essentially, the encampments had grown too large to be permitted to stay.

At 7:06 a.m., Paul Johnston, managing director of the CAO's Office, notified the Social Assistance Group via email that evictions were occurring. He indicated that in the previous two weeks, HRM staff had provided the Available Services Sheet to residents in the parks. He noted that, "residents of these sites, primarily Peace and Friendship Park, will be requiring some help this morning and throughout the day with housing options." This email also mentioned the possibility that evictions would occur at the Memorial Library site.

Arrival at the Initial Sites

The various teams arrived at their respective sites and started the eviction process between 6:00 a.m. and 6:20 a.m. Prior to the commencement of the evictions, the PSU Command Team, the Incident and Team Commanders, were advised that at around 5:45 a.m., HMA posted the following online "We have been tipped off with the start of violent evictions." It is unknown how HMA

¹⁸ This was the tent count at these sites as of August 16, 2021.

became aware of the evictions even before the conclusion of the HRP briefing.

Halifax Commons

There were eleven (11) tents at the main location in Halifax Commons. HRM staff indicated that during the evictions the residents were cooperative, but passive aggressive. HRM staff also reported that they were once again directed by the HRP Team Leader on the scene to issue tickets to all the residents. However, this was not completed because many of the residents had left by the time the direction was given. After the initial evictions, the team located two additional tents on the other side of the park, which delayed the completion of the operation.

By 7:30 a.m. media members and civilians had arrived on scene. HRP officers overheard civilians on their cellphones trying to rally additional people. By 8:15 a.m., the evictions were complete and all the HRP and HRM employees had left the site.

Peace and Friendship Park

There were nine individuals located at Peace and Friendship. One was non-cooperative, and an SOC was issued by Compliance Officers. One Compliance Officer reported being directed by the Team Commander to ticket the other residents as well. While the Compliance staff initially disagreed, they issued tickets to everyone, which they noted resulted in an escalation of tension. By 7:30 a.m., the residents of the encampment had packed up their belongings and the site was cleared.

Horseshoe Island

There were five residents at Horseshoe Island and the HRM and HRP staff assigned there noted the greatest resistance to the evictions. The residents initially linked arms and refused to leave. They stated that they had not had recent contact with the Street Navigators. They also told staff that none of the shelters on the Available Services Sheet could accommodate them. However, after a Compliance Officer started issuing tickets, the residents began packing up.

Given the resistance, another PSU team was directed to Horseshoe Island after they completed their initial site. When the team arrived, Sgt. Palmeter, the Team Leader on scene, directed the additional team to stay in their cars as he recognized that a further police presence could antagonize the situation. This was a very thoughtful and considered approach.

Sgt. Palmeter subsequently asked the Team Commander how much time the residents had to leave, and the Team Commander asked Sgt. Palmeter to call him to discuss. Shortly thereafter, Sgt. Palmeter notified the Team Commander, over the radio, that police were assisting a resident move his belongings to a different location. The Team Commander directed him to seize the items if they had resources as the resident was not moving them himself.

By 8:30 a.m. the site was cleared.

August 18, 2021: Memorial Library Site

The Decision to Attend the Memorial Library Site

The Memorial Library site was prioritized by the HRM before the HRP were involved. The August 3, 2021, Memorandum listed this as the second site to be cleared the week after Peace and Friendship Park. Health and safety concerns were cited as the reason for clearing the sites. The nature of the health and safety risks was not identified; the Memorial Library site had few tents and was not located in a park that was regularly attended by families or children. However, this site is located in Halifax's core and visible to tourists and visitors to the city.

Clearing the Memorial Library site raised unique challenges. It contained two Tyvek shelters, which required heavy machinery to remove. The site was also surrounded by a low wall which would limit the ability to access the Tyvek shelters. Also, given its location in the core of Halifax, people would be present early on a weekday morning and could join in any public protest. At least one protester who was interviewed reported coming upon the eviction on their way to work. Multiple people also reported it was a central location for homelessness and it was known supporters could quickly rally people to protest or resist any police or city action at the site.

At approximately 7:30 a.m., the PSU Command Team discussed attending the Memorial Library site. Shortly after this discussion, an officer was assigned to attend the site to "get eyes on" it and ensure there was nothing to prevent police from clearing site. At approximately 8:15 a.m., the Team Commander confirmed with the Superintendent of Parks West, who was on the scene, that machinery, through a private contractor, could be made available to attend the site. At 8:30 a.m. the decision was made by HRP to attend the Memorial Library site.

When this decision was made, the Command Team was aware that HMA had tweeted the previous day that they had "a rapid response plan" if evictions started. They were also aware that HMA had already tweeted that morning that they were aware evictions were beginning. While the Memorial Library site was free of protesters at around 8:30 a.m., it is not apparent what considerations were given to how long it would take to clear the site and how many people could arrive during that time.

While no HRM staff, including the CAO, acknowledged being aware of the possibility that police would attend the Memorial Library site before August 18, 2021, the documentation provided to the Review reveals that a Manager of Corporate Communications was aware of this on August 17, 2021. It is unlikely that the members of Corporate Communication would be the only individuals in HRM who had this information.

Internal Reaction to Attendance at the Memorial Library

All interviewees who were on the ground, except the Team Commander, told the Review that they were surprised by the decision to attend the Memorial Library site. Sgt. Sweeney recalls calling the Team Commander immediately after being directed to the site, to express her reservations about going to the library that day. Sgt. Power also recalled having concerns when

he was directed to go to the Memorial Library. He did not know that site was an option that day and believed they should have attended much earlier in the morning if they were going to clear it. He recognized that clearing the site at that time of day could easily draw protesters and make the operation difficult.

The CSO, Tanya Rainault, who was assisting that day, also had a strong negative reaction when she heard the HRP would be attending the Memorial Library site. She was one of the few HRP members with previous experience working with the Operational Group. At 8:30 a.m., she heard the general call over the radio to attend the Memorial Library. She had a clear recollection of her reaction. She immediately called a family member to pick up her child at 4:00 p.m. because she knew this operation would take all day. She told the Review that:

Anybody that was paying any kind of attention...would have known that [the Memorial Library site] was like the holy ground of, like for homelessness...So the fact that we were going there, and none of us were notified previously. I knew it was going to go bad. I absolutely knew it was going to go bad.

Sgt. Sweeney and Sgt. Power both expressed their concerns to the Team Commander once they arrived at the Memorial Library site. Sgt. Power recalls Sgt. Sweeney (who arrived first) calling him as protesters began to arrive. She was worried that there were not enough people there to safely do anything. Once Sgt. Power arrived at around 10:00 a.m. the Team Commander, Sgt. Power and Sgt. Sweeney discussed the operation. At this point, the police had already been required to move two groups of protesters. Sgt. Power raised multiple concerns, including that this action was not part of the IAP, and his belief that the plan to remove the shelters would not work. These concerns were echoed by Sgt. Sweeney.

Both Sgt. Sweeney and Sgt. Power told the Review that the Team Commander listened to their concerns. After this conversation, Sgt. Sweeney and Sgt. Power saw the Team Commander step away and make a call. They understood he was calling the Incident Commander to discuss the situation. The Team Commander confirmed in his interview that he called the Incident Commander multiple times during the day but could not recall every specific call. The Incident Commander was stationed in a boardroom at the HRP Headquarters and was periodically joined by and provided updates to Chief Kinsella throughout the day.

Sgt. Sweeney and Sgt. Power did not hear the content of that call or what was discussed between the Team Commander and the Incident Commander. Sgt. Power and Sgt. Sweeney assumed that that the Team Commander would share the concerns they had raised. After the call was over, the Team Commander returned and told them the operation would continue and the site was to be cleared.

However, the Incident Commander told the Review that he was never told by the Team Commander about other officers' concerns. He recalled general discussions with the Team Commander about safety and told us that he deferred to the Team Commander's assessment because he was on scene and better able to assess whether the operation could proceed

successfully. He recalled that the Team Commander consistently indicated the HRP had sufficient resources to safely remove the shelters.

When we first met with the Team Commander, he did not mention these discussions with Sgt. Sweeney and Sgt. Power. After we learned of these conversations during our interviews with Sgt. Sweeney and Sgt. Power, we re-interviewed the Team Commander to give him a fair opportunity to comment. During the second interview, the Team Commander did not deny these initial conversations occurred, but claimed to have no independent recollection of them. He eventually acknowledged one conversation with Sgt. Sweeney, and potentially others, that occurred later in the day, where she expressed concerns about continuing with the operation. He explicitly denied that either Sgt. Sweeney or Sgt. Power expressed the specific concern that the Memorial Library site was not in the IAP.

It is of concern that the Team Commander did not tell us of his discussions with Sgt. Sweeney and Sgt. Power and the concerns they raised during his initial interview.

It also appears that the Team Commander never conveyed Sgt. Sweeney and Sgt. Power's stated concerns to the Incident Commander. That is also of concern. Indeed, he indicated he would not have communicated these concerns to the Incident Commander unless he agreed with them.

It was critical that the Team Commander listen to his colleagues and consider what they said about the viability of the plan to clear the Memorial Library site. It was also important, and part of the chain of command, that those concerns be passed along to the Incident Commander so that an informed decision could have been made about whether to proceed with the evictions at the Memorial Library.

The failure to listen to Sgt. Sweeney and Sgt. Power, and the failure to convey their concerns to the Incident Commander were seminal moments in the unfolding of events. Had the Team Commander paid heed to Sgt. Sweeney and Sgt. Power, the HRP may have reconsidered the decision to clear the Memorial Library site and withdrawn. Had the Team Commander conveyed their concerns to the Incident Commander, the Incident Commander would have been in a position to make a more informed direction as to whether the operation should proceed. Perhaps he might have directed the HRP to withdraw at that stage. Unfortunately, we will never know what he might have said or done, as it appears he was never presented with the opportunity to consider Sgt. Sweeney and Sgt. Power's concerns.

Sadly, as detailed below, this was one of many missed opportunities. Throughout the day, there were multiple opportunities for the HRP to reconsider the operation and withdraw. However, that option does not appear to have been seriously considered and was never implemented. That was an error.

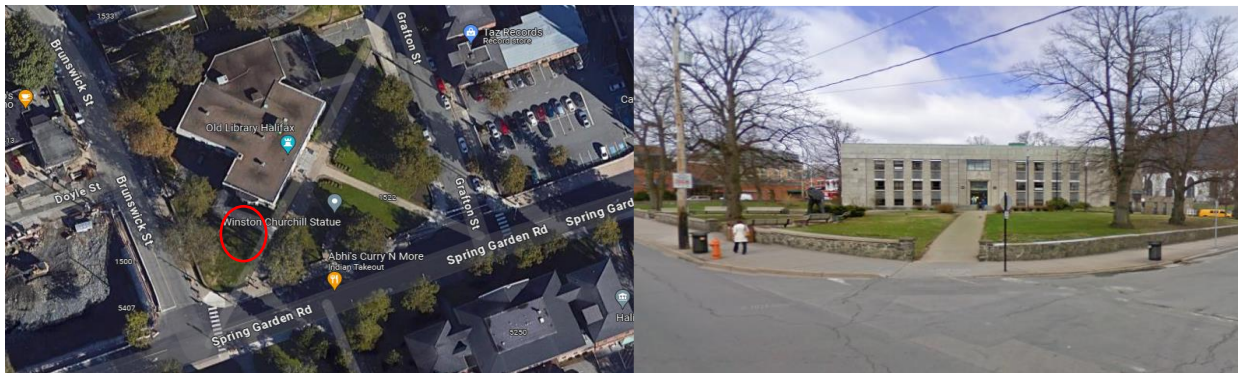
The genesis of that mistake was that the Memorial Library site was never in the IAP. If one does not have a plan, then one cannot have a withdrawal plan. Then, throughout the day, as events escalated, and as things became more chaotic and disorganized, it appeared to become a test of

wills with the HRP seeing withdrawal as a “loss” for police and a “win” for the protesters. Accordingly, they persisted with the clearing of the site and rejected the possibility of withdrawing and coming back another day.

The Team Commander told us that the PSU now always has a clear operational plan that includes a withdrawal plan. That is a very positive development.

Initial Deployment at the Memorial Library

Understanding the layout of the Memorial Library site is necessary to fully appreciate the events that unfolded. The Memorial Library site is situated on Spring Garden Road with Brunswick Street to the West and Grafton Street to the East. There is a low stone wall around three sides and a steep embankment to the North. There is a path that runs across the front of the library and one that runs directly from the corner of Grafton Street and Spring Garden Road to the front of the library. The only gaps in the low wall are where the paths reach the sidewalk and a small driveway to the west.



1-Red Circle Indicates approximate location of the Tyvek shelters

Two Tyvek shelters and two tents (one was unoccupied) were located to the west of the library near the path that ran in front of the library.

At approximately 8:30 a.m., one of the PSU teams from Peace and Friendship Park was directed to attend the Memorial Library site along with HRM staff. When the HRM staff arrived, the evictions proceeded quickly. The occupant of the tent took a bag and left. The shelter occupants took slightly longer but also left within 30 minutes. Around this time, police were notified that more social media messages were circulating to rally people to come downtown.

While HRM staff were packing up the residents’ belongings, civilians arrived to witness and protest the evictions. The first protester to arrive was a man on a bicycle who started blowing a whistle. To one officer on the scene, this appeared to be a signal that brought other protesters to the site. At this point, the police had not secured an area of control and protesters were able to mingle with police and HRM workers around the Tyvek shelter. During this time, one individual, later identified as J.S.¹⁹, climbed onto one of the Tyvek shelters. He would remain there until about 3:00 p.m. in the afternoon.

¹⁹ The names of protesters have been initialized to protect their privacy.

At approximately 9:30 a.m., HRP sought to form a perimeter around the shelters and there was a confrontation between HRP and demonstrators. A perimeter was formed around most of the area without incident. However, a small group of protesters remained near one of the shelters. The protesters were told heavy equipment was coming in and told to move back multiple times. The protesters respond by asking to speak to someone in charge and one protester prophetically stated, "There are tons more people coming, how many people are you going to fight on this." The initial confrontation only involved about 10 to 20 protesters.

Video footage shows Sgt. Sweeney warning protesters that they would be moved back and indicating she did not want to catch them by surprise. She indicated the police are going to "take this space" and directed the protesters to move back. When the protesters did not move, a unit of PSU officers pushed forward. The protesters linked arms but were quickly pushed out of



2-Initial Confrontation Between Protesters and HRP

the area. During this initial confrontation, some individuals fell, but there were no significant injuries nor any arrests. Throughout the confrontation, Sgt. Sweeney is heard behind the officers directing them to "hold the line" and keeping them organized. The police managed to push the protesters back about 20 feet. At this point, the police were able to form a perimeter from the west corner of the library around the shelters. However, to remove the shelters, the HRP would be required to bring machinery through the crowd and behind the police lines.

At approximately 10:00 a.m. the HRP coordinated with the Parks Department to bring in a Bobcat tractor to remove one of the shelters.



3--Line of Protesters Blocking Path of Bobcat

After the Bobcat entered the Memorial Library grounds (travelling from Grafton Street across the front of the library) it was blocked by several female protesters. As a group of



4-Protester Blocking Bobcat from Reaching Shelters

police officers approached to remove them, warning them they could be charged with obstruction, another group of protesters formed lines on the path behind the police. Once the women in front of the Bobcat moved, the police then turned and formed an opposing line facing the protesters with the Bobcat behind them.

After some discussion between the HRP and protesters, the police give the order to "move forward." The HRP officers began moving and pushed against the line protesters. The demonstrators kept their arms linked and leaned into the police. They braced themselves against the force that was applied and passively resisted being moved. After several minutes, the officers managed to push the protesters back and form a line along the side of the path, allowing the Bobcat to proceed to the shelters. As it passed, the crowd yelled, "Shame." The HRP re-formed the

perimeter around the shelters as the first Tyvek shelter was loaded onto the Bobcat.

By the time the Tyvek shelter was loaded on the Bobcat, protesters (predominately female) had formed another line on the path in line with the front door the library. These protesters were directly on the path the Bobcat had to travel to reach Grafton Street where the flatbed was located. There is no explanation why the flatbed was parked on Grafton Street, rather than Brunswick, which was closer or in the small parking lot to the west of the old library.



5-Line of Protester Blocking Bobcat after Shelter is Loaded

It was around this time that the Team Commander, Sgt. Power, and Sgt. Sweeney met. The latter two raised concerns about the operation as outlined above. After a discussion between PSU Command Team, it was determined that Sgt. Power and his team would form a wedge to escort the Bobcat through the crowd. Once this decision was made, approximately 14 officers formed a line in front of the shelter. As the line moved forward, Sgt. Power said, “Form a wedge” and demonstrators yelled, “Can we get more people?” The line of protesters linked arms and braced themselves as police made contact and tried to move them off the path. As the police pushed some protesters off the path, more demonstrators formed another line slightly further down the path and additional protesters lined up behind them to brace the front line. On the video, the following remarks are heard from the protesters: “Do you have a daughter, I fucking hope not”; “We are going to fight you the whole way”; “You will make no progress here today I promise you that”; “You are picking on homeless”;²⁰ and “You are arresting people because they are protecting people’s homes.” At times, the crowd chanted, “Shame on you” and, “Who does this protect? Who does this serve?”

The police continued to push against the protesters and made slow progress. As with the earlier maneuver led by Sgt. Sweeney, Sgt. Power was behind the line trying to keep the police in formation. During the interviews with the Review and in their notes, officers described the protesters as, “grabbing genitals,” “jumping on the forklift, over bikes, grabbing, pushing, punching” and continuously assaulting police.



6-Escort of the Tyvek shelter

These claims are not supported by the extensive video footage that we have reviewed. Rather, as the police approached, they were saying “move back” and the line of protesters was bracing themselves to resist the inevitable police contact. As the police made contact, the front line of protesters braced with others behind them to support them. There was undoubtedly some pushing by both sides. Notably, there were occasions where a protester fell. When that occurred, both

²⁰ This last comment is made by a woman who Reviewers saw panhandling in Halifax. While her housing status is unknown, it is safe to assume that she was potentially unhoused at the time.

sides pulled back to allow the person to get back on their feet. Sgt. Power analogized the situation to a “street hockey game. It’s like, hey, ho, hey, hold up. Time out time out. And then everyone kind of slowed down for a second... And then it was like, okay, yeah, time off is good.”

The police made little progress as the crowd blocking the path grew. Protesters who were pushed off the path circled behind and rejoined the line while new people continued to arrive. Sgt. Power indicated that he made the decision to start arresting individuals as the police were not making progress and the situation had become dangerous with the forks of the Bobcat directly behind the police. The criteria for who to arrest was not apparent. Protesters were pulled through the police line and arrested. One onlooker described seeing heads drop and moments later the person was in handcuffs. It took (eleven) 11 arrests and approximately 30 minutes for the Bobcat to get out of the Memorial Library grounds. The situation was dangerous for the people who fell as they feared being stepped on. As a result, some of them kicked, hitting officers and protesters in the process. This was a dangerous situation for all involved, protesters and police.

After the Bobcat cleared the stone wall, the police paused while completing arrests of two women behind the line. At this point, a woman, known to the police from other protests, appeared near the front of the police line and asked the women being arrested for her name. As she was speaking to the arrestees, the police were abruptly ordered to move forward. The woman was pushed against a police van. While being pushed, she yelled “no” and “do not touch me” and passively, but firmly, resisted the police. Once she was next to the van, a direction was given, “To move her or arrest her.” An officer on the line told her to move or be arrested—it would have been difficult for her to quickly leave the area given the crowd and her location—and within seconds of being directed, she was forcibly pulled to the ground by several officers. Three other individuals who appeared to be with her were also taken to the ground and arrested at this time.



7—Protester Immediately Before Arrest

These are the last arrests before the Bobcat was loaded onto the flatbed. In total there were sixteen (16) arrests made in the effort to move the Tyvek shelter to the flatbed. Fourteen (14) of the arrestees were female and our interviews revealed a significant portion of them identified as 2SLGBTQQA+.

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Out of these 16 arrests, only one proceeded to trial. The other individuals’ charges were dismissed or withdrawn before trial (with a few individuals completing restorative justice programs before the withdrawal). The one person who proceeded to trial faced three counts of assault police officer and one count of obstruction. She was ultimately convicted of the obstruction charge and one count of assault. She received an absolute discharge (the lowest sentence available after a finding of guilt available in the *Criminal Code of Canada*).

There is no doubt that this portion of the day was traumatic for everyone involved. The protesters we interviewed described being pushed and grabbed with officers placing hands and forearms on

their faces and necks. For those who were arrested, they were (generally) forcibly taken to the ground, handcuffed, and many suffered at least minor injuries. While this force is authorized by law, this does not make it less harmful to the arrestee. Being arrested (especially within a scrum of people) can undoubtedly be a traumatizing experience. The probability of trauma may be heightened where an arrestee believes that the state authority is being unjustly deployed to target and harm already marginalized groups as the protesters here certainly believed.

Meanwhile, the police officers we interviewed described being yelled at, hit, kicked, and sworn at. Sgt. Power described the process of moving the first shelter as extremely difficult and exhausting. None of the officers we met expressed any pleasure from their role during the operation and felt they were being wrongly accused of making the decision to clear the encampment. It was their position that this was an HRM operation that they were merely supporting.

While we do not agree with that characterization, there is no doubt that this portion of the day was difficult for everyone present, including police and protesters. The videos we reviewed confirm this was a lengthy and difficult experience for everyone involved.

Sgt. Power concluded, once the first Tyvek shelter was on the flatbed, that it would be impossible to repeat this procedure with the second Tyvek shelter. His officers were exhausted. By that time, the number of protesters had grown and the resistance to moving the second shelter would be even greater. This was, once again, an opportunity for the HRP to reconsider its plan and withdraw. Unfortunately, that decision was not made, and things only got more confrontational and dangerous as the day proceeded.

The Intervening Calm: 12:00 p.m. to 3:00 p.m.

After the first Tyvek shelter was loaded on to a flatbed, there was a reprieve from large scale physical confrontations between the police and protesters. The police maintained a line around the shelters and the ranks of the protesters grew. Sgt. Sweeney told the Review that there were renewed discussions between she, Sgt. Power, and the Team Commander about retreating, making a new operational plan and returning another day. Sgt. Power also recalled a similar conversation where he indicated his officers were exhausted and it would be impossible to remove another shelter in the same manner. He recalls saying something along the lines of “We shouldn’t even be here...we just need to withdraw.” They indicated that after this conversation, the Team Commander and the Incident Commander had a discussion over the phone and the decision was made to proceed.

During his second interview, the Team Commander acknowledged a vague memory of a conversation with Sgt. Sweeney where she raised concerns and the possibility of retreating. He also recalled a conversation with the Incident Commander, around this time, where he mentioned, without recommending, withdrawal as an option. As stated above, the Incident Commander indicated that the Team Commander never mentioned conflicting opinions from other senior officers on site, and consistently indicated they had the tools to complete the operation safely.

In the first interview, the Team Commander confirmed that he assessed the situation throughout the day and determined that both his officers and the public were safe. He stated that he felt the HRP could complete the operation in a timely manner and that it was not a risk to the public or

police to continue. This decision was made despite a member of the public, J.S., sitting on top of the other shelter, growing numbers of protesters, increasing anti-police sentiment (which he personally noted over the police radio) and his second and third in command specifically telling him that the police should withdraw and come back another day.

Despite being asked by the Review several times, the Team Commander never confirmed whether he conveyed Sgt. Sweeney's and Sgt. Power's concerns to the Incident Commander. Rather than discussing an organized withdrawal, the focus of the discussion was how to get J.S. off the second shelter. While there was some discussion of forcefully removing J.S. from the top of the shelter (at least among the Team Leaders), it was decided by the PSU Command Team to bring in a negotiator and attempt to coax him off the shelter.

i. The Arrest of B.P.

At approximately 12:00 p.m., B.P. (they/she) climbed on the hood of an HRM truck and began to address the police and HRM staff. Their foot was against the windshield and on the video, there appears to be a spiderweb crack in the front windshield. B.P. yelled, among other things, "You have given them nothing." B.P. was then approached by the Team Commander who wrote in his notes that he decided to arrest B.P. because, "the un-checked energy would have put the PSU line, members and operation in jeopardy."

The video evidence shows that when the Team Commander got to the vehicle, he reached for B.P.'s leg. B.P. moved to the other side of the hood and jumped off the truck. The Team



Commander then rushed around the front of the vehicle to effect an arrest. The arrest was not captured on video.

The Team Commander wrote in his notes "I was able to secure his leg and remove him from the truck. As I did, he fell in a standing position directly 6" from my face and used his head to "headbutt me" in the teeth." It is clear from the video that when B.P. jumped down, the Team Commander was behind her. It is not disputed that B.P. was arrested as soon as B.P. got down from the vehicle.

The crowd immediately and negatively reacted. Numerous people circled the officers who were affecting the arrest (offering B.P. water, videotaping, and providing support). The police formed a small circle and ultimately dragged B.P. behind the main police line to get some space. Once B.P. was handcuffed and behind the line, an officer permitted another protester to provide her with water.

The crowd also tried to prevent B.P.'s transport to a police cruiser, and the HRP were required to use a "rolling wedge" to escort B.P. Protesters also briefly blocked the cruiser. Another protester was arrested at this time. Shortly after this incident, the Team Commander noted over the radio an escalation of anti-police sentiment.

B.P. was charged with five counts, including assault police officer, mischief, and obstruction of justice. She was ultimately acquitted of all charges except the obstruction count and received a conditional discharge²¹, with a period of probation.

The arrest and transport of B.P. was another opportunity for HRP command to recognize that the situation was becoming more volatile and untenable. This incident occurred either immediately before or after Sgt. Power and Sgt. Sweeney opined that they should regroup and complete the task another day. The level of resistance was increasing, and the crowd was continuing to grow in size. It was unknown how long it would take to get the protester off the shelter and there were no plans on how to remove the second Tyvek shelter. The volatility of the situation was recognized by Gary Burrill, a politician, who arrived shortly after B.P.'s arrest.

ii. The Appearance of Gary Burrill

Around this time, Mr. Burrill and other provincial members of parliament arrived at the protest. We interviewed Mr. Burrill for the Review, and he told us the following.

When Mr. Burrill arrived, he immediately sensed the situation was volatile. He made a telephone call to the Mayor to express his concerns about the removal of the shelters and the possibility that things could quickly go awry. According to Mr. Burrill, the Mayor told him that it was not the Mayor's role to tell the police what to do. While this is true, the Mayor had the authority to decide that HRM workers would not be continuing with the operation, which would certainly influence HRP's decision to remain on site. Indeed, the stated reason for the HRP's presence was to protect the HRM staff and assist them in clearing the encampments.

Mr. Burrill also reported expressing his concerns to the Team Commander but was told there was no one on scene who could make the decision not to proceed. The Team Commander recalled the conversation and told the Review that he advised Mr. Burrill that he could not comment on an ongoing operation and directed him to the communications department.

After this conversation, Mr. Burrill made a speech to the crowd. He stated: "The Government that makes people live in sheds and in tents ought to have enough class not to send in a heavy armed police presence in to evict them...What a terrible situation for us to be witnesses of today." Mr. Burrill then chanted, "We want homes not cops" and the crowd started up, "Homes, not cops."

During the Review, some police officers commented negatively about Mr. Burrill's actions, including one who thought it would have been appropriate to pursue charges for inciting a riot. There is no factual basis for such a charge.

iii. Updates to Council and the Police Board

The evidence provided to the Review was that between 1:00 p.m. and 2:00 p.m., Chief Kinsella called the then Chair of the Police Board, Lindell Smith. At the time, Mr. Smith inquired whether the HRP were able to withdraw as he did not feel the operation was worth the potential cost. Mr. Smith could not recall Chief Kinsella's exact response but remembered that he was not enthusiastic

²¹ A conditional discharge is a finding of guilt but not a conviction. It remains on a person's record for three years and then is automatically expunged. It is the second lowest sentence under the *Criminal Code*.

about that idea.

Around 2:00 p.m., the CAO held a briefing for councillors by telephone or Zoom. He advised that early in the morning a decision was made to attend Memorial Library site because the clearing of the other encampments had gone smoothly. One councillor who attended the briefing was left with the impression that the decision to attend the site was made by or in consultation with the CAO and HRP.

During the 2:00 p.m. briefing, some councillors asked the CAO whether the HRM and HRP could just walk away or end the operation. The evidence provided to the Review was unclear on what exact words were said by the CAO in response. However, the tenor of the conversation was that to do so would be to let the protesters, and HMA in particular, win. Ultimately, the CAO decided not to end the HRM portion of the operation.

The CAO told the Review that it was a police decision to attend the Memorial Library and he did not learn of it until later in the day. He received a call from a member of HRM staff (he could not recall who), who told him they were at Memorial Library site and things were “blowing up”. He then called Chief Kinsella, who indicated that they thought they could manage the situation. The CAO told the Review that he believed he could not tell Chief Kinsella to stop due to a prohibition on politicians directing police operations. This is correct. However, according to multiple HRM and HRP witnesses we interviewed, this was a joint operation or an HRM operation with police support. Thus, while the CAO was correct that he could not direct the police, it was open to him to decide that HRM staff would not continue removing the shelters, effectively ending the operation and the need for the police presence.

iv. The Nature and Dynamics of the Crowd

Between 12:00 p.m. and 3:00 p.m., the crowd grew significantly. While police estimated there were 100 – 200 protesters present when the first shelter was being moved (not all actively engaged in resisting), this number at least doubled in the intervening three hours. Sgt. Power described the increasing vitriol from the crowd as follows:

I'll be honest, it's I've never experienced anything like that in my career. It was pure hate towards the police. The thought I believe, of the crowd was that we were the people that were vilifying the homeless, that it was our job to go in and remove these things.

Notably, during our interviews, multiple police officers emphasized that it was not an HRP operation, and that the public's criticism should not have been levelled in their direction; rather the HRP was merely there to support and protect the HRM staff who were tasked with clearing the encampment.

As noted above, while this may be characterized as a “joint” HRM and HRP operation, the HRP played a critical and even leading role in planning and implementing the operation. Certainly, once the clearing of the Memorial Library site began, the operation was led by the HRP. And, in any event, it would have appeared that way to the protesters who were being directed by police to move and being forcibly moved by members of the HRP. Further, they were told they could be

charged with obstructing police if they interfered with the operation. All this would have led a reasonable observer to conclude this was an HRP led operation.

To be clear, this does not justify the type of verbal and physical attacks that were made against some officers. Rather, it serves to emphasize that the HRP played a significant and indeed leading role in the events of that day, and it would be inaccurate to say this was merely an HRM operation, or even an HRM led operation.

It also means that some of the involved officers experienced significant aftereffects and trauma because of these events. And those officers should be looked after properly.

Finally, during this period there was a series of 9-1-1 calls in relation to smoke bombs, poison canisters and actual bombs. The calls, which were provided to the Review, appear to be made by the same person and lacked any real description of suspects carrying the purported device. In each case, the police checked areas identified by the caller, and thankfully each report came back negative. But these calls contributed to the subsequent chaos.

v. *Planning During the Negotiations with J.S.*

The negotiations with J.S. began at approximately 1:00 p.m. He was eventually convinced to come down from atop the second shelter around 3:00 p.m.

There was not much, if any, planning given to how J.S. would be transported out of the area if he was arrested once he came down. The only real forethought with respect to the arrest was that the HRP would have to maintain the line around the shelters. The lack of planning may be explained by the Team Commander's belief, which he expressed during the interview, that J.S. would speak to the crowd when he was removed from the shelter and somehow lower tensions enough to transport him to a vehicle and remove the shelter. Indeed, the Team Commander wrote in his after-action report that:

While J.S. was being arrested, he addressed the crowd and advised him to withdraw as the police needed and wanted to remove the shelter as a whole and if not, would be forced to cut it into sections. I felt at the time this would act as a strategy to de-escalate the crowd as for hours he was the focal point of the crowd and the "tip of the spear" for the crowd's efforts and message.

A review of the video recording of the arrest reveals no such comment. Perhaps, the Team Commander's hope of what was going to occur coloured his memory about the actual events. Nonetheless, it is difficult to fathom that that a person who spent seven hours atop the Tyvek shelter to prevent its removal, would then assist in its removal and destruction, or that a brief comment from one person would placate the hundreds who had gathered.

While the Team Commander told the Review that he believed the arrest might diffuse the crowd, other officers at the scene told the Review that they knew once he was arrested, "It was going to be chaos."

Sgt. Power recalled that during these two hours, the issue of withdrawal was raised on at least one more occasion. He felt that continued operations could negatively impact the reputation of HRP.

He believed the Tyvek shelters could be removed at a later date, early in the morning. Again, Sgt. Power recalls that after the Team Commander spoke to the Incident Commander, their orders were to “protect” the shelter.

The Removal of J.S. from the Shelter

It appears from the video that J.S. knew that he was going to be arrested when he came down from the shelter. He immediately placed his hands behind his back and was handcuffed. The crowd responded by chanting, “Let him go.” The police were then faced with a dilemma. They wanted to maintain the line around the shelters, but also needed sufficient resources to transport J.S. through the crowd. The HRP would have been aware from the previous arrests that the protesters were likely to attempt to frustrate the transport of J.S. and potentially block police vehicles. Moreover, by this time the crowd was significantly larger.

From the video footage, it appears that HRP had not decided which direction they would take J.S. upon arrest. He was initially led towards Grafton Street and then changed course and moved back towards Brunswick Street. Multiple officers recognized in retrospect that the decision to take him through the crowd was a mistake and he should have been transported through the library to the other side, away from the crowds. Again, no planning went into this decision.

Sgt. Sweeney indicated that once the police moved across their own lines and entered the crowd to move J.S., they were swarmed by protesters who pulled at officers and J.S. The police managed to transport him to a wagon on Brunswick Street, however a female placed herself between the police and the wagon doors. She was then arrested for obstruction and transported to a cruiser on Doyle Street.²² It was readily apparent that the police did not have sufficient members to safely move these vehicles out of the area.

The encounters that arose between HRP officers and the crowd were markedly different at this stage as compared to earlier in the day. During the movement of the first Tyvek shelter, there were clear lines. The police pushed protesters back and then the Bobcat would move up. The police had a line and would cease moving at the direction of a commanding officer when it became disorderly.

However, after J.S. was loaded into the wagon, officers seemed to have little direction and appeared uncertain how to react or where to go. Again, there appeared to be a lack of planning despite the protesters employing the same tactics used when B.P. was transported through the crowd. The crowds were much bigger at this point. The chaos was heightened by the additional arrest which split the officers between the wagon on Brunswick Street and a cruiser on Doyle Street. In the chaotic scene, protesters engaged officers in small groups and were more verbally aggressive



²² This protester was acquitted of obstruct of justice after testifying at trial, that she was not attempting to block the wagon but was merely returning to her car to retrieve something. The trial judge found this evidence was uncontradicted by the Crown.

and reactive when touched by the police.

The video evidence shows that what occurred at that stage was complete bedlam. There were two foci of conflict separated by maybe 30 feet —the wagon on Brunswick Street and the cruiser on Doyle Street. The tumult lasted for about five minutes, 3:05 p.m. to 3:09 p.m., before pepper spray was first deployed. During this time, three separate officers made calls for all officers to attend the Memorial Library; dispatch reported an officer thrown to the ground and a report of a gun in the crowd; and there was a 1033 call, meaning an officer in distress. The events at the two locations are described separately but were interconnected and both protesters and police were moving and running between them.

After J.S. was loaded into the wagon, it was quickly blocked by the protesters. There was pushing between the police and protesters in front of the wagon and one protester attempted to climb on top of the wagon. The officer who removed him and the protester were grabbing each other. It initially appeared that the officer was pulling the protester (potentially to affect an arrest) and then it appeared the protester was pulling the officer toward the crowd. At this point, the officer kicked and struck the protester fearing he would be dragged into the crowd. The two were separated by the Team Commander, who believed the officer was about to be pulled into the crowd.

The video shows the Team Commander running up and forcefully chopping both individual's arms which separated them. A protester we interviewed recounted the incident and his genuine that the officer was pulling and striking the detainee out of anger. These types of encounters only served to heighten tensions between the two sides. The police felt the crowd was out of control and that the officers were at risk. The protesters felt the police were out of control and that they were at risk.

Shortly after this incident, the wagon carrying J.S. was completely halted by a mass of protesters. While most of the protesters blocking the wagon were peaceful, some were extremely agitated and confrontational. In addition to the larger crowd, another significant difference between this confrontation and earlier movement of the Bobcat was the protesters at the front of the line were predominately male.



8-Wagon blocked on Brunswick Street

While the above scene unfolded on Brunswick Street, the cruiser on Doyle Street was also surrounded and police were pressed tightly against it. As the police tried to form a line around the cruiser, BRR officers were brought to the scene to try get space to move it out. In this melee someone is heard saying, “Tear gas or something.” It was also at this point that the video shows the first items thrown by the crowd, primarily water bottles. It was clear that the police around the car were significantly outnumbered and that some members of the crowd were extremely agitated and aggressive.

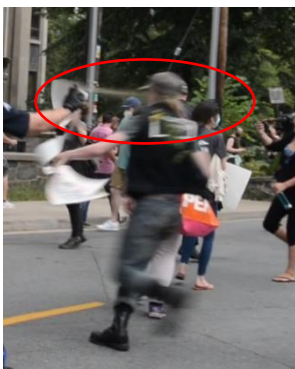


9-Cruiser Leaving Doyle/Police Deploying Pepper Spray

Sgt. Sweeney, who was on Doyle Street, indicated she was provided an OC fogger (a pepper spray device designed to be used on crowds) by a constable. She indicated that she displayed the fogger and told people to move back without effect. At this point, a call came over the radio that someone in the crowd had a firearm, which increased the urgency of getting the vehicle out of the scene. The events at the front of the cruiser are not captured on video, but there is video of the back of the car

on Doyle Street. It shows that right before pepper spray was deployed, several people ran around to the front of the cruiser. This appears to be in response to the car moving forward. This was perceived by Sgt. Sweeney as a crowd running towards her. She responded by deploying pepper spray and told the Review she believed she was the first officer to do so.

The deployment of pepper spray gave the cruiser room to move, and police continued to deploy pepper spray to allow the cruiser to exit the scene. Around this time, the cruiser struck an officer who was in front of it, and as the cruiser was pulling away a young woman with a skateboard is seen cocking back to strike it.²³ It was during this time that a young girl, who was at the protest with her father, was impacted by pepper spray. It is not clear whether she was directly sprayed, or she simply was impacted by the presence of the spray in the air. There is no evidence that any police officer intentionally or knowingly deployed pepper spray towards her, but she certainly experienced the side effects.



10-Officer Deploying Pepper Spray on Civilian Crossing the Street

After the initial use of pepper spray to get the car out of Doyle Street, pepper spray was used liberally by officers and based on our review of the video evidence, in several cases, inappropriately. The video captures pepper spray being used on protesters standing on sidewalks and people crossing the street. The image below is the father of the little girl who was impacted by pepper spray. After he discovered his daughter was affected, he stood on the sidewalk and yelled at officers who had formed a loose line on the street. He was approximately 6 feet from the nearest

officer. After yelling, he turned and took a few steps away. As his back was to the street an officer approached him from the side and sprayed him and another individual directly in the face. Neither of these people were interacting with or obstructing the police at the time of the deployment. In direct



11-civilian on sidewalk being pepper sprayed

²³ While it was not confirmed to be the same person, one individual who was identified and arrested after the protest was convicted of assault police officer for assaulting them with a skateboard. She was given a conditional sentence.

response to this use of pepper spray above, a number of protesters crossed the street towards that scene. As they moved in front of the police line, an officer stepped forward and sprayed one individual. This gentleman was interviewed by CBC and explained he was simply going to provide assistance, which is consistent with the video evidence. The video shows no reason to believe this individual was moving in an aggressive or threatening manner or even towards police.

Pepper spray was also used to move protesters in front of the wagon on Brunswick Street. The initial deployment was not captured on video and was reportedly used initially when the crowd was still large. The image on the right, occurred after the initial deployment. While the wagon was stationary, the man depicted in



the image to the right was standing in front of police. It is notable that this individual was captured on earlier videos trying to deescalate people and maintain a peaceful protest. When he did not move, he was sprayed directly in the face and while in clear distress, dragged by police to a cruiser. There was no attempt to give him medical attention before he was placed in the cruiser. The documentation shows he was arrested on the basis that when he fell down due to pepper spray, it was determined he was obstructing police.



10-Protester on sidewalk before hit by pepper spray

Shortly after the above incident, another officer, located on the lefthand side of the wagon facing the Memorial Library told protesters standing on wall to move back. He then sprayed along the wall, striking one man who was simply standing with his hands in his pockets. No one depicted in the video and who was targeted in this deployment was preventing police from removing the wagon or other police vehicles from the scene.

After these incidents occurred, there are reports that one of the identification officers was punched in the face and/or sprayed with pepper spray. At the time, the identification officer was near the wagon at the corner of Brunswick Street and Spring Garden Road and videotaping the events. Although the alleged assault of the officer was not captured on video, the moments immediately preceding it were. The video captures an unknown officer forcibly pushing a woman to the ground who was aggressively yelling at him. When she got up and approached the unknown officer, the identification officer deployed pepper spray directly in her face. Immediately after that, there was a struggle (evident from the identification officer's video camera). The identification officer reported he was trying to effect of arrest of a nearby protester.

Sgt. Power and the Team Commandeer both reported seeing the identification officer sprayed (with OC spray or dog spray) from someone behind the wall. The Team Commander indicated that the identification officer was also punched in the face. In his Can Say report (filled out shortly after

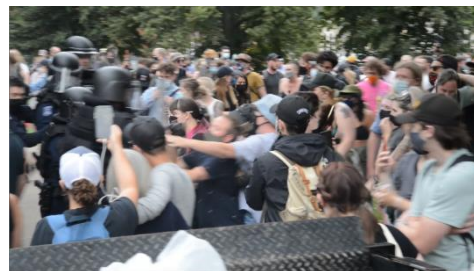
the incident), the identification officer wrote that he was struck in the face by a protester who was pulling his arms away, as he tried to effect an arrest. During this incident the identification officer was incapacitated by some form of spray and was assisted by the Team Commander in getting medical assistance.

After witnessing this incident, one of the Team Leaders decided to obtain a pepper ball launcher. He acknowledged that this is normally a command decision, but took it on himself because, “There was no command at that point in time.” After retrieving the pepper ball launcher, the Team Leader announced to the crowd they had to back up or he would deploy it. He shot one round at the ground near a protester who appeared ready to strike an officer. This protester was repeatedly seen on video acting aggressively. When this protester redirected his attention to the team leader, he told him that he would fire at him if he took a step forward. While it was clear that the crowd was beginning to disperse before the pepper ball launcher was retrieved, the Team Leader explained that he did it to try and calm matters down further. His controlled use had the desired effect.²⁴

The Police Return Behind the Line

After both the wagon and cruiser had cleared the area, the police officers withdrew behind the police line near the remaining Tyvek shelter. The Team Commander directed officers to dawn their hard tac—body armor, batons, helmets, and shields. As the police recognized that they could not escort a Bobcat through the crowd, they discussed options with HRM staff. A decision was made that contractors would dismantle the Tyvek shelter with chain saws and sledgehammers.

The HRP had to escort the contractors to the shelter along the side of the Memorial Library. Very little of this interaction is captured on camera. However, police described how protesters pressed against the line and pushed them and the workers against the wall while police pushed back with shields and batons. In the video that is available, the crowd is hearing yelling, “Shame” and chanting, “Scum.” The video also



11-Police line with contractors behind them

captured people throwing water bottles at officers while the contractors were being escorted. In his notes, one officer reported deploying pepper spray at this time, but it was not confirmed by any officer who spoke to the Review or the video evidence.

During and after the contractors were escorted to the police, tensions remained high. People threw food, water bottles and large milk jugs. Police officers told us that members of the crowd searched the names of police officers and at least one HRM employee online, and then used the information to make personal attacks about their salaries, their private lives, and even their children. This sort of behaviour is unacceptable. The police serve a public duty. The work they do is often difficult and dangerous. While they are accountable to the public for their conduct in the line of duty, to personally attack officers and their families is unacceptable.

²⁴ The protester was subsequently arrested for assaulting a police officer and was convicted after trial.



12-the Tyvek shelter after its deconstruction

The situation remained tense for protesters as well. Police were dressed in hard tac, and many were equipped with batons and shields. There were also reports of police displaying pepper spray to protesters who were not obstructing the police by merely witnessing the events. This conduct was not confirmed by the video evidence. Nonetheless, the police were undoubtedly an intimidating sight, especially considering the previous conduct where pepper spray had, at times, been liberally deployed. Meanwhile, behind the line the

contractors dismantled the shelter. Everyone interviewed described the destruction of the shelter as painful and almost comical. The tools used were not fit for the task and it took an unexpectedly long time.

Once the shelter was dismantled, the crowd dispersed, and the HRM staff and HRP officers also left the Memorial Library site. The officers returned to the police station, where many of them gathered outside to discuss what happened. There was an informal discussion among the officers about what had occurred that day.

The evidence provided to the Review was that there was no formal debriefing after the events where HRP brass organized a meeting and discussed what happened, what could have been done differently, and how it could assist the officers who had been involved and were affected by the events (although there were some informal meetings where officers chatted amongst themselves about what happened).

Many officers told the Review they were highly traumatized by the vitriol leveled against them, and the violence they reported experiencing, including being stuck with hands, feet, and objects such as water bottles and milk bottles (which some protesters had in anticipation of pepper spray being used as milk can be poured over one's eyes to abate the discomfort of being pepper sprayed). One officer was so traumatized still by the events that he could not complete more than a few minutes of our interview, as it was triggering him to discuss what happened.

A Brief Summary of Post Arrest-Events

In total, 25 people were arrested with the majority (16 arrests) occurring when the police were escorting the Bobcat to the flatbed. These arrests were followed by the arrest of B.P. (described above) and then another person was charged, allegedly for obstructing police during B.P.'s arrest. J.S was the next person arrested and the remaining six were arrested in relation to conduct that allegedly occurred during the chaotic scene on Brunswick and Doyle Streets.

While the IAP indicated that rights to counsel should be video recorded, this did not occur. Indeed, there was no system in place to ensure that rights to counsel were provided promptly, with some protesters advising the Review they did not recall being told the reasons for their arrest until they were taken to the station.

There was also significant delay in providing detainees rights to counsel. A review of the HRP documentation reveals that calls to counsel for the initial 16 people were arrested did not occur until 2:00 p.m. and were not completed until after 4:00 p.m. Calls to counsel were delayed because there were not enough staff to process new arrestees and facilitate calls. Indeed, additional officers were required to attend the station to assist with searches.

While a determination was made early on that the protesters would be released, the releases did not occur until the protests had ended and the police returned to the station. Indeed, both the documentation and detainees who were interviewed reveal that a decision was made to hold the individuals until the protest was over to prevent anyone from returning to the scene. All the detainees were released in the evening, with some spending 8 to 9 hours in custody.

It must be remembered that those who were arrested showed up in solidarity with a marginalized and often maligned segment of the population. Many of them spent much of their free time advocating for this segment of society. On August 18, 2021, they were met with significant force. They were pushed, grabbed, arrested, and injured for opposing a course of action that HRM has now recognizes should be altered. After spending a day in jail, the criminal process played out over months during which time they were on release conditions, which restricted their liberty including limiting their ability to go to public spaces. This was undoubtedly a stressful and painful experience for them.

The Review is thankful to those protesters and arrestees who took the time to speak to us and understands why others declined preferring not to relive the traumatizing experience. If there is a silver lining to the hardship they underwent, it is the significant changes that HRM undertook after the spotlight was shone on homelessness in the wake of August 18, 2021. These changes are described in the next Chapter.

Specific Practices Related to Specific Subject Matter Identified in the Terms of Reference

The Review's Mandate and Terms of Reference identify specific topics that should be considered. These include the adequacy of policies, standards, strategies, and practices related to ensuring officers are identifiable; ensuring, to the fullest extent possible, media access to report on police activities; de-escalating potentially confrontational situations; and use of force.

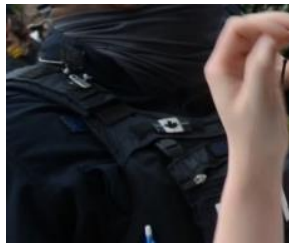
Officers' Identification

The HRP's Dress and Department Policy (Departmental Order #28-09) (the "Dress Policy") governs acceptable dress and behaviour of the HRP members and civilian personnel. Section I of the Dress Policy mandates that members wear cloth name tags above the right dress pocket or in limited circumstances (not applicable here) wear metal name tags. If followed this policy would ensure officers are identifiable. However, there are no formalized mechanisms to ensure an officer is identifiable and simply relying on senior staff to check uniforms before deployment is insufficient.

HRP members are each issued two separate name tags that should be fastened to the outer layer of clothing. The name tags can easily be attached to all HRP issued tops. At the relevant time, the name tags could not be attached to the reflective vests worn by the Bicycle Rapid Response Team (BRRT), but the vests have been modified in response to complaints arising out of the August 18,

2021, operation.

On August 18, 2021, the majority of HRP members were wearing visible name tags. However, there is ample evidence to conclude that a not insignificant number (somewhere between 15 and 30 percent) of officers who were initially deployed were not identifiable. The video of the protests captures at least six of the original



41 members with no visible name tags. This does not include the seven BRRT officers, who were wearing reflective vests, that



covered name tags at least part of the time. At least one officer, who was wearing a name tag on an inner layer of clothing had a thin blue line on the outer layer. While some officers believe this patch represents unity, and steadfast commitment to justice, the symbol is divisive, has been adopted by many far-right groups, and is specifically prohibited by numerous police services across Canada. While not specifically prohibited by HRP, it is a violation of the Dress Policy, which states “No uniform, equipment, decoration or insignia other than that issued to authorized be the Chief of Police shall be worn by a member.”

HRP members who spoke to the Review provided several reasons name tags were not affixed or not visible, including members’ simply forgetting to affix the tag to the outer layer of their uniform, the name tag being affixed but not visible due to the colour (at the time most had blue lettering on a blue background), because it was on an inner layer of clothing, and in one case a member having recently changed her name.

In addition to lack of name tags, the video also captures several instances where officers did not identify themselves when asked to do so by a member of the public. For instance, after the HRP formed the initial line around the Tyvek shelters protesters can be heard asking for the name of one officer. He does not identify himself. One of the Team Leader’s intervened and told the questioner that it is not the members’ job to identify themselves but advised that a list of all officers at the scene could be obtained from the station. Obviously, a list of officers would not assist in identifying a particular officer.

Media Access

The media’s right to access information and ability to cover developing stories is fundamental to a functioning democracy. The media allows the public to remain aware of what is happening in the community and provides oversight of various functions of the state, including police actions.

In the wake of August 18, 2021, issues were raised with the treatment of media members. The

most serious allegation related to media members who had been directed to stand on steps attached to the west side of the library. These were located behind the HRP perimeter near the Tyvek shelters. It was alleged that an HRP member threatened to arrest a media member when they stepped down from the steps. While a video recording captures a brief interaction between a media member who steps down from the steps and the Team Commander, there is no audio of the exchange. The Team Commander advised the Review that he told the media members to stay on the steps or they could go on the other side of the police perimeter. While the reviewers reached out to every media member who was identified, only one individual who was at the protests responded to our inquiries.

The media member who spoke to the Review, advised they were allowed to move freely on the Memorial Library grounds, but were not permitted behind the police line. Further, other media members (both print and video) are seen moving freely from among the crowd and, in one instance, asking an arrestee for information so she could be properly gendered in a story. There is no basis to conclude that the HRP did not provide reasonable access to media to cover the protest or that any particular officer's actions towards the media were inappropriate.

De-escalation Strategies

In the law enforcement context de-escalation is usually understood as non-violent strategies and techniques (usually verbal commands or directions) to reduce risk of violence and increase voluntary compliance. No HRP policies provided to the Review specifically reference de-escalation, except the policy related to Incidents Involving Use of a Conducted Energy Weapon (Departmental Order #34-11). However, the concept of de-escalation is fundamental to the Public Safety Unit successfully fulfilling its mandate. As outlined in the previous section, the PSU Policy reads:

The Public Safety Unit's (PSU) mandate is to minimize the risk of personal injury and property damage by maintaining peace and order.

While this policy was not in place in 2021, the mandate of the PSU would presumably have been the same.

As evidenced by the facts above, when the HRP employs any force against a large crowd it can heighten tensions and increase the risk of injury to members of the public and HRP officers. Given these risks, it is incumbent on PSU command to effectively employ all de-escalation strategies to reduce tensions and the risk of harm. Only by employing these techniques can the PSU fulfil its mandate of minimizing the risk of personal injury.

On August 18, 2021, several HRP members tried to deescalate situations to reduce tensions and/or to attempt to obtain voluntary compliance. For instance, the residents at Horseshoe Island initially passively resisted the evictions. When additional officers arrived, Sgt. Palmetter (the Team Leader on the scene) recognized that the presence of additional officers could aggravate the situation and directed them to remain in their vehicles. Later in the day, the PSU team also brought a negotiator to talk J.S. off one of the Tyvek Shelters rather than forcefully removing him. Both decisions allowed the police to complete these limited objectives without resorting to force and should be commended.

Further, at the Memorial Library, some HRP members tried to use verbal direction and explained what was occurring in an attempt to gain voluntary compliance before resorting to the use of force.

Before the HRP formed a perimeter, Sgt. Sweeney repeatedly advised protesters they needed to clear the area because heavy machinery was arriving in the area. In response to a protesters query, she explained that the belongings that were left behind would be made available to the people who vacated the Tyvek shelters and tents. Finally, immediately before pushing the protesters back, she warned them the police were about to employ force, so the protesters were not “taken by surprise.” Similar warnings were given to the line of protesters who blocked the Bobcat from transporting the Tyvek shelter to the flatbed.

While these decisions qualify as de-escalation strategies, it was the larger decision to proceed despite the danger of force being required that raises significant questions. Much of the force that was used was necessitated by the failure of the HRP command to properly plan, in concert with the HRM staff, or seriously consider the possibility of withdrawing.

There was also ample information available to the PSU Command Team that the situation was potentially volatile and might require significant force to complete, even if the exact event could not be predicted. The following information was known to the HRP before they attended at the library:

- i. The possibility of a protest was known to the HRP and HRM staff before August 18, 2021. Various steps were taken to avoid a protest including starting early in the morning and limiting who knew about the operation;
- ii. HRP was aware that in the days leading up to the protest, Halifax Mutual Aid had tweeted out that they had a “rapid response plan” to prevent evictions;
- iii. Before the HRP had completed the briefing, HMA tweeted out that they were tipped off that the evictions would be taken place that morning. Despite the early start, a limited number of protesters and media arrived at each of the eviction sites prior to them being cleared;
- iv. While there were no protesters located at the Memorial Library when the decision to attend was made, this is a poor measure of potential resistance. Any protesters that were out early would be drawn to the locations where evictions were occurring. It is not surprising that a site with no police presence was empty at the time;
- v. The layout of the Memorial Library site would (or ought to) have been known to the PSU Command Team, including the difficulty accessing the Tyvek Shelters without setting up an area of control including a portion of either Grafton, Spring Garden Road, or Brunswick; and
- vi. Given the other locations took nearly two hours to clear, it could be anticipated that this operation would continue throughout the morning and crowds could grow.

It also should have been apparent to the PSU Command Team throughout the day, that an ever-increasing amount of force might be required for the following reasons:

- i. Before the police were able to remove the first Tyvek shelters, a senior member expressed concerns they lacked resources to do anything safely. While more HRP members were *en route*, it was also predictable that the number of protesters would also continue to increase;

- ii. The police were unable to secure an initial permitter without forcefully removing protesters from the area. At this stage, it was evident that at least a portion of the crowd would resist police activity and additional force might be required as the crowd grew;
- iii. The removal of the first shed took approximately 45 minutes to complete and resulted in sixteen arrests. While there were no significant injuries during this maneuver, it was evident that the crowd, which continued to grow, was increasingly agitated. Sgt. Power indicated that one of the reasons that he directed arrests to be made was his assessment that the situation was “unsafe;”
- iv. After the removal of the first Tyvek shelter, the protesters became more obstructionist. After the arrest of B.P, the protesters tried to block her transport to and the departure of the cruiser; and
- v. Despite the Team Commander’s belief (described above) that the arrest of J.S. from the shelter would defuse the crowd, other officers realized that once he was removed it would be chaos.

There was ample evidence that the situation was increasingly volatile and that the level of force that might be required was increasing along with the danger to HRP members and the public. Given the PSU mandate to minimize risk (which was presumably the same before being memorialized in policy), and ability of police to simply complete the task at another time, it is reasonable to that conclude that the decision to remain after the removal of the first shelter was a clear mistake and inconsistent with the PSU’s mandate.

While the situation on Brunswick and Doyle Streets (detailed above) did not lend itself to de-escalation, the assessment that force would be required was predictable and preventable had the HRP command made an honest assessment of the situation. As Sgt. Power indicated, at a minimum it would result in a loss of esteem by members of the public. It was a failure of command for the PSU to simply determine that an operation is feasible, without assessing whether the goal (in this case removing someone’s shelter) was worth the risk to both the public and its own members. It was this failure that led to the most significant use of force both against the public and PSU members.

Use of force

This review is not tasked with examining every application of force by the HRP. Such a review is neither feasible nor necessary to fulfill our mandate. Nonetheless, some findings regarding the use of force will illuminate the reasoning behind the recommendations made in Chapter 7. The fact that the reviewers omit a specific interaction should not be interpreted as a finding that it was or was not justified. Nor does this sub-section review the decision that placed individual officers in a position that may have led to a justified use of force. In other words, because individual officers may be justified in their use of force, does not mean that the decision that placed them in that position was correct.

The HRP Use of Force Policy (Departmental Order #30-96) (Use of Force Policy) grants HRP members authority to use force as defined by s. 25 to s. 34 of the Criminal Code of Canada. The policy does not offer a definition of excessive force or other limitations on the use of force.

Section 25(1) of the Criminal Code, the core section, essentially provides that a police officer is justified in using force in the course of their duties, provided that he or she acted on reasonable and probable grounds, and used only as much force as was necessary in the circumstances. The use of force must also be objectively reasonable. That is not the end of the matter.

Section 25(3) also prohibits a police officer from using a greater degree of force, i.e. that which is intended or likely to cause death or grievous bodily harm, unless he or she believes that it is necessary to protect him- or herself, or another person under his or her protection, from death or grievous bodily harm. Again, the officer's belief must be objectively reasonable. The courts have also repeatedly recognized that police actions should not be measured against a standard of perfection as they are engaged in dangerous and demanding work and often must react quickly to emergencies.

Given force is only justified when it is necessary, it is important that officers consider de-escalation. However, the HRP Use of Force policy does not provide any guidance on de-escalation. The policy details various tactics that police may employ, including soft empty hand, hard empty hand, vascular neck restraint, striking technique, chemical agent, impact weapon, significant physical force, and lethal force. The failure to include de-escalation as at least an alternative relegates it to a secondary status.

With these policies in mind, the review must also consider how they were implemented in practice. At the outset, it should be stated that most of the use force captured in the videorecording would arguably fall within the ambit of justified conduct under the Use of Force Policy and the *Criminal Code of Canada*. Force was certainly required to move the protesters who sought to prevent the removal of the Tyvek shelters. It was reasonable for HRP officers, who were following lawful directions to remove protesters, to employ force, including pushing and grabbing people to affect arrests.

As described above, during the initial movement of the protesters and while escorting the Bobcats, the actions of the HRP line officers were regulated and directed by Team Leaders, which helped minimize confrontations between individual officers and protesters. Efforts were also made to allow people who fell to the ground to get up. While force was used, and at times it was significant and resulted in injuries, it was to a large degree regulated and reduced by the Team Leaders.

The events on Brunswick and Doyle Street were much less controlled. The police faced an agitated and aggressive crowd. Many protesters were confrontational and indignant with the slightest touch or movement by a police officer. One protester tried to climb on top of the HRP wagon and many were pressed around the wagon and cruiser preventing the vehicles from moving. While there were strikes and kicks used against at least one protester, the officer who employed these techniques clearly articulated in his notes the reasons for employing them (fear that he was being pulled into crowd) which was consistent with the video footage.

Before addressing the application of OC spray (i.e. pepper spray), we reiterate these conclusions are general in nature. As stated above, evaluating the exact amount of force in every interaction between HRP members and the public is beyond our scope and not the purpose of this Review.

Use of Pepper Spray

While the Use of Force Policy applies to the use of OC Spray, there are additional rules contained in the Sensory Irritant Aerosol Weapons Policy (Departmental Order #23-99) (Sensory Irritant Policy). The Sensory Irritant Policy deals with both OC Spray and TC Spray (i.e., tear gas). While much of the policy deals with locations and how TC can be used, in particular in confined spaces, aspects of the policy are relevant to the events of August 18, 2021.

First, the Sensory Irritant Policy states that the decision to deploy OC spray on crowds lies with the Situation Commander and should involve an assessment of risks for those who may be exposed to the agents.

Further, the Sensory Irritant Policy prohibits excessive use of OC spray, although the policy does not define what is excessive.

On August 18, 2021, HRP used two types of OC spray canisters: i) small personal bottles kept with trained HRP members that are normally deployed on individual subjects; and ii) larger foggers which create a larger cloud of irritant and are used against crowds.

The OC canisters were deployed by at least twelve (12) officers. Some of these officers indicated that they deployed OC spray against multiple people with one officer indicating he deployed it against 30 people (this should not be confused with deploying it 30 times). A Team Leader also used a pepper ball launcher, which shoots pellets that release a cloud of power when they make an impact. As described above, there was at least an arguable justification for the initial deployment of pepper spray when the police were attempting to exit their vehicles from the scene.

However, there are serious concerns about the subsequent use of pepper spray on individuals on sidewalks or who were not impeding the police. While several incidents which were captured on video are described above, one requires more scrutiny.



The image on the left depicts a constable deploying pepper spray on J.F. The constable is using an OC Fogger which is intended to be deployed against crowds. In his notes, the constable wrote that when deploying pepper spray, he “got as close ...as possible and spraying directly in their faces. I did this to ensure maximum compliance was gained.” With respect to this deployment, he wrote:

This male appeared to be extremely agitated and aggressive towards officers, he was yelling that his child had been pepper sprayed and was approaching officers with his fists clenched, I told him to leave the area repeatedly and he refused to do so, he directed his aggression towards me and refused to comply with commands.

This account is contradicted by the video evidence, which shows J.F. standing on the sidewalk yelling at officers about his daughter being pepper sprayed. However, before he was sprayed, he had backed away and had stopped engaging the police. The constable then appears on the video,

approaches J.F. on the sidewalk and then deploys the OC fogger directly in his face. The conduct and account in the officer's notes are concerning.

It is the Review's understanding that the HRP has not taken any steps to review and, if appropriate, revise the policy on the use of pepper spray.

CHAPTER 5: The Role of HRM and the HRP after August 18, 2021

The HRM After August 18, 2021

In the wake of August 18, 2021, HRM staff and Council recognized that drastic changes needed to be made to the City's approach to homelessness. The result was that the HRM fully committed itself to the "Empathetic Approach" that was being employed, at least in theory, at the beginning of 2021. This was a positive step in the right direction.

The approach of HRM, as identified on its website, is as follows:

Approach to homelessness

Adapting our approach

The municipality has adapted its approach to reflect changes that are impacting the homelessness crisis. As capacity for indoor shelters and supportive housing options continues to increase, the municipality is directing its focus away from the provision of designated locations and towards helping those experiencing homelessness to access better accommodation options. The municipality is constantly assessing the need for designated locations. As more indoor shelter spaces and supportive housing options become available, more parks will be closed, de-designated and returned to their intended purposes as spaces for everyone.

- The municipality's approach to homelessness centres on treating people experiencing homelessness in our public spaces with dignity while working to find ways to best support them within our capacity and scope as a municipality.
- The right to adequate housing is embedded in international law, federal legislation, and municipal strategies and frameworks. Accordingly, the municipality understands encampments to be in violation of individuals' rights to adequate housing.
- For these reasons, the municipality's approach involves allowing those sleeping rough to remain in designated locations until indoor shelter spaces or housing options have been identified and offered, or until the health and safety of the occupants or public are at risk.
- This approach does not condone or support the installation of infrastructure associated with encampments and requires that steps be taken to address demonstrated risks to the health and safety of occupants or the public.
- The municipality's response to homelessness is collaborative and community based. The municipality is the primary funding partner for the Street Outreach Navigators, through the downtown business improvement districts. The Street Outreach Navigators help ensure those experiencing homelessness have access to appropriate supports.
- The Province of Nova Scotia, as well as community-based partners including the Street Outreach Navigators and housing support workers, continue to offer those

experiencing homelessness with support – including a range of housing options and/ or temporary accommodation.

- As the municipality considers its ongoing support around the issue of homelessness, the following principles are guiding efforts by staff:
- The municipality wants everyone to have a home.
- As supported by the Government of Canada in their Reaching Home initiatives, Housing First is the recommended approach to help individuals experiencing homelessness.
- Every action the municipality takes in assisting people experiencing homelessness should be grounded in a harm reduction approach, consider how it supports human rights, and maintains personal dignity for those affected.
- Relationship building, learning, education, and voluntary compliance are always preferred over an involuntary compliance action.
- Transparency and ongoing communication are essential for the development of trust.
- Whenever possible, the municipality should avoid duplicating the work of other service providers in the community and instead support them in their efforts to serve residents better.
- Nothing for us, without us – the people who will be impacted by decisions and actions should be meaningfully involved in those decisions.
- Everyone is expected to follow the law.
- Halifax Regional Police (HRP) should not be a primary response to many of the issues surrounding homelessness. HRP should be focused on the prevention and resolution of crime. Responses to issues surrounding homelessness should whenever possible be led by Street Navigators, service providers, and civilian compliance officers.

This approach has resulted in HRM taking the following steps between August 2021 and today's date, among others. This list is not intended to be exhaustive.

The Creation of a Team Dedicated to Housing and Homelessness

In early 2022, HRM hired Max Chauvin in a newly formed position, Director of Housing and Homelessness. Mr. Chauvin's office now has a budget of \$2,375,300 and a total of five employees, including him. There is also a Housing Coordinator who focuses on supporting work led by the Province, an Encampment Lead who is responsible for the clean-up and maintenance of encampment sites, and two Homelessness Coordinators who are in the field doing street navigator and outreach duties.

The Review met with Mr. Chauvin in Halifax and communicated with him on multiple occasions. The Review was very impressed by Mr. Chauvin and his staff. He and his team are very committed to addressing the housing and homelessness crisis in a compassionate manner and as urgently as possible. Mr. Chauvin and his office have spearheaded a number of the positive steps outlined below.

Improved Relationship with and Funding from the Province

Sadly, the housing situation in Nova Scotia has been in decline since at least 1993, when the federal government ended a funding partnership with the provinces. Partially as a result of that change, no new public housing has been built in Nova Scotia since 1995. As of June 2023, the province had approximately 11,200 public housing units and the average age of the structures was 42 years.²⁵²⁴

The situation was further complicated when on April 1, 1996, the provincial government dissolved and then amalgamated all municipal governments within Halifax County to create HRM, a regional municipality comprising approximately 200 individual communities into eighteen planning areas for zoning purposes. All municipal services and staff were merged into the new municipal unit.

As HRM's population grew over the last 30 years, and the cost of housing increased, it became increasingly difficult for people, especially those on social assistance and in lower income brackets, to afford housing in Halifax/Dartmouth and Nova Scotia. This meant that no new public housing units were being built, but the demand was increasing. This was a significant factor that contributed to the housing crisis in HRM and the province. Simply put, there is not enough affordable housing for those who need it.

Many of the people interviewed by the Review told us that in the years, months and days leading up to August 18, 2021, and as the housing crisis deepened, there was a lack of coordination between the province and HRM, and much finger pointing between the two levels of government as to who was to blame. HRM representatives told us they did not have the jurisdiction or the resources to properly address the issue, and the province was responsible. Meanwhile, the province seemed to be of the view that housing issues were the responsibility of the municipal government.

Our Review was not tasked with determining which level of government does or should responsibility, nor could it. However, what was clear to the Review based on our interviews was that there was a lack of coordination and cooperation between HRM and the province to respond to the housing crisis properly and effectively.

It appears that the events of August 18, 2021, acted as a catalyst for both HRM and the province to recognize the severity of the housing crisis and the need for inter-governmental partnership and resource sharing. The quality of the partnership between the HRM and the province of Nova Scotia appears to have improved significantly with better communication, coordination, and resource sharing.

For example, the HRM and the province have substantially increased funding to create additional housing, including shelters (e.g., the Forum), modular units (e.g., Centennial Pool), pallet homes, and the construction/repurposing of provincial/municipal properties for more shelter space and housing (e.g., the Waverly Inn, the Bridge).

On August 31, 2021, Council unanimously voted that \$500,000 be directed towards emergency accommodations for the unhoused. Municipal staff were to identify sites that had the potential to

²⁵ <https://www.cbc.ca/news/canada/nova-scotia/public-housing-john-lohr-affordable-1.6801864>

accommodate temporary housing and the appropriateness of their use for housing. Community-based service providers would be engaged to determine the suitability of the sites for short-term housing and support. The province of Nova Scotia would partner with those groups to assist and support the initiative. Further, the CAO was directed to work with the provincial Department of Community Service and community service providers on a needs analysis, including how many people were unhoused, how many were tenting or living in parks and public spaces and how many could be accommodated in a safe manner;

On January 11, 2022, Council approved an additional 1.2 million for emergency housing, including the installation of modular housing in Halifax and Dartmouth (e.g. Centennial Pool), the costs of which were shared by the province.

HRM and the province also coordinated to provide funding for accommodation in hotels in Halifax and Dartmouth. Between September 2020 and January 2022, 133 people accessed hotel rooms that were paid for by HRM and the province.

These steps are all very commendable as they helped provide more temporary housing options for people.

However, this is not a long-term solution. More affordable housing is desperately needed.

Unfortunately, the building of new and affordable housing does not seem to be progressing evenly or at the rate that is needed. In the spring of 2023, the Municipal Affairs and Housing Minister John Lohr stated that the province would not be building any new housing. Rather, the province would focus its efforts on improving and upgrading the already existing public housing supply.

Then, in September 2023, the Minister changed course and announced that the province, with the assistance of the federal government, would be building 222 new public housing units.

In February 2024, the Minister and Halifax MP Andy Fillmore, on behalf of Sean Fraser, federal Minister of Housing, Infrastructure and Communities, announced that 25 new modular housing units would be installed in eight communities across Nova Scotia by the end of March 2024. The new modular units were expected to give up to 88 people a safe and affordable place to live in Glace Bay, Ingonish, Port Hawkesbury, Antigonish, Amherst, Springhill, Westville and Barrington

The 25 modular units were in addition to the 222 units announced in September 2023, bringing the number of new public housing units in the province to 247. In total, this means new housing for more than 600 people and marks the largest investment in new public housing in 30 years.

These are all admirable and needed steps. They reflect that the federal, provincial and municipal governments are starting to work together to address the housing crisis in Nova Scotia and Halifax.

However, the provincial-municipal relationship continues to see some finger-pointing back and forth. As recently as September 2023, there was a public dispute between HRM councillors and the Premier about who was responsible for the housing crisis and who should be acting to address the issue.²⁶ This is unfortunate. The problem will not be solved by finger pointing. It requires a

²⁶ <https://globalnews.ca/news/9962243/ns-premier-tim-houston-housing-crisis-halifax-municipality/>

coordinated response from all three levels of government, in partnership with the private and non-profit sectors.

The relationship between the province and HRM appears to be largely ad hoc. It does not seem to be formalized in any standing committee or ongoing organizational entity that includes both levels of government and interested parties such as the unhoused and social service agencies. This will be addressed in our Recommendations.

Improved Relationships with Social Service Agencies and the Unhoused

The relationship between the HRM and social service agencies was strained prior to August 18, 2021, and the events of August 18, 2021, severely eroded whatever level of trust existed. The fact that the Street Navigators and social service agencies were not advised in advance of the evictions and not given an opportunity to work with the residents of the encampments in advance (or on the day in question), further damaged the relationship.

It is critical that HRM be committed to a partnership with social service agencies to jointly address the housing crisis and assist the unhoused.

The HRM has taken steps to rebuild its relationship with community service providers. For example, on December 14, 2021, Council passed a motion that included the provision of \$70,000 to a coalition of service providers to use as crisis funding to support the unhoused.

The HRM has also taken some steps to rebuild its relationship with, and better understand the needs of the unhoused. For example, they have funded and begun a lived experience consultation. And the Mayor even cancelled Dec 31, 2023, New Year's celebrations, stating that it did not feel right to stage the celebration with a homeless encampment right in front of City Hall.

However, the relationship between the social service providers, and the communities they represent, **and the HRP**, continues to be a difficult one. The unhoused who were living in encampments or elsewhere described to the Review how they felt unfairly targeted by the HRP in advance of August 18, 2021, and how the events of August 18, 2021, made the situation worse. The social service providers and some unhoused people we met with described how this problem was aggravated when the unhoused come from marginalized communities, such as Indigenous, Black and/or other marginalized communities. It is important that the relationship between the HRP on the one hand, and service providers and the unhoused they represent, be improved. This, too, will be addressed in our Recommendations.

The Designation of Public Spaces and the Provision of Services and Supplies

Since August 18, 2021, HRM has designated certain public spaces as open for outdoor sheltering.

The first four designated sites were announced in 2022. They were Barrington Street, Lower Flinn Park, Green Road Park (Dartmouth) and the Geary Street Green Space (Dartmouth). In November 2022, the Correctional Ballfield in Lowe Sackville was added as a fifth site. In October 2023, Grand Parade was added and later, Martins Park (Dartmouth), Saunders Park and Victoria Park. At its

peak, there were eleven (11) designated spaces where people could shelter in public locations.

HRM also equipped the sites with portable toilets, garbage cans and storage boxes for people's belongings. Bottled water was also delivered to the sites, and sanitation services provided. Some of the sites had electricity. Emergency shelter was also offered on some sites for pets during extreme weather.

HRM also provided people who needed tents, sleeping bags, and other humanitarian aid such as food and gift cards, clothing, over the counter medications, flashlights, first aid kits, mobility aids and sometimes phones or phone minutes.

HRM staff regularly visited the designated sites and worked with social service agencies to try to provide alternative accommodation for the unhoused, including whatever support is needed in terms of wrap around services.

In cold weather, HRM assisted with transport to shelters and transit buses as warming stations.

And in emergency situations, like the floods in 2023, HRM staff provided extra bus tickets to people so they could go elsewhere, money for cabs, and Ground Search and Rescue went out to find people and bring them in if they had not chosen to come in earlier. After the floods, HRM replaced people's tents and other supplies if lost or damaged.

The designation of public spaces, and the provision of some essential services, have been excellent developments for the City of Halifax, and its relationship with the unhoused.

The Role of the HRP After August 18, 2021

As set out above, HRM has taken very positive steps in how it manages the housing crisis, the unhoused and the encampments where people live.

One of the key approaches of the HRM, as reflected on their website, is that:

Halifax Regional Police (HRP) should not be a primary response to many of the issues surrounding homelessness. HRP should be focused on the prevention and resolution of crime. Responses to issues surrounding homelessness should whenever possible be led by Street Navigators, service providers, and civilian compliance officers.

This is, from the perspective of the Review, a correct and appropriate approach. To their credit, the HRP appears to have been receptive to this approach in the aftermath of August 18, 2021. In practice, this means that the HRP has played a reduced role in responding to issues affecting unhoused people and the communities in which they live. Instead, the Street Navigators, HRM staff and social service providers have taken the lead.

However, that does not mean that there is no contact between the HRP and the unhoused. In fact, the reality of people living on the street is that they come into contact with police officers on a regular basis. Undoubtedly, some of those interactions are amicable and supportive. Others are not.

What is important for the HRP to understand is that they perform a public service, and they are there to serve and protect all residents of HRM, including the unhoused. The best way for the police

to serve and protect is to have positive relationships with the various communities with whom they interact.

Unfortunately, the relationship between the unhoused and the HRP is a complicated and difficult one. This is not unique to Halifax. It is common across Canada. The unhoused live their lives in open, public spaces, so they have less privacy from police. Some unhoused people suffer from mental health issues and addictions, however unlike people who are housed, the manifestations of those issues are readily visible to the police. And, like every community, there is some criminality in unhoused communities, which attracts the attention of the police.

Further, within the unhoused community, there are many members of marginalized communities who have experienced discrimination broadly in society and at the hands of the police. That includes but is not limited to Indigenous, Black and other marginalized communities. Because of these factors, and others, the relationship with police is often characterized by mistrust and fear. The events of August 18, 2021, aggravated this dynamic.

This does not mean there are not positive relationships between some officers and the unhoused, there undoubtedly are. Nor does it mean that there are not police officers who have empathy for the unhoused and the obstacles they face. Undoubtedly there are many. However, one must be realistic about the challenges facing this relationship in order to properly address them.

The first step towards improving these relationships is for members of the HRP to understand the reality of life as an unhoused person. This will help create greater empathy and compassion. To that end, we have recommended police training about the experience of being unhoused, taught by those with lived experience, among others.

To build closer relationships between the HRP and the unhoused, it is also important that the two communities work together on issues of shared importance related to housing and policing. Our Recommendations will address that as well.

The De-designation of Sites

On December 21, 2023, in a special meeting of Council, HRM staff were directed to remove the designation from five of the nine outdoor sheltering locations. HRM's stated reason for this decision was that the province had assured HRM that there were enough indoor spaces in Halifax/Dartmouth to house everyone who was living in those particular encampments (approximately 55 people).

On February 7, 2024, Notices to Vacate were served on the encampments at Grand Parade, Victoria Park, Correctional Centre Park, Saunders Park, and the Geary Street Green Space. The Notices identified the eviction date as February 26, 2024. This meant that residents were given 19 days between the time of the Notice and the date of possible eviction. This accorded with OrgCode's recommendation that people be given at least 14 days.

That same day, HRM released the following statement:

Today, the municipality is closing and de-designating five of the 11 designated locations because better options now exist. The Province of Nova Scotia and

service providers have identified indoor sheltering and supportive housing options; and we will all be working together to support residents in encampments to move indoors.

Municipal staff are in the process of giving notices and communicating with those sleeping rough in encampments at the Geary Street green space, Saunders Park, Victoria Park, Grand Parade and the Correctional Center Park in Lower Sackville, that these designated locations will be closing effective today and have been de-designated. Those sheltering in these locations have been given direction to vacate by Monday, February 26. Supports, including information about available resources , transportation of people and belongings, continue to be made available.

The municipality remains committed to ensuring those sleeping rough are provided better alternatives, working toward having safer, long-term housing options for everyone who needs them. Indoor facilities are a better option than sleeping rough. They offer much needed supports and provide a warm space, electricity, running water, showers, laundry services, regular meals and a place to store belongings. From a public health and safety perspective, access to safe drinking water, sanitary services, and environments free of rodents, physical, biological and fire hazards is important.

From the outset, the municipality has been clear that the creation of designated locations would be temporary. They were established to address an immediate need to ensure people had a location to go to if they had no other option but to sleep rough.

The municipality is constantly assessing the need for designated locations. As more indoor shelter spaces and supportive housing options become available, more parks will be closed, de-designated and returned to their intended purposes as spaces for everyone.

Two additional locations de-designated

Two more locations were de-designated effective Wednesday, Feb. 7, Beaufort Avenue Park in Halifax, and Martins Park in Dartmouth, as they have not been used for the purposes of outdoor sheltering since they were designated in the fall 2023. These two parks remain open to the public.

Safety risks at encampments

The safety risk to those in and around encampments is a significant concern.

In addition to health risks caused by exposure to frostbite and cold-weather injuries, those in encampments can be targets for predatory behavior that victimizes some of the most vulnerable people in our community. Issues range from gang victimization, and human trafficking to physical and sexual assault, as well as sexual exploitation.

Encampments pose a danger to the community at large. There has been violence arising from encampments, accumulations of human feces, biohazardous waste,

weapons and drug paraphernalia surrounding encampments, significant food waste leading to issues with rodents, as well as uncontrolled fires and propane cylinder explosions.

In the past year, Halifax Fire & Emergency has responded to more than 110 calls for service related to encampments, including several tent fires.

The number of calls to 311, as well as calls for service to police and fire, have increased significantly over the past year. The type of calls range from reports of litter and the presence of new encampments to emergency calls related to emergency medical issues, fires, assaults and weapons.

Commitment to ongoing support and longer-term solutions

The municipality is committed to supporting the province in developing long-term housing solutions.

The municipality will continue to treat people experiencing homelessness with dignity while working to find ways to best support them within its capacity and scope. This includes enhanced efforts on the ground, collaborating with Street Navigators, the province and its service providers to actively work with and offer supports to anyone experiencing homelessness in the Halifax region.

The municipality will also continue working with other orders of government, as well as through partnerships with community housing not-for-profits, on initiatives to support the creation of affordable and deeply affordable housing, such as the Affordable Housing Grant Program, the Rapid Housing Initiative and the Housing Accelerator Fund.

For more information, visit [our website](#) .

On February 23, 2024, HRM issued a further statement, which stated:

Important progress has been made to support those experiencing homelessness to move indoors, since issuing the municipal statement on February 7 regarding the closure and de-designation of five locations for outdoor sheltering.

At the time of the announcement, there were approximately 55 individuals sheltering outdoors among the Geary Street green space in Dartmouth, Saunders Park, Victoria Park and Grand Parade in Halifax as well as the Correctional Center Park in Lower Sackville. Latest numbers indicate that 25 of these people have accepted indoor sheltering options at a number of facilities, including The Overlook, the Multi-Purpose Center of the Halifax Forum, the modulars and the Waverley Inn. One of the locations, the Geary Street green space, is now completely vacated. This area is being fenced to enable staff to plan for remediation of the site.

The municipality is awaiting confirmation from the Province of Nova Scotia on the opening date of the Pallet™ shelters in Lower Sackville as it is anticipated that a number of individuals from the Correctional Center Park location will be moving there.

The province, service providers and navigators are discussing appropriate indoor sheltering or transitional housing options with those experiencing homelessness in the remaining locations.

Deadline to vacate – Monday, February 26

Based on the progress made to date, the municipality expects that all those sheltering in the de-designated locations will comply with the notice to vacate by February 26. However, if the date passes and not all individuals have vacated, there will be a measured approach where each situation will be looked at on a case-by-case basis.

The municipality is aware that not all people who are currently sleeping rough in these locations will be able to go to a shelter for a variety of reasons. We are working with the province to help those still sheltering outdoors to find options.

Aligned with the municipality's Public Safety Strategy, efforts related to relocating individuals from the de-designated locations to indoor options will be civilian-led. If someone sleeping rough in a de-designated location refuses to leave, the municipality will work with them to determine the barriers for them to accept the offer of an indoor option. The municipality will share this information with the province and service providers to help identify what steps can be taken to remove the barriers, so the individual is able and willing to accept an indoor sheltering or transitional housing option.

Police services may be on hand to ensure public order is maintained, as required. The municipal administration does not have authority to direct police-related operational matters. Police officers fulfill their obligation to enforce the law, under the direction and authority of the Chief of Police.

Potential protests

The municipality is aware of protests planned for Saturday, February 24 and Monday, February 26. While it is recognized that people have a right to protest, the municipality wants to make it clear that any violence and/or destruction of property will not be tolerated and any unsafe situations will be dealt with as required, which would include support from police services.

Status of de-designated locations

Signs were posted at the five de-designated locations following the February 7 notice to vacate to communicate that the parks are closed to the public. As people leave the encampments, sections of the closed parks will be fenced off, as required. Fencing will remain in place until remediation can bring the parks back to a state suitable for their intended purpose.

Updates will be provided when these locations re-open to the public. The only exception is the tiny home community site at the Correctional Center Park in Lower Sackville which will continue to be a construction area until the project is complete.

Commitment to longer-term solutions

The municipality remains committed to ensuring those sleeping rough are

provided better alternatives, working toward having safer, long-term housing options for everyone who needs them.

In the coming weeks, the municipality will be issuing a request for proposals (RFP)/expression of interest to identify potential options for land and facilities as part of our ongoing commitment to assist the Province of Nova Scotia in securing long-term housing solutions. More details regarding the RFP, and the respective roles of the municipality and the province, will be made available upon its public release.

For more information, visit [our website](#) .

The evictions did not proceed on February 26, 2024.

On February 28, 2024, HRM staff visited the sites to talk to the encampment residents, assist in finding alternative housing and explain the eviction process. This, too, accorded with the approach set out by OrgCode back in 2021.

On March 8, 2024, the HRM announced that only three (3) of the 55 residents from the de-designated sites remained.

By March 14, 2024, all the sites slated for de-designation were vacated. Many residents had left of their own accord, while those that remained were eventually removed without any reported violence.

Given the recency of these events, our Review was not able to speak with all the parties involved in this process to examine the relevant issues. Nor is it within the mandate of our Review to comment on whether the decision to vacate was a correct or appropriate decision. That determination is best left to elected representatives and the people who elect them.

However, the manner in which these evictions unfolded was of keen interest to our Review as it was an opportunity to assess what lessons had been learned by HRM and HRP with respect to how the clearing of encampments in public spaces should or should not proceed.

We did speak with a number of people after the sites were vacated. Virtually every person with whom we spoke highlighted how vastly different this process was as compared to August 18, 2021. Those differences included, but were not limited to:

- HRM had spent many months working with residents to explore other housing options before the Notice to Vacate was issued;
- Encampment residents were given clear Notices to Vacate with a specific date;
- There was a reasonable amount of time between the date of the Notice and the eviction date for residents to try to find other accommodation;
- There were visits from HRM staff in the interim period to support residents in finding alternative living spaces;
- The date of eviction was publicized so that social service agencies, and others, could assist encampment residents in finding alternative housing options;

- The residents were given additional time after the announced date of February 26, 2024;
- There were more indoor beds available;
- There were other outdoor designated sites where people could move to;
- Residents were not ticketed by by-law or enforcement officers; and
- To the knowledge of our Review, while HRP officers were present and available as needed, the HRP played no role in the clearing of the de-designated sites.

While it was undoubtedly difficult for the residents to have to vacate these sites, it would be inappropriate for our Review to comment on the propriety of the decision of HRM to take that step. It is not within our mandate and better left to others.

However, what is clear is from this most recent clearing of encampments, and the steps taken by the HRM noted above, is that the HRM and HRP have already learned very valuable lessons about how the unhoused can and should be treated with support and compassion, including the difficult step of how to clear an encampment(s) from a public space in a more humane and non-violent fashion.

Since August 18, 2021, it is clear that the HRM has learned a great deal and adopted a very considered, compassionate and “empathetic” approach to managing the housing crisis and the people who are the victims of that crisis- the unhoused.

While there is always more that can be done, and we hope to assist with that in our Recommendations, HRM should be commended for the lessons it has learned and the positive steps it has taken over the last three years.

CHAPTER 6: The Role of the Board of Police Commissioners After August 18, 2021

Background and Overview

The mandate of the Board of Police Commissioners (“Board”) is to provide civilian governance and oversight for the Halifax Regional Police on behalf of Regional Council. The Board also functions as a Police Advisory Board to the Royal Canadian Mounted Police Halifax District as it performs contractual policing services within the Halifax Regional Municipality.²⁷

The mandate and responsibilities of Board of Police Commissioners is established by the Provincial Government of Nova Scotia, and set out in the *Police Act*, as well as the Board's Terms of Reference (By-Law P-100).²⁸

In the aftermath of August 18, 2021, the Board determined that an independent review was required.

On June 20, 2022, the Board adopted a motion to prepare a draft mandate and terms of reference for an independent civilian review of the oversight, governance, and policy aspects of the HRP’s handling of the protests on August 18, 2021. The mandate and terms of reference were to be received and reviewed by the Board at a future meeting.

On May 3, 2023, the Board commissioned an independent civilian review of the issues relating to the Board's oversight, governance and policy responsibilities that arise out of the response by Halifax Regional Police (HRP) to protests on August 18, 2021.

Among other issues, the Board asked the Review to examine:

- i. The adequacy or appropriateness of the Board's existing policies and rules, and
- ii. The adequacy of oversight and governance mechanisms and practices employed by the Board to address related policing activities and to ensure that police services are delivered in a manner consistent with community values, needs and expectations.

In order to address these issues, the Review sought and received relevant documentation from the Board and interviewed some of its members.

The Respective Roles of the Board and the Police

One of the key features of the role of the Board, as with virtually all police boards in Canada, is that the Board is responsible to provide *oversight, governance, and policy direction* in contrast with the role of the Chief of Police to *direct day to day operations*.

The powers of the Board are set out in the *Police Act* and the Board’s Terms of Reference.

²⁷ <https://www.halifax.ca/city-hall/boards-committees-commissions/a-c/board-police-commissioners>

²⁸ *Ibid.*

Section 55 of the *Police Act* sets out the function of the Board. It states:

55 (1) The function of a board is to provide

(a) civilian governance on behalf of the council in relation to the enforcement of law, the maintenance of law and order and the prevention of crime in the municipality; and

(b) the administrative direction, organization and policy required to maintain an adequate, effective and efficient police department,

but the board shall not exercise jurisdiction relating to

(c) complaints, discipline or personnel conduct except in respect of the chief officer of the municipal police department;

(d) a specific prosecution or investigation; or

(e) the actual day-to-day direction of the police department.

...

(3) Without limiting the generality of subsection (1), a board shall

(a) determine, in consultation with the chief officer, priorities, objectives and goals respecting police services in the community;

(b) ensure the chief officer establishes programs and strategies to implement the priorities, objectives and goals respecting police services;

(c) ensure that community needs and values are reflected in policing priorities, objectives, goals, programs and strategies;

(d) ensure that police services are delivered in a manner consistent with community values, needs and expectations;

(e) act as a conduit between the community and the police service providers;

(f) recommend policies, administrative and organizational direction for the effective management of the police department;

(g) review with the chief officer information provided by the chief officer respecting complaints and internal discipline;

(h) ensure a strategic plan and business plan is in place; and

(i) ensure the department is managed by the chief officer according to best practices and operates effectively and efficiently.

(Emphasis added)

Section 8 of the Terms of Reference confirms the role of the Board. It states:

8. (1) The Board shall provide civilian governance in regards to **strategic policy planning** and policy driven budget planning for police service delivery within the

communities serviced by the Halifax Regional Police and shall carry out an advisory role in respect of police matters within the communities serviced by the Provincial Police Service. (Emphasis added)

(2) The Board in accordance with the *Police Act* and HRM Bylaws may carry out any of the following roles and responsibilities:

(a) co-ordinate public planning process as it relates to community oriented police response to community issues;

(b) provide civilian governance on behalf of the Council in relation to enforcement of the law, the maintenance of law and order and the prevention of crime within the municipality;

(c) in consultation with the Chief of Police, review priorities, goals and objectives of the municipal police service;

(d) over see and ensure the provisioning of the Halifax Regional Police in the areas of accommodation and material as deemed necessary;

(e) prepare and submit in consultation with the Chief of Police and the Chief Administrative Officer or delegate, to Council an annual budget for the municipal police service. The municipal council shall only exercise global budget approval and shall only accept the police service budget submitted to it by the board or refer back to the board with instructions that it be altered upward or downward by a specific dollar amount or percentage;

(f) ensure compliance with *Nova Scotia Police Act* code of conduct;

(g) make rules respecting standards, guidelines and policies for the administration of the police service and for the efficient discharge of duties by the employees;

(h) carry out any studies or investigations respecting its civilian governance responsibilities;

(i) monitor gender, ethnic and minority group issues and making recommendations concerning these matters to the Chief of Police;

(j) ensure that community needs and values are reflected in policing goals and methods;

(k) act as a conduit between the community and the police service providers.

Section 38 of the *Police Act* sets out the powers of the Chief of Police. It states:

38 (4) In accordance with this Act or the regulations or a direction of the board pursuant to Section 52, the responsibilities of the chief officer include:

- (a) ***the management, administration and operation of the police department;***
- (b) the maintenance of discipline within the police department;
- (c) filing an annual report with the board respecting, among other things, the initiation of programs and strategies implementing the department's priorities, goals and objectives;
- (d) filing with the Minister an annual report respecting the number of members, special constables, by-law enforcement officers and civilian employees employed by the police department;
- (e) conducting self audit and quality assurance programs;
- (f) developing and implementing organizational plans; and (g) promoting programs to enhance policing services.

(5) The actual day-to-day direction of the police department with respect to the enforcement of law and the maintenance of discipline within the department are the responsibility of the chief officer.

(Emphasis added)

Section 7 of the Terms of Reference affirms the powers of the Chief of Police. It states:

7. (1) The Chief of Police shall have the power to appoint, promote, suspend, dismiss and reinstate all members, special constables, bylaw enforcement officers and civilian employees of the Halifax Regional Police.

(2) The Chief of Police shall advise the Board with respect to the provision of efficient, effective and economical municipal police service delivery to the taxpayers of the municipality and may in consultation with the Board undertake in a timely manner, research, strategic planning, policy development and implementation and the reporting of results, in response to inquiries by the Board pertaining to its community governance responsibilities, generally categorized as:

- (a) providing an effective community voice on matters pertaining to policing;
- (b) civilian review of police service delivery;
- (c) ensuring the quality of police service delivery by evaluation processes;
- (d) keeping generally informed of policing operations; and

(e) insuring police personnel are accountable to civilian authority.

(3) Pursuant to section 38 of the Police Act, the Chief of Police has authority over the actual day-to-day direction of the Halifax Regional Police with respect to enforcement of law and the maintenance of discipline within the department.
(Emphasis added)

(4) The Chief of Police is accountable to the Board with respect to the provision of policing in the Halifax Regional Municipality.

(5) The Chief of Police is accountable to the CAO with respect to the implementation of and compliance with HRM administrative policies and procedures.

Notwithstanding the broad division of powers between the Board (i.e. governance and policy) and the Chief (i.e. operational), the Board is explicitly entitled by the *Police Act* to provide the direction, organization, and policy required to maintain an adequate, effective and efficient police department (s. 55(1)(b) of the *Police Act*) and recommend policies, administrative, and organizational direction for the effective management of the police department (s. 55(3)(f) of the *Police Act*).

This means, among other things, that the Board can have its own policies and establish guidelines and protocols for how police chiefs and forces should operate, including providing guidance on the overall direction of HRP policies.

It is also entirely appropriate for the Board to monitor the performance of police chiefs and forces to ensure that they are following the established policies and procedures.

In addition, and as set out below, a police board is also entitled to know about critical police operations before and after they occur and oversee those operations to ensure they are in accordance with the priorities, objectives, and goals of the Board and the police. Indeed, prior systemic reviews have come to exactly that conclusion.

Reports on the Role of Police Boards in Police Oversight

There have been three well-regarded public reviews that addressed the role that police boards should play in executing their oversight responsibilities. They are the Morden Report (2012), the Epstein Report (2021), and the Rouleau Report (2022). We do not propose to review each of those excellent Reports in detail. However, their comments and recommendations are equally applicable to our Review. We cannot improve on their language, so we have chosen to reproduce the relevant points from each of those reports below. The Board should carefully review these reports and the passages excerpted below. We strongly urge the Board to accept these comments and adopt the approach set out in these three Reports.

The Morden Report (2012)

In June 2012, the Honourable John Morden issued the Independent Civilian Review into Matters Relating to the G20 Summit.

With respect to civilian oversight and the role of a board of police, Justice Morden stated:

Civilian oversight of our police is essential. It acts as a check and balance against the legal powers society has given the police to enforce the law. Effective oversight of the police is the way that the public and police remain partners in the preservation of public safety. For the police to be effective in our communities, the public must have respect for those that perform the policing function. The governance and accountability that civilian oversight creates work in tandem.

...

In establishing objectives and priorities for the police service, a police board must be mindful of only one, albeit one very specific prohibition: not to direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police service. Unfortunately, despite the clear wording of the Police Services Act, the Board has defined its responsibilities in terms of a separation between matters of policy and operational matters. The Board has limited its consultative mandate and has viewed it as improper to ask questions about, comment on, or make recommendations concerning operational matters. The Board's approach in this regard has been wrong.

Consultation between a police board and the chief of police is the main process through which the police board can engage in an assessment of the adequacy and effectiveness of the policing services which have been or will be provided. The overall purpose of a consultation between a police board and the chief of police is to identify the elements that are required for the police service to deliver adequate and effective policing within the municipality. Sometimes, this consultation will take place before a particular police operation or event. The police board can use the information to provide further guidance to the police service by creating policies that will frame the operation or event and assist in the achievement of identified outcomes. This consultation can also take place after a particular police operation or event and will take the form of deconstructing what happened and why, which can identify valuable lessons and lead to accountability for the decisions that were made.

Justice Morden then proposed a consultation protocol to ensure that the Board receives relevant information that will assist in identifying its objective and priorities for the police service. There were three elements to that consultation protocol:

First element – Information exchange between the Board and Chief of Police: a reciprocal information exchange between the Board and Chief of Police must exist to ensure that each obtain information relevant to their respective roles. With this exchange, the Board will be provided with operational information that will inform its policy-making function and the Chief of Police will have an opportunity to provide his or her views on policy options the Board is considering. With this exchange, both policies and operations may be adjusted to address changing circumstances.

Where sensitive law enforcement matters are concerned, the Board should resort

to the appropriate statutory measures to maintain confidentiality of information where appropriate.

Second element – Identifying the “critical points”: The Board should seek specific operational information from the Chief of Police where a “critical point” arises. These are policing operations (e.g., gun and gang operation), events (e.g., international summit of world leaders), or organizationally significant issues (e.g., the use of Conducted-Energy Weapons, or TASERS, by the police) for which advance approval at the Toronto Police Service’s highest levels of command is required.

Third element – Board collaboration in defining the ‘what,’ but not the ‘how,’ of an operation: The Board should use the operational information it obtains from the Chief of Police to determine what the Toronto Police Service’s overall objectives and priorities will be for a particular operation, event, or organizationally-significant issue. With these established, the Toronto Police Service can create specific operational plans that will outline how the policing mission and objectives will be achieved. The Toronto Police Service must always maintain its autonomy to make and execute particular decisions during the operation. The Board should review the Toronto Police Service’s operational plans to ensure they are consistent with the mission or objectives stated by the Board and that they have the benefit of an adequate policy framework.

Justice Morden then made the following three recommendations:

Recommendation No. 4: The Board and the Toronto Police Service should ensure that an open exchange of information on all matters of operations and policy is established and maintained. The purpose of this information exchange is to ensure that both the Board and the Toronto Police Service are aware of the details necessary to engage in consultation concerning Board policies and Toronto Police Service operational mandates. This exchange must permit a two-way transmission of information between the Board and the Toronto Police Service: the Board is to be made aware of all information relevant to its statutory role to determine “objectives, priorities and policies” for policing in Toronto and the Toronto Police Service is to be made aware of information that may assist it in commenting on policy options the Board is considering. In particular, this information exchange must include the provision to the Board of relevant operational information by the Toronto Police Service before operations actually unfold.

Recommendation No. 5: The Board should, in consultation with the Toronto Police Service, draft a policy that defines what will constitute a “critical point” in municipal policing and identifies criteria that will be applied in determining when a “critical point” has arisen. This policy will assist both the Board and the Chief of Police in determining when operational information should be provided to the Board in advance of the “critical point.” The Board should consider using the following definition of a “critical point”: a policing operation, event, or organizationally significant issue for which advance planning and approval at the Toronto Police Service’s command level is required. There should be clarity and

consistency concerning the types of matters about which more detailed information, including operational information, should be provided to the Board by the Toronto Police Service. This policy should be reviewed by the Board with some frequency after it is established to ensure that it is enabling the Board to identify events and issues for which operational information should be provided in advance.

Recommendation No. 6: The Board should determine appropriate objectives, priorities, and policies for major events, operations, and organizationally significant issues in which the Toronto Police Service will be involved. Where critical points in the policing of Toronto arise, the Board and Toronto Police Service should apply the consultation protocol and engage in a consultation about the major event/operation or organizationally significant issue at the earliest possible opportunity. The Board should be provided with relevant operational and other information in order to understand the details of the major event/operation/issue. The Board should then work with the Chief of Police to identify the mission, objectives and priorities for the particular event/operation/issue, the achievement of which will result in the provision of adequate and effective policing in Toronto. Once the mission, objectives and priorities have been defined, the Toronto Police Service must maintain the autonomy to develop and execute the appropriate operational plans. The Board should conduct a review of the Toronto Police Service' operational plans to ensure that (a) they are consistent with the mission or objectives stated by the Board, (b) they are consistent with applicable Board policies, and (c) that no additional policies are required in order to provide guidance to the Toronto Police Service. Through this review process, the Board may provide recommendations to the Toronto Police Service where it believes that a particular aspect of the operational plan may result in the operational mission, objectives and priorities not being achieved. The Chief of Police, however, must remain entirely free to accept or reject the Board's recommendations.

The Epstein Report

In April 2021, the Honourable Gloria Epstein released her Report of the Independent Civilian Review into Missing Persons Investigations.

Justice Epstein stated the following with respect to the role of a police board:

I cannot overemphasize the importance of effective civilian oversight of the police. It promotes public respect for the police through a model that involves both governance and accountability. It can also serve as a means to ensure that special attention is given to the oversight of policing as it affects communities with a troubled relationship with the police, including racialized, LGBTQ2S+, Indigenous, homeless or underhoused, and others identified in this Report.

The board is an essential feature of responsive and democratically accountable policing. However, a board cannot fulfill its statutory oversight responsibilities if it is not informed about critical points in policing or is overly deferential to its chief or its police service. Equally, a board oversteps its statutory responsibilities if it

attempts to usurp its chief's role or to interfere with the services protected core of independence around specific investigations...

Requiring the police to explain and justify their activities and modify existing policies and procedures to ensure adequate and effective policing is not inconsistent with protecting the core of police independence. Simply put, robust oversight makes a police service more effective rather than less.

Justice Epstein then made the following relevant recommendations:

1. The Toronto Police Services Board and any future chief of police should publicly commit to the robust oversight by the Board recommended in the Independent Civilian Review into Matters Relating to the G20 Summit, conducted by the Hon. John W. Morden (June 2012), as explained and amplified in this Report.
2. The Toronto Police Services Board should adopt a policy clearly defining the types of information that the chief of police should share with the Board, including what constitutes a "critical point." The policy should specify when and how those types of information should be shared. This policy should be prepared by the Board in consultation with the Toronto Police Service, and as originally recommended in the Independent Civilian Review into Matters Relating to the G20 Summit.
3. The policy outlined in Recommendation 2 should identify criteria that must be applied in determining when a "critical point" has been reached. At a minimum, such criteria should include:
 - (a) a policing operation, event, or organizationally significant issue requiring command level approval (i.e., by the chief of police or deputy chief of police) or command level advance planning,
 - (b) operations that may have a material impact on the Toronto Police Service's relationship with, and servicing of, marginalized and vulnerable communities, including those communities in which significant numbers of community members mistrust the police. These include racialized, Indigenous, LGBTQ2S+, homeless or underhoused, and others identified in this Report, as well as the intersection of these communities. Included here are operational decisions that may have a material impact on future relationships with these communities;
 - (c) operations that may impact, in a material way, on the Service's reputation or its effectiveness;
 - (d) operational matters, even ones involving an individual case, if they raise questions of public policy;
 - (e) internal audits or analogous documents that identify systemic issues within the Service; and

- (f) complaints against individual officers and the Service and findings about discrimination by other tribunals that raise systemic issues.
4. The Toronto Police Service Board's "critical point" policy should also consider the non-exhaustive list Judge Sidney Linden set out in the 2007 Ipperwash Report of operational decisions that might require policy intervention by government. According to this list, an operational decision is one that may require some kind of policy intervention if it:
- requires unexpected financial or other resources
 - could affect third parties or issues not directly involved in the situation/ issues
 - is necessary to vindicate or balance legal/ democratic principles or rights with policing priorities and practices
 - raises interjurisdictional issues
 - could set a precedent for similar operational situations in the future
 - requires intervention of higher levels of authority to resolve the operational issue
 - must be made in a police or operational vacuum, where operational decision-makers do not have existing policies or protocols to guide them.
5. The Toronto chief of police should establish corresponding procedures to the policies outlined in Recommendations 2 and 3 for sharing information with the Toronto Police Services Board.
6. The Toronto Police Services Board should ensure that initial and ongoing training and education of its current and future members should include mandatory continual Education not only on the role of the Board but on how it can be effective in its governance and oversight role. Emphasis should be on topics such as the sharing of information (including "critical points"), constructive dialogue with the chief of police, systemic issues to be explored, and the scope of and limitations to "directions" to the chief of police.
7. The Toronto Police Services Board and the Toronto Police Service should ensure that initial and continual training and education of current and future chiefs of police, deputy chiefs, and senior officers should include what information should be provided to the chief of police and deputy chiefs to enable them to fulfill their

responsibilities, including sharing information on "critical points," with the Board.

8. The Toronto chief of police should establish procedures specifying what types of projects or operations have to be approved by senior command (see Recommendation 3(a)).
9. As explained in Chapter 3, a regulation permitting a chief of police to decline to provide information in accordance with a direction from a police services board is unnecessary, given the statutory prohibitions that already exist against inappropriate intervention by a board. The Toronto Police Services Board should urge the Ministry of the Solicitor General not to create such a regulation in the circumstances. If such a regulation is created, the scope for denying a board information about operations should be restricted, as it is, for example, in Victoria, Australia, to information whose disclosure would prejudice an investigation or prosecution or endanger the life or safety of a person.

...

11. The Toronto Police Services Board should re-examine all its existing policies, as they pertain to the matters addressed in this Report and ensure that they provide meaningful policy direction to the chief of police and the Toronto Police Service, consistent with the recommendations made in this Report.

The Rouleau Report

Finally, in February 2023, the Honourable Paul Rouleau issued his Report of the Public Inquiry into the 2022 Public Order Emergency.

While the events that precipitated the events reviewed in all three reports were very different (i.e. large-scale and planned public protests and the investigation of missing persons), the lessons learned by those reviews in relation to the role of police boards is applicable here. It was described this way by Justice Rouleau:

The Independent Civilian Review into Matters relating to the G20 Summit (the "Morden Report") and Missing and Missed — Report of The Independent Civilian Review into Missing Person Investigations (the "Epstein Report") articulate the important oversight role and responsibilities of a police services board during and after a critical incident. These reports dispel misconceptions about the role of civilian police services boards and the prohibition against these types of boards directing the day-to-day operations of a police service. This prohibition exists but has been misinterpreted in a way that unduly narrows a board's ability — indeed, duty — to obtain information and ask questions relating to a critical incident that are relevant to its oversight mandate.

Unfortunately, this Inquiry has revealed that the guidance set out in the Morden and Epstein reports in this regard has not yet been fully realized.

Justice Rouleau then made the following recommendation:

Recommendation 4: All police services boards in jurisdictions that may be the subject of or adversely affected by major events including large-scale protests should create policies, consistent with the Morden and Epstein reports and their statutory-defined responsibilities, that delineate their oversight and governance roles in addressing those events. Such policies should, at a minimum:

- a. articulate what constitutes a “critical point”;
- b. articulate what kinds of activities constitute best practices, including what they can and should do to ensure adequate and effective policing in their jurisdiction — such as setting priorities, asking questions, and providing non-binding advice in relation to operational matters — and obtaining such information as may be needed for them to facilitate resourcing issues. These activities might well include post-event evaluations of lessons learned, particularly in connection with unplanned major events, and the identification of best practices in policing, going forward
- c. differentiate, where appropriate, between planned and unplanned events insofar as this distinction may affect the nature and timing of civilian oversight when an event rises to the level of a “critical point”;
- d. articulate the scope and meaning of prohibitions against interference or direction of day-to-day operations and when directions to the chief of police should be memorialized in writing;
- e. articulate the role of boards in supporting requests for additional resources or an integrated command and control to address major events;
- f. ensure that information conveyed outside of board meetings is shared with all board members;
- g. provide for training and education of board members and senior police leadership on the contents of such policies and best practices; and
- h. where appropriate, require that the police service create complementary procedures and practices to support these policies.

Knowledge of the Board Prior to the Events of August 18, 2021

Based on our review, it appears that the Board *as an entity* was not aware that the HRP was to be involved in an operation to evict residents from homeless encampments. This limited the ability of the Board as an entity to take any steps to oversee the role of the HRP in any such operation.

The Review spoke with several Board members, including two of whom were Board members and HRM councillors in 2021. In their capacity as councillors, they were aware that the HRP might be involved in an operation to clear homeless encampments. This was because HRM councillors

received the CAO's August 3, 2021, memorandum setting out that possibility. However, like all other councillors, none of the three Board members had all the details of the operation, including specific knowledge of the date of August 18, 2021, or the details of what would occur.

Those two Board members (who were also city councillors at the time) first heard that the operation was actually proceeding via a morning email on August 18, 2021, and then learned more details as the events were unfolding at the Memorial Library. They had no prior knowledge that the evictions would occur on that day, or what the details were.

At least one of the Board members, Lindell Smith, who was then Chair of the Board, spoke with the Chief of Police between 1:00 p.m. and 2:00 p.m. on August 18, 2021, and asked whether it was an option for the HRP to withdraw, as he was of the view that the operation was not worth the potential cost. Mr. Smith could not recall the Chief's exact response but remembered that the Chief was not enthusiastic about the proposal. As is now known, the operation at the Memorial Library continued, notwithstanding Mr. Smith's stated concerns.

The Role of the Board Prior to August 18, 2021

Because the Board had several members who were city councillors, the issue of the homeless encampments and the possible employment of the HRP to remove residents was known in the most general of terms to those councillors who also were on the Board. They had this knowledge as of August 3, 2021, when they received the CAO's Report.

In accordance with vision of the role of a police board set out in the Morden, Epstein, and Rouleau Reports, including to obtain information and ask questions, this knowledge meant that the councillors on the Board could have discussed the issue with other Board members and then the Board could have raised the issue with the Chief of Police. That would have allowed the Board to ask questions about the role of the HRP and the operational plan in advance of any operation.

However, in fairness to the Board, the Chief never communicated with the Board about the August 18, 2021, operation. That was a missed opportunity. This was clearly a serious operation that involved police command, utilized significant police resources, would result in engagement with marginalized communities, engaged significant public policy interests, and had the potential to affect the public perception and reputation of the police. There was a large and comprehensive briefing at police headquarters on the morning of August 18, 2021, that included comments from the Chief of Police. The Public Safety Unit was the primary unit. They were equipped with the necessary equipment to deal with a riot, should one occur.

These factors clearly indicate that the Chief of Police and senior command knew this was a significant police event or, to use the words of Justices Morden, Epstein and Rouleau, a "critical point". Accordingly, the Chief of Police should have shared information about the operation with the Board in advance. His failure to do so prevented the Board from fulfilling its oversight responsibilities.

The Role of the Board After August 18, 2021

As noted above, our Review was tasked with examining:

- i) the adequacy or appropriateness of the Board's existing policies and rules;
and
- ii) The adequacy of oversight and governance mechanisms and practices employed by the Board to address related policing activities and to ensure that police services are delivered in a manner consistent with community values, needs and expectations.

These questions must be examined in light of the Morden, Epstein and Rouleau Reports and their vision of the role to be played by police boards in oversight.

The Adequacy of the Board's Existing Policies and Rules

The Board has a 49-page Policy Manual that contains approximately seven policies. The topics covered by those policies are:

- Role of Chair, Vice Chair, Meetings, Procedures Policy;
- Communications and Community Outreach Policy;
- Stakeholder Engagement;
- Community Survey to Measure Trust and Confidence;
- Extra Duty and Off Duty Employment;
- Board Self Evaluation; and
- Complaints Against HRP Chief of Police.

A review of the Policy Manual shows that there is an absence of any Board policy on a number of important topics that are relevant to the issues that gave rise to this Review.

As a starting point, there are no policies in place that reflect the vision for police boards articulated in the Morden, Epstein, and Rouleau reports. The Board should review the relevant passages of those Reports and the recommendations. Most of the relevant recommendations are excerpted above. We recommend that the Board publicly adopt the more assertive approach to oversight suggested by Justices Morden, Epstein, and Rouleau. If the Board agrees, they should then enact clear policies about what constitutes a "critical point", and the responsibility of the Chief of Police to communicate relevant information about any "critical point" to the Board both before and after the operation takes place.

In addition, there are no Board policies on human rights, name badges, transparency of HRP procedures, the use of force, or the Public Safety Unit.

Boards in other jurisdictions, including the Toronto Police Services Board, have policies on many of these topics. Generally speaking, the relevant Toronto Police Service Board policies set out broad statements of principle, and expectations for the Toronto Police Service on how those issues should be addressed and what policies the police service should also have in place on the topic. It is then left to the police service, in consultation with the Board, to develop specific police policies and

practices.

Thus, it may be of assistance for the Board to review such policies and consider whether it would be appropriate to have similar policies in Halifax.

A more comprehensive and robust set of policies would help the Board in its oversight role, and give appropriate direction to the Chief of Police, in accordance with the Morden, Epstein, and Rouleau Reports. For example, the Board could adopt policies on the following issues:

- i) A human rights policy that clearly articulates that the Board expects the HRP to comply with all applicable human rights legislation, including *the Canadian Charter of Rights and Freedoms* and all provincial human rights legislation (i.e., *Nova Scotia Human Rights Act*). This policy would direct the HRP to adopt policies, strategies, and training programs to build and maintain positive relationships with marginalized community members, including the unhoused and/or underhoused, with particular attention to those who may be marginalized for multiple reasons (e.g. individuals who may also be members of Indigenous, Black and/or LGBTQ2S+ communities).
- ii) A policy on policing encampments and unhoused individuals. The policy could mirror the approach taken by the HRM as stated on its website and could include such features as recognizing the right to adequate housing as set out in international law, a commitment to approaching the issue from a human rights perspective, and that the HRP should **not** play a leading role in responding to non-criminal issues related to the unhoused and encampments; (See 3(a) of our terms of Reference);
- iii) A policy on the identification of police officers that directs that all uniformed members of the HRP (and RCMP) be readily identifiable to the public; (See 3(c) of our Terms of Reference);
- iv) A policy on the Use of Force that directs the HRP to develop its own policy that emphasizes that the goal is to not use force and that force should be used only as a last resort. Every available option other than force should be exhausted before a resort to use of force is justified. The policy should emphasize that de-escalation and withdrawal are always options that are available and should be considered prior to the use of force and throughout the engagement. (See 3(e) of our Terms of Reference);
- v) A policy on the Use of Sensory Irritants. The revised policy should set specific criteria and procedures related to use, ensure only properly trained officers carry OC Spray (both initial training and regular retraining), and provide guidelines to ensure timely first aid is provided to those effected by pepper spray. (See 3(f) of our Terms of Reference);
- vi) A policy on the Use of the Public Safety Unit for planned operations. The policy

should delineate the oversight and governance role of the Board when the Public Safety unit is engaged. The policy should include direction on whether the Chief of Police should share operational plans for any planned use of the Public Safety Unit with the Board in advance of the operation; (See 3(e) and 3(g) of our Terms of Reference; and

- vii) A policy on a proper police debriefing after any critical point. This policy would include direction to the Chief of Police on how the debriefings should be reported back to the Board so the Board and HRP can identify lessons learned and changes to be implemented (See 3(g) of our Terms of Reference).

Also, some of the existing Board policies could be amended and improved. For example, the Board's policy on Stakeholder Engagement is a positive one that encourages community engagement and participation at the Board level. However, the policy is silent on the nature of the relationship between stakeholders from the public and the HRP. In contrast, the Toronto Police Services Board has a policy on Community Consultative Groups that encourages, supports and even helps fund relationships between community groups and the Toronto Police Service. This has allowed for a variety of committee that include police and public members who work together to address issues of common concern (e.g., racism, mental health, etc.). This helps to improve the relationship between the police and the communities they serve and helps ensure that the police are hearing and responding to the concerns of those communities.

Thus, one of our recommendations is that the HRP establish a Housing/Homelessness Working Group that includes representatives from the unhoused community, social service agencies, the HRM, and the HRP to work jointly and collaboratively on issues related to housing and homelessness.

The Adequacy of Oversight and Governance Mechanism and Practices

There are also some oversight and government practices that warrant consideration as they relate to the Board's role in overseeing the HRP and HRP policies.

In the wake of August 18, 2021, there was some public discussion about the adequacy of the HRP's policies, particularly those related to the Use of Force, the Use of Pepper Spray and the Proper Identification of Police Officers, and whether the HRP complied with those policies on the day in question.

Our Review was told that the Board noted those concerns and asked the then Chief of Police to review relevant policies and report back to the Board. However, it appears that was not done. Because the then Chief of Police is retired, the Review was unable to formally interview him so we do not know what his position would be. Accordingly, we can make no finding on this issue. However, we were unable to find any changes in HRP policies related to the Use of Force or the Use of Pepper Spray between August 2021 and today's date. There were some changes made in practice, as detailed below, related to name badges and the identification of officers.

The Board also created their own sub-committee to look at Board and HRP policies related to these

issues. The Review was told that the members of the sub-committee did examine the HRP's policy on the Use of Force and identified some deficiencies. The sub-committee then drafted a proposed Use of Force policy for consideration by the full Board.

However, the draft policy never ended up being examined by the Board, as it was held up due to procedural disputes about whether the sub-committee should be drafting policies (some Board members felt this was an intrusion on HRP's purview over operations) and uncertainty about the process by which those policies should be reviewed.

Based on the Morden, Epstein, and Rouleau Reports, there is no question that the Board can and should be involved in reviewing HRP policies and making recommendations for change. There may very well be a debate over whether the actual drafting of a specific policy is an encroachment on the Chief's exclusive domain over operations. However, the end result here was institutional paralysis, as there have not been any changes to the Use of Force policy, when this Review found they were clearly needed (as outlined in our Recommendations).

In fact, to our knowledge, there has not been a single change to any HRP policy related to the Use of Force or the Use of Pepper Spray since August 18, 2021. This is a concern and not in accordance with the Morden, Epstein, and Rouleau Reports.

As noted above, it appears the HRP has changed its practice with respect to PSU officers being required to wear proper and visible identification tags. The PSU uniforms now have the officer's name tag sewn onto the outer portion of the PSU uniform. Further, the PSU Sergeant is now required to conduct a pre-inspection of all PSU uniforms and kits to ensure all members are wearing all approved clothing and equipment, including identification tags, prior to any deployment (although this is not codified in any policy). For officers not in the PSU, the Dress and Department Policy requires uniformed officers to wear name tags, which are sewn on the vests. There is no pre-inspection, however.

More progress might have been made on policy development had the Board and the HRP been clearer on the process by which policies can and should be amended. The division of powers between the Board and the Chief cannot result in a lack of movement or progress. As stated by one of our interviewees, "operational cannot be used as deflection to avoid transparency".

To improve this situation, we will be recommending a clearer and more transparent process for the Board and the HRP to review, revise and approve policies. This will help ensure that police services are delivered in a manner consistent with community values, needs and expectations.

And, so there is no uncertainty, as outlined above, there is no impediment to the Board developing its own policies on certain issues and directing the HRP to do the same with respect to the operationalization of those policies.

Implementation of this Review's Recommendations

The Board took the prudent step of retaining an independent reviewer to examine issues related to August 18, 2021. It was critical that any review of these events be independent of the Board, the HRP and the HRM to ensure that the Report and any Recommendations are credible and

transparent, and seen that way by the public.

In many respects, the work of the Board starts now. This Report contains numerous Recommendations, including to the HRP and the Board. It is now the Board's responsibility to ensure those Recommendations, if accepted, are implemented. Accordingly, we have recommended that the Board provide a public report on the implementation of our recommendations by June 1, 2025. Given that we make recommendations to the HRP and HRM, we have asked them to do the same.

As noted throughout this Report, the HRM has clearly learned a great deal from the events of August 18, 2021, and taken many positive steps to address the housing crisis and more humanely and compassionately support and assist the unhoused and those living in encampments.

The housing crisis is not unique to Halifax. It is a national problem that requires the combined efforts of all three levels of government, the private sector and the non-profit sector to solve. However, HRM has already made great strides and should be commended.

During the course of our Review, we met remarkable people from all walks of life whose commitment to ending homelessness and assisting the unhoused inspired us. Those people give us hope that HRM is headed in the right direction to try to solve this complex issue and end the scourge of homelessness. We are grateful to have had the opportunity to conduct this Review and hope we can provide some Recommendations that will assist. Those Recommendations are set out in the next Chapter.

CHAPTER 7: Recommendations

Recommendations to the Board of Police Commissioners

As set out in detail in Chapter 6, the relationship between the Board and the HRP is governed by the *Police Act*. The *Police Act* directs that the Board is responsible for the oversight of the HRP, while the Chief of Police is responsible for day-to-day operations. However, where this distinction is exactly drawn is complicated and often unclear.

There have been previous Reports that addressed this very issue, in particular the Morden, Epstein, and Rouleau Reports. In all three Reports, it was recommended that police boards take an active role in overseeing the police forces they govern by asking difficult questions and demanding answers when it comes to matters of public importance and significant police engagement. Correspondingly, the Chief of Police must advise the Board of any significant police operations both before and after they occur and provide details of the operational plan. This exchange of information is required in order to allow the Board to realize its oversight functions.

In Chapter 6, we found that it would have been difficult for the Board to implement such an approach prior to August 18, 2021, as they had very little information, and no details, about when the encampment evictions would occur, the details of the operation and what specific role, if any, the HRP would play. There was no briefing from the Chief of Police before or after the events of August 18, 2021.

In October 2021, the Board voted to conduct an independent civilian review related to the protests and police conduct on August 18, 2021. It was a positive step for the Board to retain an external, independent reviewer. However, the formal retainer of our firm did not occur until May 2023, at which time our firm was given one year to prepare its Report. Our final Report was produced to the Board on July 15, 2024, and we anticipate it will be released to the public sometime thereafter. That means that by the time the Report is released publicly, it will be approximately three years after August 18, 2021. That is a very long time for the Board and public to wait to learn our findings and recommendations.

In the meantime, it does not appear that there have been any new Board policies or changes in existing Board policies. There have been some minor changes in some HRP policies. It is also unclear to us what questions were asked by the Board of the former or current Chief of Police about the events of August 18, 2021. In fairness, that may be because the Board wanted to receive and consider our Report before doing so.

However, in the future, and with the benefit of this Report, it would be important for the Board to adopt a more assertive approach to police oversight, governance, and accountability, as recommended by Justice Morden, Epstein and Rouleau.

Recommendation 1: The Board of Police Commissioners should review the relevant portions of the Morden, Epstein, and Rouleau Reports and publicly commit to the robust oversight recommended in those Reports to ensure greater police governance and accountability.

Recommendation 2: More specifically, the Board of Police Commissioners should adopt policies

consistent with the Morden, Epstein, and Rouleau reports. Those policies should define what constitutes a “critical point” that would require the Chief of Police to disclose relevant information to the Board for consideration and discussion. Guidance on what criteria might be applied to determine whether a critical point has been reached can be found in Recommendations 3 and 4 of Justice Epstein’s Report, and Recommendation 4 of Justice Rouleau’s Report.

Recommendation 3: The Board of Police Commissioners should ensure that the Chief of Police and HRP establish corresponding procedures to the policies outlined in Recommendations 1 and 2 for what constitutes a critical point and the expectations and procedure for the sharing of information with the Board.

Based on the prevailing Canadian and international law, set out in Chapter 2, all government action with respect to homeless encampments should be guided by human rights principles and respecting the human dignity of the unhoused. To that end, it would be important for a human rights-based approach to address the needs of the unhoused to be adopted and articulated by the Board of Police Commissioners and the HRP.

HRM has already adopted such an approach. HRM’s website states, “The right to adequate housing is embedded in international law, federal legislation, and municipal strategies and frameworks. Accordingly, the municipality understands encampments to be in violation of individuals’ rights to adequate housing.”

This means, among other things, that the unhoused and encampment residents should play a leading role in decision making processes that affect them. It also means that the Board of Police Commissioners and the HRP should recognize the distinct needs of Indigenous individuals (see Recommendation 5 below), Black and other racialized individuals, women, 2SLGBTQQIA+ individuals, youth, seniors and people with disabilities, who are unhoused.

This could be done through clear public statements and/or the development of policies on human rights by the Board of Police Commissioners and the HRP.

Recommendation 4: The Board of Police Commissioners and HRP should publicly commit to a human rights-based approach to address the needs of the unhoused and those who live in encampments, including the right of the unhoused and encampment residents to meaningfully participate in the design and implementation of policies and practices that affect them. The Board of Police Commissioners and the HRP should also acknowledge the distinct needs of Indigenous individuals (see Recommendation 3 below), Black and other racialized individuals, women, 2SLGBTQQIA+ individuals, youth, seniors, and people with disabilities.

During our Review, we met with a number of unhoused people and service providers, including Pam Glode-Desrochers, the Executive Director of the Mi’kmaw Native Friendship Centre. They told us of the disproportionate number of Indigenous people who are unhoused and living in encampments. This was supported by a variety of Canada wide statistics gathered by various agencies.

The reality is that Indigenous people are tragically overrepresented in the unhoused population. While HRM’s website acknowledges the need for a human rights-based approach, it is silent on the

specific rights and considerations that Indigenous peoples are entitled to. The Board, HRP, and HRM, should all commit to acknowledging and protecting the distinct rights of Indigenous individuals who are unhoused and/or living in encampments.

Recommendation 5: The Board of Police Commissioners, HRP, and HRM should publicly acknowledge the distinct relationship that Indigenous people have with the land and the right to live on that land in the cultural, historical and spiritual manner they wish.

After August 18, 2021, the Board of Police Commissioners decided to create a policy subcommittee that would review and revise Board and HRP policies. The Review understands that not a single Board policy has been revised since that time by the Board. A number of impediments were identified. One of the impediments was that the process to review and revise policies was unclear.

Recommendation 6: The Board of Police Commissioners should clearly articulate a process by which it transparently identifies Board and HRP policies that require review and how revisions, if any, should be implemented.

As part of our Review, we met with several members of the Board and examined the Board of Police Commissioners Policy Manual. It appears there are no Board policies on a variety of important topics, including the policing of encampments and the unhoused, human rights, the use of force or the use of pepper spray. Other police boards have policies on many of these issues.

The Board is entitled to pass its own policies, pursuant to s. 55(1)(b) of the *Police Act*. The Board also has the responsibility to provide direction and determine, in conjunction with the Chief of Police, priorities, objectives, and goals respecting police services in the community *and to recommend or provide policy...direction* for the effective management of the of the police department.

In other words, the Board can and should pass its own policies and as part of its supervisory role and *recommend or provide policy direction to the Chief*.

Some of the Board members with whom we met felt there was a need for the Board to be more involved in the development and implementation of policy. However, they also felt constricted by the fact that it is the Chief of Police, by virtue of the *Police Act*, who oversees the day-to-day operations of the police.

The Chief of Police's authority does not prevent the Board from passing its own policies, if it wishes, so long as those policies set out broad policy goals for the Board and HRP and do not direct operations. Nor does it prevent the Board from encouraging and directing the Chief of Police to review HRP policies and report back to the Board on what revisions, if any, would be appropriate.

In other words, the Board has the capacity, if it wishes, to be more involved in policy development for the Board and the HRP. This is consistent with the recommendations made in the Morden, Epstein, and Rouleau Reports, and our Recommendation 1 above.

Recommendation 7: The Board of Police Commissioners should review its own policies to determine if any additional policies for the Board are needed on topics such as policing

encampments and the unhoused, human rights, the use of force, and the use of pepper spray. Important components to be included in such policies are set out in detail in Chapter 6. As part of this process, the Board can review and consider policies from other police boards across Canada. The Board should also play a more active role in directing the Chief of Police to review HRP policies and report back to the Board on what changes, if any, are appropriate.

The HRP does have a policy on Use of Force and a separate policy on the use of sensory irritants (i.e., pepper spray). However, a review of those policies has shown that there are important revisions that could and should be made. To our knowledge, those policies have not been amended since August 18, 2021. They should be.

Recommendation 8: The Board of Police Commissioners and the HRP should review and revise the HRP Use of Force policy. The revised Use of Force policy should emphasize that the goal is to *not* use force and that force should be used only as a last resort. Every available option other than force should be exhausted before a resort to use of force is justified. The policy should emphasize that de-escalation and withdrawal are always options that are available and should be considered prior to the use of force and throughout the engagement.

Recommendation 9: The Board of Police Commissioners should direct the HRP to review and revise the Sensory Irritant Policy. The revised policy should set specific criteria and procedures related to use, ensure only properly trained officers carry OC Spray (both initial training and regular retraining), and provide guidelines to ensure timely first aid is provided to those effected by pepper spray.

On August 18, 2021, once the situation calmed down, police officers returned to the police station. At that time, there was an informal meeting of officers who gathered together and talked about the events of the day. However, at no point on August 18, 2021, or thereafter was there a formal debrief where the police brass met with officers to discuss what happened, what had worked effectively and what had not, and what lessons could be learned. Given there was no formal debriefing conducted by HRP, there was also no formal report provided by the Chief to the Board. This was a missed opportunity for the Board to assert its oversight and accountability role.

Recommendation 10: The Board of Police Commissioners should consider a policy to ensure that after any critical event, a formal debriefing is held by the HRP. The debriefing should be led by senior officers and provide an opportunity for attendees to openly and safely discuss the events in question. Officers should be provided the opportunity to review the events in question and openly discuss the successes and flaws of the operation, and the lessons to be learned. There should also be an opportunity for officers to anonymously provide such input in the event they do not feel comfortable expressing their views publicly. The debriefing should be properly memorialized by a scribe. The Chief of Police and senior command, if not present at the debriefing, should receive a copy of the notes and take steps to implement any lessons learned.

Recommendation 11: The Board of Police Commissioners should require that after the debriefing, the Chief of Police must report the content of the debriefing and lessons learned to the Board. The Board and Chief of Police could then consider if any changes in policy, procedure or practices are appropriate and, if so, what those changes should be. Any changes in policy

and/or procedure should then be reported back to the force so the officers know the outcome of the feedback provided. If deemed necessary, the review of the report could be held *in camera* to protect confidential information about police tactics and strategies.

Because there was no debriefing, and no process for officers to discuss the events in question, officers who were traumatized by the events did not receive the mental health support they needed and deserved. Many officers reported being threatened, kicked, hit, sworn at, and struck by objects. Many of the officers we interviewed described it as their worst day in policing. However, few if any supports were offered to those officers. Rather, they were sent back out on the street without receiving any counselling or mental health support. This is not acceptable. The officers who need counselling and support are entitled to receive it. Moreover, this will help ensure public safety by ensuring that traumatized and compromised officers are not back on patrol without having had the appropriate counselling in place.

Recommendation 12: The Board of Police Commissioners and HRP should ensure they have a program that allows for counselling and mental health support for its officers. It is likely that there is an Employee Assistance Plan in place. The HRP should take steps to advise all of its officers that mental health support and counselling is available to its officers who have been subjected to traumatic experiences, whether on August 18, 2021, or any other date.

August 18, 2021, was described as a joint operation between HRP and HRM. In our Report, we have reviewed in detail the decision of the HRP to not withdraw from the Memorial Library.

However, there were also several opportunities for the *HRM* to consider withdrawing HRM staff from the operation. This may have resulted in the withdrawal of the HRP, as the HRP's stated role was to assist and protect HRM staff.

However, there was no mechanism in place for the HRM to make an independent determination of whether the removal of the Tyvek shelters should continue once problems arose. It was also clear that HRM staff on the ground felt they were not in a position to override police decision making on whether or not to proceed.

Several HRP officers told the Review that their view was this was an HRM operation, and they felt unfairly targeted by criticism in the aftermath of the events. Meanwhile, HRM staff claimed it was a police operation and they could not intervene. In other words, there was much finger pointing after the fact. However, it is clear that both the HRP and the HRM played significant roles in the events leading up to and on August 18, 2021, and that both had opportunities to withdraw but did not.

Recommendation 13: The Board of Police Commissioners should direct the HRP, in conjunction with HRM, to develop a policy for joint operations that permits senior HRM staff to determine whether the operation should continue. The Review is not suggesting that HRM should be permitted to direct HRP operations. Rather, HRM staff should be provided the tools to determine whether HRM goals are worth their continued involvement, including operations that may involve the use of force by the HRP against civilians.

Recommendations to HRP and HRM

The Terms of Reference require us to review the issues related to the Board's oversight, governance, and policy responsibilities that arise out of the HRP's role and involvement in the events of August 18, 2021. The Terms of Reference also direct that we consider the interplay between the Board, the HRP, and HRM as it relates to the communication strategies and decision making related to potential evictions of unhoused and/or underhoused individuals from public spaces.

In other words, we have not been asked to address only the role of the Board. Nor could we. One cannot examine the role the Board played in the events of August 18, 2021, or what role the Board should play going forward, without also considering the role of the HRP and HRM.

The Board's responsibility is to provide oversight, guidance and accountability to the HRP. Thus, we must understand what HRP's role was, is and should be in responding to the homeless crisis and the unhoused, in order to properly understand the Board's oversight responsibilities. And we cannot understand what HRP's role was, is and should be without understanding how HRM approaches these issues.

To achieve success, a municipality's response to housing, homelessness, and the unhoused requires all branches of government to work in a coordinated and cohesive fashion. A complex social and public issue like homelessness cannot be effectively addressed when different branches of government are pulling in different directions. They must work together.

Accordingly, and in accordance with our Terms of Reference, we are also making recommendations to the HRP and the HRM. We believe that our recommendations, taken as a whole, will allow all the relevant parties (i.e., the Board, HRP and HRM) to develop a comprehensive approach to improve the situation.

Those recommendations are below.

Recommendations to HRP

The HRP should be commended for the more progressive and compassionate approach that has been taken to encampments since August 18, 2021. The HRP has willingly taken a secondary role and allowed HRM to take on the primary role of responding to encampments. This approach should continue in conjunction with these Recommendations.

The events of August 18, 2021, were traumatic for everyone involved: the unhoused who lived in encampments and were evicted from their homes; those who witnessed the evictions; the protesters who were subjected to police use of force, violence and pepper spray; and the officers who were subjected to threats, personal attacks, and violence.

The Review has identified several flaws in the decision-making process of the HRP and HRM that led to the evictions, and in the execution of the plan to clear the encampments. In particular, the lack of proper Notice with sufficient time to prepare and a specific date for eviction, and the unplanned decision to clear the encampment at the Memorial Library were errors, as was the decision to persist with the plan despite multiple opportunities for the HRP to change course and

withdraw. These mistakes were significant contributing causes of the events that caused so much concern to the public and trauma for those involved. This Review has found that the HRM and HRP have taken commendable steps since August 18, 2021, to change their approach and support the unhoused and those in encampments in meaningful ways. That has been critical for people of Halifax/Dartmouth to begin to recover. However, while the steps the HRM and HRP have taken are laudable, there is still significant trauma and mistrust as a result of the events of August 18, 2021. An apology will assist in furthering the healing.

Recommendation 14: The HRP and HRM should publicly acknowledge that there were flaws in the decision-making process that led to the evictions, as well as in the execution of that plan. HRM and HRP should issue a public apology for those errors.

The HRP are often called on by the public to address issues related to homelessness. This may place an unfair burden on police who do not have the training, expertise, or resources to manage these problems. Rather, many of these public calls can and should be diverted to appropriately trained staff at the HRM. However, given their role in the community and in addressing criminality that may occur in public spaces and encampments, it is inevitable that the police will have regular contact with unhoused people and communities. Unfortunately, many of those engagements, and the manner in which the encampments were cleared on August 18, 2021, have led to a lack of trust between the police and unhoused people. That trust must be rebuilt. Accordingly, the police should be provided with some training to assist them in effectively responding.

Recommendation 15: As part of their training, the HRP should include a training module on working with unhoused communities and encampments. The people who provide the training should include people who are or were unhoused, and those from social service agencies who assist the unhoused. This will assist in training officers how to best interact with unhoused people and encampments and foster greater trust between unhoused communities and the police. The training should also address the fact that the unhoused often face intersecting forms of discrimination, including but not limited to anti-Black and/or Indigenous racism, sexism, homophobia, transphobia, and ableism. Accordingly, the training should also address those issues and include members of those communities as trainers.

The relationship between the unhoused and encampment communities on one hand and the HRP on the other is strained. This problem is not unique to Halifax. The Review was told how the unhoused often feel maltreated and harassed by the police because they are poor and do not have a home. The Review also heard that unhoused people who are Indigenous, Black and/or from other marginalized communities often feel discriminated against by police due to their intersectionalities. The events of August 18, 2021, aggravated this problem as it created greater distrust between the unhoused and the HRP. This does not mean that every HRP officer mistreats or discriminates against the unhoused, but rather, is indicative of a systemic problem. The Review met with many officers who expressed great compassion for the unhoused and a desire to live in a city where everyone has a safe and secure home. However, there is no question that the relationship between the unhoused and the HRP could be improved.

Recommendation 16: HRP should establish a Working Committee on Homelessness that is comprised of senior HRP officers, a member of the Board of Police Commissioners, unhoused persons, and representatives from social service agencies that assist the unhoused. There should also be representation on all sides from the Indigenous, Black, and other marginalized communities. The Working Committee should have as its stated goal to identify current issues related to the relationship between the HRP and unhoused communities, and how to build better relationships and trust between the HRP and unhoused communities. The Working Committee will be able to develop and or recommend policies, strategies and actions plans for approval by the Board that help achieve that goal. The Working Committee will also be able to review the development and implementation of the service training identified in Recommendation 15 and offer recommendations for enhancement.

The Public Safety Unit (PSU) of the HRP is meant to ensure public safety and minimize risk of harm to the public and property, during large protests, demonstrations, or other events involving large number of civilians.

It was the PSU that was called upon in August 2021 to jointly clear the encampments with HRM staff. As part of their deployment, the PSU developed an Operational Plan. The Operational Plan contemplated the clearing of encampments at Peace and Friendship Park, Horseshoe Island and the Halifax Commons. It did not contemplate the clearing of the encampment at the Memorial Library. This was a last-minute decision that was not properly planned in advance and the last-minute nature of the decision was a key contributing factor to a cascading series of events that resulted in catastrophe.

The Operational Plan did not properly contemplate all the possible impediments to achieving the stated goal and how those impediments would be addressed by police. For example, the Plan did not envision mass protests and how the police would respond.

The Operational Plan never contemplated a police withdrawal. Every Operational Plan should include the possibility of withdrawal as one of the options available to police. The police should always consider how and under what circumstances it would be appropriate for the police to withdraw from a situation. In an operation of the kind under consideration here, there will almost always be an opportunity to renew the plan another day when circumstances are more favourable. It is important that the police think about and plan for withdrawal before the operation commences. This helps create the mindset that withdrawal is always an option. The Review understands that withdrawal plans are now included in Operational Plans. This should continue.

The HRP arrested twenty-five people on August 18, 2021. However, the Operational Plan did not consider the possibility of mass arrests, the circumstances under which people could be arrested, or how a large number of people arrested would be processed. As a result, the arrests were done haphazardly and inconsistently. Some people appeared to be arrested for passive resistance, while others who engaged in more aggressive behaviour like throwing items or striking officers were not arrested. Of course, the police must be given the discretion to arrest or not arrest where they see fit. However, in circumstances where mass arrests are contemplated, officers should be given as clear direction as possible as to when an arrest will be appropriate.

Further, although the PSU anticipated arrests and directed the videotaping of the provision of the

right to counsel upon arrest, that videotaping did not take place. Moreover, many people were not given access to counsel for many hours. Also of note, the HRP did not have a plan as to how arrested people would be removed from the scene in a manner that was safe for the officers and the arrested person. This resulted in chaotic scenes where protesters were able to block police vehicles and impede the police. Once at the station, the HRP held many of the arrestees for several hours, on the premise that they would only release them once the protests had subsided so they could not return. This was an inappropriate rationale for holding people in detention and may have violated their s. 9 *Charter* right to be free from arbitrary detention.

Recommendation 17: HRP, including the PSU, should continue to develop Operational Plans in advance of any significant police engagement. That Operational Plan should clearly define the parameters of what is expected of police, including the goal to be achieved and the scope of work to be conducted by police. While recognizing that police work is dynamic and plans must be flexible to allow the police to accomplish their goals, and ensure the safety of the public and officers, the HRP should not exceed the original scope of the Operational Plan except where there are extenuating or urgent circumstances.

Recommendation 18: While police work is dynamic and not every contingency can be anticipated in advance, those who draft the Operational Plan should always endeavour to identify impediments and/or challenges to the plan, such as protests, public resistance, the presence of weapons, and any other risks. The Operational Plan should clearly identify those risks and articulate how police will manage them. Simply stated, the police should ask, “What could possibly go wrong and what are we going to do if it goes wrong?”

Recommendation 19: HRP should always ensure that any Operational Plan includes the possibility of withdrawal and under what circumstances withdrawal would be appropriate.

Recommendation 20: HRP should always ensure that any Operational Plan includes the possibility of mass arrests, the circumstances under which arrests will be appropriate, and how arrestees and officers will be able to safely leave the scene. The Operational Plan and the guidance given to officers should also make clear that people must be given the right to counsel upon detention, and that they must be given access to counsel within a reasonable period of time.

Recommendation 21: HRP should not detain people longer than is appropriate once a decision has been made to release them from the station. Detainees are entitled to be released once they are processed and it is safe for them to be released. Officers should be trained that to hold detainees in custody beyond that time may constitute a breach of s.9 of the *Charter* and is unlawful.

While there is no evidence that any HRP member intentionally removed their name tag, a lack of oversight resulted in several members not being identifiable. This lack of identification amplifies distrust between police and protesters by undermining the appearance of accountability. The need for officers to be easily identifiable is heightened during protests where—in the absence of a name or number—it would be difficult for a member of the public to easily identify with whom they

interacted due to the large number of officers.

It is incumbent on the HRP to ensure that officers are always identifiable (either through names or identification numbers), especially during larger operations. The HRP has initiated a “pre-inspection” of all PSU uniforms and kits by PSU Team Leaders. However, this has not been formalized in any policy or procedure documents provided to the Review. Any such procedure should be reduced to writing and formalized by a Departmental Order to ensure that continued compliance does not rely on custom or habit.

Recommendation 22: HRP should ensure they continue requiring their uniformed officers to identify themselves with a clearly identifiable and visible nametag that shows the officer’s name and badge number. This should be memorialized in a force wide policy or Directive.

On August 18, 2021, the operation was overseen by an Incident Commander who was located at Headquarters, while the Commanding Officer was on scene. The two communicated by telephone and/or radio and made decisions about the plan based on those communications. However, at different points during the day, the Commanding Officer became engaged in the “fray”. He was involved in the arrest of B.P. and in assisting an Identification Officer who was assaulted. As things devolved during the day, one of the concerns identified by officers was that the command structure had broken down. This was in part because the Commanding Officer on scene was engaged with protesters.

Senior PSU staff advised the Review that now the Team Commander is not on the scene and directs the action from a remote location. This will limit the ability of the Team Commander to be able to make a firsthand assessment of the dynamics and place greater reliance on information passed on subordinates.

Recommendation 23: The Commanding Officer on scene of the PSU should ensure that she/he is sufficiently removed from the events that she/he can objectively observe the events in question, communicate effectively with headquarters, and provide direction to the officers on scene. This will assist in ensuring the chain of command is maintained.

The Review was told that several officers conveyed serious concerns to the Team Commander about the decision to clear the Memorial Library site. It was suggested that the HRP and HRM not clear the area and return another day at a time that would be more appropriate. It appears that those viewpoints were not properly considered. Nor were those concerns passed along to the Superintendent, which deprived him of all the information he should have had to consider whether the clearing of the Memorial Library site should proceed. The chain of command is not only a top-down process. It requires information to be properly passed “up” the chain of command so that it can be properly considered and informed decisions made about the police operation. This is particularly true where the decision maker is not on the scene and is reliant on one officer to provide relevant information.

Recommendation 24: On-site Commanding Officers should be trained to listen to and consider the input of other officers and ensure that information is passed up the chain of command so those in charge of the operation can make informed and proper decisions. This is particularly

important where there may be disagreement among on-site officers about how to best proceed.

On August 18, 2021, as the situation became more chaotic and the command structure broke down, individual officers were left to make decisions on their own regarding a variety of issues including the use of force and the use of pepper spray. It is hoped that the Recommendations above regarding an effective Operational Plan and the maintenance of the command structure will minimize the likelihood that use of force and/or pepper spray is required in the future.

However, a review of the HRP Use of Force policy demonstrates that it is inadequate and out of date. It does not properly emphasize de-escalation or provide sufficient guidance to officers on when the use of force is appropriate.

The use of pepper spray on August 18, 2021, is of serious concern to our Review. Based on the video evidence, it appears that several officers deployed it as a form of retaliation rather than out of safety concerns. Even in a chaotic scene, it is inappropriate to deploy pepper spray unless there is an objective threat to officers. It should not be used as an offensive weapon or in a retaliatory manner. There was also at least one incident where a person in clear distress was dragged to a cruiser rather than taken for medical aid.

The HRP Policy on Use of Sensory Irritant Aerosol fails to provide clear guidance on when it is appropriate to deploy pepper spray. The policy addresses the use of pepper spray and tear gas inside confined spaces and reminds officers to “always use minimum force” and “never use excessive quantities of OC spray.” However, the policy fails to define “excessive,” and does not provide guidelines for circumstances or criteria for when pepper spray is appropriately deployed. It also fails to mention the need to get medical treatment for civilians for those affected.

Recommendation 25: The HRP should review and revise its Use of Force policy. The revised Use of Force policy should emphasize that the goal is to *not* use force and that force should be used only as a last resort. Every available option other than force should be exhausted before a resort to use of force is justified. The policy should emphasize that de-escalation and withdrawal are always options that are available and should be considered prior to the use of force and throughout the engagement.

Recommendation 26: The HRP should review and revise the Sensory Irritant Policy. The revised policy should set specific criteria and procedures related to use, ensure only properly trained officers carry OC Spray (both initial training and regular retraining), and provide guidelines to ensure timely first aid is provided to those effected by pepper spray.

Recommendations to HRM

As noted previously, one cannot merely isolate the Board and assess its role without considering more broadly the context of homelessness in Halifax and the role of the HRM in responding to the issue. Accordingly, our Review has examined the state of the housing crisis and homelessness in HRM and made recommendations to the HRM as well.

The HRM should be commended for the more progressive and compassionate approach that it has taken to encampments since August 18, 2021. This approach should continue in conjunction with

these Recommendations.

A key component of how a community responds to the unhoused is how the unhoused are perceived and characterized. The unhoused are our parents, siblings, and children. They are members of our families and communities who for a variety of reasons have fallen on hard times and are unable to afford the very high costs of renting and/or housing in Halifax. The unhoused are worthy of respect, dignity and compassion. Their lack of housing should not be a basis for indignity, discrimination, or criminalization. Rather, the lack of affordable housing should be understood as a societal failure and housing should be understood in the broader context of human rights. That approach dictates that people who are unhoused should be permitted to live in public spaces that are designated by HRM as appropriate.

Recommendation 27: Until the housing crisis is resolved (which will not be for many years), HRM should continue to designate appropriate public spaces for encampments as required.

Adequate housing, as understood in the context of international law and international human rights means, among other things, that unhoused people have a right to safe and secure housing in designated public spaces, including the provision of essential services. When tenting or living rough becomes a necessity, those who are forced into parks should be provided services to increase their health, safety, and dignity.

Recommendation 28: HRM should continue to provide the designated encampment sites with essential services such as tents, water, sanitation, and bathrooms.

Notwithstanding that HRM does and will continue to designate certain public spaces for encampments, there may be people who elect to set up tents or accommodation in non-designated spaces. Canadian courts have recognized that preventing people from sheltering in public, or evicting people when there are insufficient or inaccessible beds/places to shelter, is a violation of the *Charter*.

Recommendation 29: HRM should only consider eviction in non-designated locations (and designated) as a last resort. As held by Canadian courts, unhoused people and those living in encampments must be provided with a variety of alternative housing options before eviction from the encampment is contemplated or implemented. No steps should be taken to prevent the use of those designated public spaces for shelter, or evict the residents, unless HRM has taken every step possible to ensure there are enough and sufficient shelters spaces/beds to accommodate every unhoused person in HRM.

There was some confusion as a result of the HRM initially issuing a Notice to Vacate in June 2021, and then not acting on it. Then, a few days before August 18, 2021, Notice was provided to people living in encampments that they would be evicted. No specific date was given. This decision was made with the specific intent of preventing the public knowing the date to minimize the chance of any protests.

This decision was a mistake for several reasons.

First, it left residents of encampments unsure of whether evictions would occur at all, and, if so,

when. This prevented those living in the encampments from planning for alternative housing and/or locating a safe space to store their belongings. Second, it prevented social service agencies that assist the unhoused from being able to effectively assist those in encampments to find other accommodations prior to a specific date. Third, it prevented social service agencies and the Street Navigators from being on site on the day of the evictions to provide immediate help and support to encampment members. And lastly, it did not achieve the intended goal of minimizing protests. There were significant and protracted protests at the Memorial Library that resulted in a terrible and violent engagement between police and protesters, violence, the use of pepper spray, multiple arrests, and trauma for many of those involved. Instead of avoiding protests, the lack of notice was an important contributing factor to the problems that arose on August 18, 2021.

Recommendation 30: If HRM does decide to clear an encampment, it is critical that HRM issue a Notice that specifies the compliance date. There should be sufficient time, at least 14 days, between the issuing of the Notice and the deadline for residents to adequately prepare.

Recommendation 31: HRM should use a variety of communication channels and methods to ensure that people living in encampments are informed of the HRM's plans in a clear and timely way. This would include Notices being physically placed at encampment sites and the use of social media. There should also be an HRM resource for individuals living in encampments to contact if they have questions or concerns about the planned clearing. This contact information should be made public.

Recommendation 32: If HRM decides to clear an encampment, the Notice should be accompanied by a letter providing individuals living in the encampment with information about their options and what they can expect from the HRM as part of the clearing process. This information should be clear, accessible, and in plain language.

Recommendation 33: HRM should also ensure that social service agencies that support and assist the unhoused and those in encampments are also provided with the Notice and letter. HRM should take meaningful steps to work with those in encampments and social service providers to assist the residents to find alternative housing or encampment options prior to the date of eviction on the Notice.

Recommendation 34: Should HRM decide not to proceed with a clearing, they should inform individuals living in the encampment as soon as possible before the date specified on the Notice. Should HRM then plan to clear the encampment in the future, it should issue a new Notice with a new compliance date as soon as possible, with sufficient time for residents and social service agencies to provide assistance (at least 14 days).

Police forces across Canada, including the HRP, are often called upon by the public to address complicated social issues such as addiction, mental health issues, homelessness, etc... Where criminality is involved, the police are the appropriate first responders. However, in the absence of criminality, these social issues are often better addressed by social workers and those who are specifically trained to deal with such issues. The police do not have the required training, expertise or resources to address these social issues along with all their other responsibilities. HRM has made

great strides in directing these calls for assistance that do not involve criminality to properly trained HRM employees. This approach should be encouraged and properly resourced.

Recommendation 35: HRM should undertake a review of the resources provided to the Director of Housing and Homelessness to determine if there is sufficient funding and staffing to address the goal of assisting and supporting the unhoused community and those in encampments.

A common theme during the Review was that the HRM was the entity deemed responsible for addressing the housing crisis and the needs of homeless communities, however it is the province of Nova Scotia that has the needed jurisdiction and funding. This meant that HRM is left to manage the issues without the power or resources it needs to properly do so. The intergovernmental response to the housing crisis appears to be managed on an *ad hoc* basis without a clear and unified plan between the province and municipality. This dynamic also results in finger pointing between the municipal government and the provincial government as to which level of government is responsible and/or accountable for addressing housing and homelessness. The housing crisis and homelessness are issues that require the joint and combined effort of all levels of government (federal, provincial, and municipal), as well as the unhoused, the private sector and social service agencies.

Recommendation 36: HRM should approach the province about forming a permanent and joint Committee on Housing and Homelessness. The Committee would include provincial representatives, municipal representatives, representatives from the unhoused community, police, the private sector, and social service agencies who work with the unhoused. The Committee should meet on a regular schedule to jointly and collaboratively identify the needs of the unhoused and those in encampments, how to best address those needs, the resources required to address those needs, and a joint long-term plan to address the housing crisis in HRM.

Implementation- Joint Recommendation for the Board, HRP and HRM

The Board of Police Commissioners, HRP and HRM should be commended for the more progressive and compassionate approach that has been taken to encampments since August 18, 2021. This approach should continue in conjunction with these Recommendations. The Board of Police Commissioners, HRP and HRM should provide a public update on the implementation of these Recommendations by June 1, 2025.

Recommendation 37: The Board of Police Commissioners, HRP and HRM should provide a public update on the implementation of these recommendations by June 1, 2025.