

24 August 2020

BY EMAIL: David.Glos@cbsa-asfc.gc.ca and Lisa.Janes@cbsa-asfc.gc.ca

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Lisa Janes
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Dear Mr. Glos and Ms. Janes:

Re: Open letter expressing concerns regarding COVID-19 protocols at the CBSA's Greater Toronto Area Region Enforcement and Intelligence Operations Division

We, the undersigned, are a group of immigration and refugee lawyers practicing in the Greater Toronto Area. Many of our clients have dealings with the Canada Border Services Agency's Enforcement and Intelligence Operations Division ("EIOD") located at 6900 Airport Road in Mississauga. We are writing to express our concerns that the COVID-19 protocols employed at EIOD are insufficient and may be placing our clients and your officers at risk.

On August 20, 2020, Joseph Granton (one of the undersigned lawyers) attended EIOD with his client who had been requested to present herself to the Canada Border Services Agency. Mr. Granton describes an alarming situation. For instance:

- On-site security performed no COVID-19 screening of individuals seeking to enter the building.
- Mr. Granton and his client interacted with CBSA officials who were behind plexiglass, but who were not wearing masks when speaking to individuals through a hole in the plexiglass, which appeared to allow for an exchange of air without any filter.
- Security made no efforts to enforce proper mask wearing for those in the waiting room, with many individuals improperly wearing their masks under their noses.
- While some seating in the waiting room had been removed, the waiting room was nonetheless quite full, with easily more than a dozen individuals in cramped quarters. The amount of people in the waiting room resulted in situations where parties were frequently within six feet of each other.
- These concerns were amplified when Mr. Granton, his client, and their interpreter -- members of three different households -- were invited into an interview room that was approximately 5' by 7', leaving inadequate space to physically distance. They were further left sitting in this environment for at least an hour. There was no way of knowing whether the room had been sanitized between uses.
- Despite the plexiglass barrier separating the officer from the others in this room, it appeared that the ventilation system between both halves of the room where the unmasked officer was sitting was shared with the portion of the room holding Mr. Granton, his client, and the interpreter.

This failure to screen for COVID-19, lack of enforcement of proper mask wearing, inability to physically distance, and the absence of masks on some CBSA officers, combined with the requirement that individuals from different households spend considerable amounts of time in close proximity to each other raise serious concerns about whether EIOD is risking the health and safety of those it requires by law to appear on-site, heightening the potential for COVID-19 transmissions.

In the vast majority of circumstances, individuals attending EIOD are not doing so by choice: they are summoned under penalty of arrest and detention. Moreover, individuals attending EIOD face the threat of arrest if they are viewed as “uncooperative” by CBSA officials. These are the same individuals who are often “essential workers” forced to interact with the public on a daily basis, and who also often do not have OHIP. Many live in shelters and have faced COVID-19 outbreaks. Some are immunocompromised, or are in close proximity of those who are. This results in a situation where vulnerable individuals are compelled to attend an unsafe environment, and where they are reticent to raise complaints about such an unsafe environment lest they be viewed as ‘uncooperative’ and arrested. The CBSA needs to do more to ensure that environments like these are safe for the vulnerable individuals forced to attend.

We are calling on the CBSA to immediately implement the following measures to reduce the potential spread of COVID-19 at EIOD:

- A commitment to finding alternative means of actioning files prior to requiring in-person appointments at EIOD;
- Active COVID-19 screening by security personnel, prior to the public’s entrance to EIOD;
- Requirements that all CBSA officers wear masks when interacting with the public at EIOD, even when behind plexiglass screens;
- Scheduling appointments for all attendances at EIOD, including ‘walk-ins,’ and ensuring that interviews start as close to the scheduled appointment time as possible;
- Limiting the length of the interviews and time spent in the interview room, considering that the Government of Canada’s COVID Alert app considers 15 minutes in proximity to be an ‘exposure’;
- Active enforcement of proper mask wearing by CBSA and the public, alike;
- Reconfiguration of the waiting room so that all seats are at least six feet apart from other seats;
- Further reduction in the capacity of the waiting room; and,
- Reconfiguration of interview rooms so that counsel, the interpreter and the client can be at least six feet apart from each other during the course of the interview.

These measures are in line with public health guidelines published by both the Federal Government and Peel Region. For instance, the Treasury Board Secretariat notes that “in highly operational settings – the use of physical distancing and other protective measures will need to be emphasized to protect the health of employees and Canadians.”¹ The Treasury Board Secretariat further directs employees to “follow public health measures including hand hygiene, [and] physical distancing”.² The Region of Peel’s Public Health Department recommends that

¹ Treasury Board of Canada Secretariat, “Guidebook for departments on easing of restrictions: Federal worksites” 19 August 2020, online: <https://www.canada.ca/en/government/publicservice/covid-19/easing-restrictions/departamental-guidebook/federal-worksites.html>

² Treasury Board of Canada Secretariat, “Responding to easing of Coronavirus disease (COVID-19) restrictions for Government of Canada worksites” 02 July 2020, online: <https://www.canada.ca/en/government/publicservice/covid-19/easing-restrictions.html>

everyone “[p]ractice physical distancing with everyone outside of your safe social circle and avoid crowds.”³ The Region also recommends that businesses should “[a]djust the workspace to create physical barriers or restructure physical settings between people to protect employees and visitors and ensure that 2 metres (6 feet) of space can be maintained.”⁴ The Region further recommends that businesses assess whether active screening should be implemented.⁵ The City of Mississauga has mandated that masks are to be worn indoors in all spaces accessible to the public.⁶

We trust that you will take immediate action to address these concerns and proposed measures in light of the severity of the COVID-19 pandemic.

Yours truly,

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³ Region of Peel “Protecting Yourself and Others” online: <https://www.peelregion.ca/coronavirus/prevention/>

⁴ Region of Peel “Business” online: <https://www.peelregion.ca/coronavirus/business/>

⁵ *Ibid.*

⁶ City of Mississauga, “Mandatory Face Covering By-law For Indoor Public Spaces” 8 July 2020, online: <https://web.mississauga.ca/city-of-mississauga-news/news/mandatory-face-covering-by-law-for-indoor-public-spaces/>