

Policing the Pandemic Enforcement Report

April 04 2020 - April 13 2020

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www.policingthepandemic.ca

General Trends

Based on publicly accessible media articles, police press releases, and social media posts, we report the following COVID-19 enforcement trends between April 04-13 2020. This is not a complete or comprehensive picture, as reporting of enforcement is ongoing. Additionally, the sources we rely on are unlikely to capture every incident or enforcement action taken by police and by-law officers in Canada. What we offer are therefore conservative estimates.

Most enforcement actions have taken place in the provinces of Québec, Nova Scotia, and Ontario. These are the provinces that began mobilizing police against the pandemic first. However, with other provinces now beginning to ramp up enforcement, this is likely to change in coming weeks (Figure 1).

The majority of enforcement actions to date have been for failures to physical distance (e.g., standing closer than two metres away) and comply with minimal gathering rules (e.g., congregating in groups of more than two in some provinces) (Figure 2). The remaining enforcement actions have been for things like continuing to operate a non-essential business (e.g., bar, hair salon), coughing or spitting on a police officer or other person, leaving the house before the 14-day mandatory self-isolation is completed, attending a closed park, and lying about being COVID-19 positive (e.g., to avoid work or paying rent).

Most of the reported enforcement actions took place on or around April 04 2020, the day when a series of “enforcement blitzes” took place in several cities including Toronto and Montréal (Figure 3).

Below, we break down these trends by enforcement type—criminal enforcement, public health/emergency enforcement, and mixed enforcement (i.e. combined criminal and public health/emergency)—filling in as much contextual detail as we can using available reports.

Criminal Enforcement

Across the country, people are now facing a range of criminal charges in relation to COVID-19. By our counts, there have been 27 criminal charges brought by police against 19 individuals, including those who were faced with a combination of criminal charges and emergency/public health sanctions. The majority of individuals criminally charged have been in Ontario (7), British Columbia (5), and Alberta (2), followed by Québec (2),

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Figure 1: Total enforcement actions by province

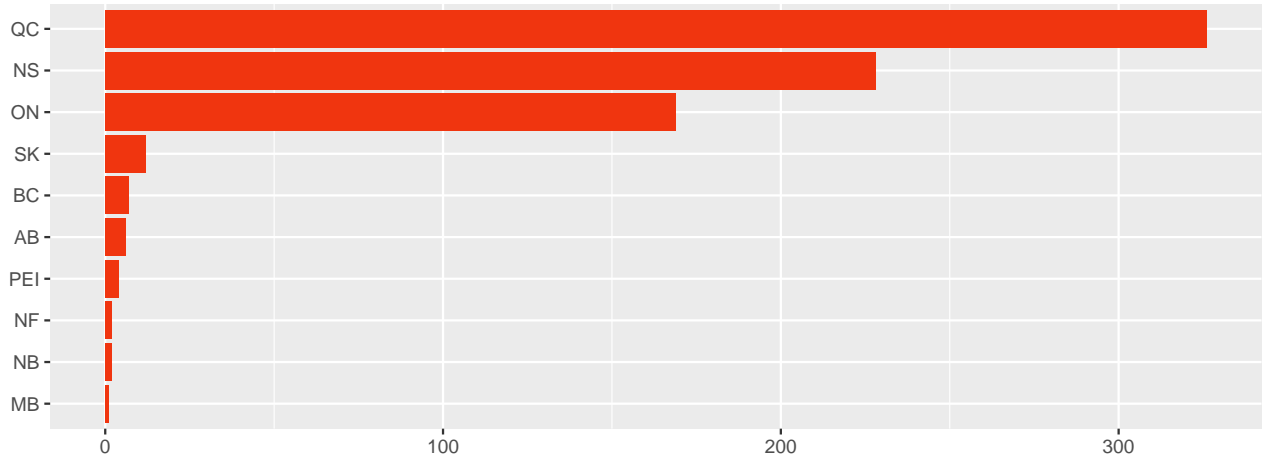
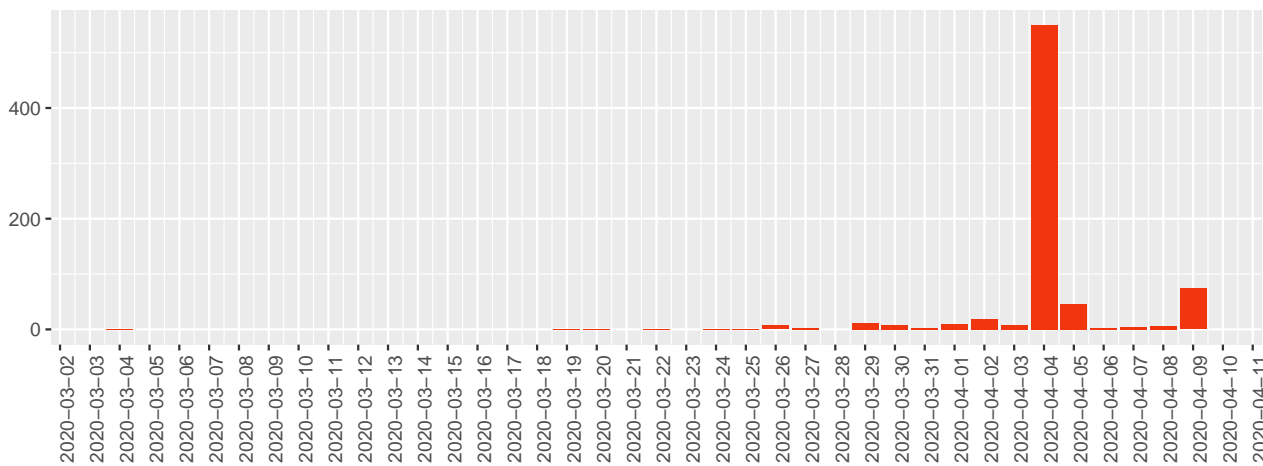


Figure 2: Total enforcement actions by alleged violation



Figure 3: Total enforcement actions by date



New Brunswick (2), Manitoba (1). We have not yet seen reports of criminal charges being brought against businesses.

There have been reports of 8 individuals facing criminal charges for allegedly coughing or spitting on police officers as a means of transmitting COVID-19. The offence in these cases has most often been assaulting a police officer, as well as, aggravated assault, uttering threats, criminal negligence causing bodily harm, and failure to comply with police. In many cases, these COVID-19 related charges have been laid in the context of arrest for another minor violation, such as theft of a bicycle, break-in, or trespassing on a vacant residence. Many of these people are therefore also facing a series of other criminal sanctions, as well as, the alleged COVID-19 related charges.

There have been reports of 3 individuals facing criminal charges for allegedly coughing on someone else as a potential threat for transmission of COVID-19 (i.e., not a police officer). In New Brunswick, two men were charged with assault because someone coughed on one of the man's roommates, and in Ontario another person is currently being investigated for accusations that they coughed on a liquor store employee.

Of these cases involving allegations of coughing/spitting on police officers and others, 2 were charged not only under the Criminal Code but also the provincial public health law (1 involving a police officer, the other a non-police officer). In these cases, someone who was arrested by police for another crime was also issued an order or fine under public health and/or emergency legislation. We believe these instances are important to highlight as they indicate the explicit merging of public health with criminal enforcement.

In one instance, a man in Alberta was charged with mischief under \$5000.00 for licking food in a grocery store as a prank.

In none of the above instances was anyone who was charged reported to have been known to have tested positive for COVID-19.

There have been reports of 4 individuals charged with COVID-19 related fraud charges under the Criminal Code. One person has been charged with fraud under \$5000.00 in Toronto for selling fake COVID-19 testing kits. Another person has been charged in Ontario with fraud under \$5000 for allegedly using a fake doctor's note (stating they were tested positive for COVID-19) to avoid coming into work. Lastly, two people in Victoria, BC have been charged with fraud after allegedly claiming to have tested positive for COVID-19 in order to extend their stay in an AirBnB without paying.

Reports continue to surface about law enforcement officers testing positive for COVID-19 across the country.¹²³⁴⁵ Heightened policing of the pandemic has the potential to intensify the crisis by putting people who come into contact law enforcement at greater risk for COVID-19. We have received multiple anecdotal reports from activists, harm reduction workers, and others on the ground, of enforcement officers not wearing PPE when ticketing

¹<https://www.thestar.com/news/gta/2020/04/09/eleven-toronto-police-employees-have-tested-positive-for-covid-19.html>

²<https://globalnews.ca/news/6753384/coronavirus-peel-regional-police-officer-tests-positive-covid-19/>

³<https://www.cbc.ca/news/canada/hamilton/police-positive-covid-19-1.5516072>

⁴<https://windsorstar.com/news/local-news/two-members-of-windsor-police-service-have-tested-positive-for-covid-19/>

⁵<https://globalnews.ca/news/6808345/coronavirus-halifax-police-tests-positive/>

or arresting people for disobeying social distancing. We hope more data will become available about this soon.

Public Health and Emergency Law Enforcement

In response to the COVID-19 pandemic, a complex array of emergency public health rules has emerged across the country, temporarily bolstering the powers of police and in some jurisdictions, municipal by-law officers. In general, these rules aim to maintain physical distancing, ban large gatherings of people, and mandate self-isolation after international or inter-provincial travel (usually 14 days).

In terms of public health and emergency law offences, we have seen reports of 735 cases in total. The vast majority of these, 95% (701/735), have been against individuals. The remaining 5% of public health and emergency law enforcement actions has been levied against businesses for remaining open when deemed non-essential.

Most enforcement occurred under public health law rather than emergency law. Out of the total 735 public health law and emergency law cases, 77% (565) are public health law violations while the remaining 23% (170) are emergency law incidents that were enforced.

Broken down by province, the majority of public health and emergency law enforcement actions have been in Québec (324), Nova Scotia (228), and Ontario (161). To date, although this may change, we have seen far fewer enforcement actions under these laws in other provinces/territories. The remaining cases are accounted for by Saskatchewan (12), PEI (4), Alberta (2), BC (2), and Newfoundland (2). It should be noted that these jurisdictions have yet to initiate enforcement at the same rate as other provinces.

There have been reports of 8 instances of people violating self-isolation orders, one woman in Newfoundland violated the order twice and is currently in remanded custody awaiting a hearing, another woman was fined \$2800.00, and a man in Nova Scotia was issued a summary offence for violating the province's Health Protection Act. A majority of these orders are related to people disobeying mandatory self-isolation after travel from another province or country. In only 2 instances were such orders related to people who had tested COVID-19-positive; one was a woman issued a \$1200.00 summons in Calgary; another was a woman arrested in Québec City.

There have been reports of 623 individuals facing sanctions for an alleged violation of physical distancing or gatherings of groups of people. Many of these tickets were issued on the weekend of April 4-5 across in Ontario, Québec and Nova Scotia, during what Toronto Police Services called an enforcement "blitz".⁶

In Ontario, tickets for a violation have been around \$880.00 on average (\$750, with a mandatory victim surcharge); in Ottawa, reports indicate that authorities have issued 43 such tickets. There is a report that a by-law officer in Ottawa punched a Black man in the face because he refused to give his name while being asked to leave a public park that was closed. The man was with his daughter and he said the enforcement officer singled him out

⁶toronto.ctvnews.ca/several-downtown-parks-will-be-targeted-in-easter-weekend-enforcement-blitz-police-say

in the park full of others. In Montréal, authorities have reportedly issued over 135 tickets, most often for \$1546.00. One such ticket was issued to a harm reduction outreach worker while she was providing harm reduction to support to street-involved people in downtown Montréal.

Québec provincial police have reportedly issued 157 tickets across the province to date. In Nova Scotia, approximately 139 people have been issued tickets of \$697.00 for various alleged violations, from both the RCMP and Halifax Regional Police, Cape Breton Regional Police. In one such instance, a woman's car was seized and she was issued a ticket for parking in the lot of a park that had been closed by way of an emergency order.

In the Cree community of Chisasibi, Québec, 15 people have been issued tickets of \$1000.00 for home gatherings and disobeying physical distancing rules. There have been 2 instances of re-offences, with 2 people receiving a second ticket a few days after the first violation.

There are reports of homeless people being ticketed under the new public health/emergency law powers enjoyed by police and by-law officers. 10 homeless people have been reported as being ticketed \$750.00 each in Hamilton by for violating physical distancing rules, enforced by by-law Officers. In Montréal, 5 young, homeless people have been ticketed \$1546.00 by the Service de police de la Ville de Montréal (SPVM).

In almost all of these instances, if a person re-offends multiple times, the emergency legislation allows for jail time. This makes the re-offence scenarios that have already come to light in Chisasibi particularly troubling. More re-offences are likely to emerge in the coming weeks and should be monitored closely.

We have collected 34 reports of businesses being issued fines for allegedly disobeying the order to close when deemed non-essential. A drug dealer was fined for operating a non-essential business, along with facing other charges for drug possession. A number of pawn shops have been fined, as has one Hookah lounge, a hair salon, and a pub. In these cases, tickets have been between \$7500.00 in Halifax, to \$750.00 in Ontario.

Enforcement Scale-Up

The territories, British Columbia, Manitoba, Saskatchewan, and Alberta have not yet been widely enforcing emergency public health measures, including physical distancing, mandatory self-isolation, or bans on gatherings of groups of people. But these provinces, and some municipalities within them, have announced plans to begin enforcement in the coming weeks. British Columbia announced an up-to \$25,000 fine for those alleged to disobey public health guidance,⁷ the City of Vancouver announced a fine of \$1000 for alleged to disobey physical distancing,⁸ Manitoba announced a fine of \$486.00 for individuals and \$2,542 for businesses,⁹ and Saskatchewan has enacted a \$2000 fine under the provinces' Emergency Measures Act.¹⁰ Furthermore, it has been announced that the

⁷<https://www.cbc.ca/news/canada/british-columbia/covid-19-bc-state-of-emergency-orders-1.5510677>

⁸<https://www.cbc.ca/news/canada/british-columbia/vancouver-council-covid-fines-1.5506828>

⁹<https://www.cbc.ca/news/canada/manitoba/brian-pallister-brian-bowman-covid-19-measures-update-1.5527532>

¹⁰<https://globalnews.ca/news/6710474/saskatchewan-order-enforcing-measures-protecting-against-covid-19/>

RCMP will be enforcing the Quarantine Act federally, and the policing institution will act as a coordinating body across the provinces to assist in enforcement efforts.¹¹ As a result, it is likely that enforcement will increase.

¹¹<https://nationalpost.com/news/canada/canada-quarantine-act-emergencies-act>