

The Criminalization of Homelessness in BC:
The BC Safe Streets Act

By

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B.Sc., University of Alberta, 2018

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Statement of Position

I would like to acknowledge with respect the lək'wəŋən (Lekwungen) peoples, now known as Esquimalt and Songhees Nations, on whose unceded territory this work has taken place. I am a 4th generation descendent of settlers from Ireland and Norway on my mom's side, and Ireland and Scotland on my dad's side. I was born and raised on Treaty 8 territory in nistawâyâw (also known as Fort McMurray) on the homelands of the Cree, Dene, and Metis people.

I received my Bachelor of Science degree in Biology with a specialization in Animal Biology from the University of Alberta in 2018. Later in 2018, I began work on a Master of Public Administration (MPA) degree at the University of Victoria. During the MPA program I completed three co-op terms with the provincial government, working primarily in housing and homelessness policy. After completing my co-op terms, I began working with the Aboriginal Coalition to End Homelessness Society, an Indigenous-led organization with a mission to end Indigenous homelessness on Vancouver Island. I have since left Victoria to pursue a Juris Doctor degree at the University of Alberta.

This project is focused on a piece of legislation that disproportionately affects people experiencing homelessness and extreme poverty. I recognize that various groups including First Nations, Metis, and Inuit people, racialized people, people with diverse abilities, recent immigrants, gender diverse people, and members of the 2SLGBTQ+ community are overrepresented in this population. As a white, able-bodied, cis-gender, pansexual woman from a middle-class background, I recognize that my ability to fully and appropriately understand and relay information regarding the criminalization and marginalization of people experiencing homelessness and extreme poverty is limited. I have attempted to account for my positionality by building upon the work previously done by advocates, activists, and journalists who have worked directly with people impacted by efforts to criminalize homelessness.

It is my sincere hope that this project will bring awareness to the issue of criminalization of homelessness and extreme poverty in BC, and will support further research efforts on the topic.

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First and foremost, I would like to thank my parents, Patti and Brad Lamb. You have loved and supported me unconditionally through 28 years of life, two (and a half) degrees, and most impressively, ages 14-17. I know that you both have made immense sacrifices to give me the kind of opportunities that were never available to you, and I am eternally grateful. I love you more than anything.

To my loving partner, John Maxwell, thank you for always being open to new challenges, including maintaining a relationship with 1684 km between us. These past four years have been difficult, but there's no one else I would rather watch Bob's Burgers over FaceTime with. I couldn't have done this without you. In a literal sense, I would not have passed Calc I without you and therefore would not have finished my undergrad – but on a deeper level, your tireless commitment to your work inspires me to do better every single day. Thank you for choosing me. Love millions.

To my MPA classmates, thank you for welcoming me into your lives with open arms in September 2018. We've all said it before, but we really lucked out. I'm glad we found each other.

Lydia, I have no doubt that you will continue to be the most insightful, brilliant, and tenacious person I've ever known. I am so eager to see what the universe has in store for you (and more importantly, what you have in store for the universe). Thank you for keeping me in your life even after witnessing me subsist exclusively on veggie hot dogs for three straight days.

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Drew, my short king, thank you for all the laughs and for pet sitting whenever I wanted to make a trip home. That was more important than you could have known, especially in the early days. Milo, Noodles (rip to a real one), and O miss their uncle terribly.

Last but certainly not least, Traviss, thank you for being my stats partner, introducing me to Red Barn sandwiches, and hosting 2 straight years of Friday movie nights (and paying for my korma 99% of the time). Those nights kept me going through some dark times. Thank you for not turning your back on *family*.

Sincerely,

A handwritten signature in black ink that reads "Courtney Lamb". The signature is written in a cursive, flowing style.

Courtney Lamb, B.Sc, MPA (hopefully)

Executive Summary

Introduction

Homelessness and extreme poverty are growing issues in BC and across Canada. Solicitation and begging in public spaces, also known as “panhandling”, is a visible manifestation of these larger societal issues. Community and business pressure on governments has led to the enactment of several provincial and municipal measures to restrict where, when, and how people can engage in panhandling activities.

The BC Safe Streets Act (BCSSA) is an example of provincial legislation that restricts panhandling activity. The Act outlaws aggressive solicitation and solicitation to a captive audience such as someone using an ATM, bus stop, pay phone, public washroom or roadway. Similar legislation in other jurisdictions has led to significant negative socioeconomic outcomes for people experiencing homelessness and poverty.

The goal of this report is to determine whether the costs associated with the BCSSA outweigh the Act’s benefits. Several secondary research questions were formulated to guide the research:

- 1) How is the BCSSA enforced across the province?
 - a) What subsections of the Act are most often violated?
 - b) Does enforcement differ across municipalities?
 - c) Has enforcement differed over time?
- 2) What is the financial burden that has been placed on people who violate the BCSSA?
- 3) What does it cost to enforce the BCSSA?
- 4) What is the impact of SSA-style legislation in other jurisdictions?

Methodology and Methods

In pursuit of the above noted goal, the researcher took a two-pronged, mixed methods approach. The researcher first conducted a jurisdictional scan to better understand similar legislation across Canada. Next, the researcher conducted a literature review to examine the impact SSA-style legislation has had in other jurisdictions in Canada. Finally, the researcher used primary data gathered from Freedom of Information requests to municipal police departments, the RCMP, and ICBC to examine the enforcement of the BCSSA over time and space.

Key Findings

Using the above noted methodology, the following findings were uncovered:

- 1) Criminalization of homelessness and poverty interacts with SSA-style legislation in a cyclical fashion, which perpetuates poverty and deepens entrenchment in homelessness.

- 2) SSA-style legislation can lead to poor social, economic, and physical outcomes for people experiencing homelessness.
- 3) Enforcement of the BCSSA is relatively stable as a function of both municipal and homeless population. However, there are some outlier municipalities in which ticketing under the BCSSA is disproportionate to the municipal and/or homeless population.
- 4) The BCSSA is enforced with less frequency than the OSSA in Ontario, however, enforcement is gradually increasing at an average of 4% per year.
- 5) ~90% of offences under the BCSSA have been classified as “Captive Audience” offences that are not aggressive in nature.
- 6) There is no evidence that the BCSSA has reduced problematic panhandling behaviour.
- 7) The cumulative debt load of those ticketed under the BCSSA is \$670,886.
- 8) 96.76% of BCSSA tickets remain unpaid.
- 9) The total public cost of enforcement of the BCSSA up to May 2021 is ~\$96,317.

Considering these findings, the researcher concluded that the costs of the BCSSA outweigh its benefits.

Recommendations

The researcher made four recommendations to the provincial government of British Columbia to reduce the harms created and perpetuated by the BCSSA. These recommendations were:

- 1) Repeal the BC Safe Streets Act.
- 2) Fund evidence-based solutions for addressing the underlying causes of problematic panhandling.
- 3) Amplify the voices of panhandlers to educate members of the public about the root causes of panhandling.
- 4) Where necessary, rely on existing legislation to address aggressive panhandling.

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1.0 Introduction

1.1 Defining the Problem

Visible manifestations of homelessness and extreme poverty are growing issues in BC and across Canada (Bula, 2019). Some of the more common of these manifestations are encampments, sleeping rough, and “panhandling”, which for the purposes of this project, will be defined as the activity of soliciting or begging for money in public spaces (Heavren, 2019, p. 29). Community and business pressure on governments has led to the enactment of several provincial and municipal measures to restrict where, when, and how people can engage in life-sustaining activities such as sleeping and generating income (Bula, 2019).

The use of policing and the criminal justice system to address homelessness is a widespread phenomenon that dates back to the vagrancy laws of the 19th century and has seen a resurgence in the form of panhandling and camping restrictions (Gordon, 2006, pp. 74-75). Researchers who study homelessness and extreme poverty refer to the use of the criminal justice system to address homelessness as the “criminalization of homelessness” (O’Grady, Gaetz & Buccieri, 2011, p. 20).

The BC Safe Streets Act (BCSSA) is an example of provincial legislation that restricts income-generating activities of those experiencing homelessness and extreme poverty. The Act outlaws aggressive solicitation and solicitation to a captive audience (BCSSA, 2004). Aggressive solicitation is defined as solicitation in a manner that would cause a reasonable person to be concerned for the solicited person’s safety or security (BCSSA, 2004). Examples of this include soliciting through blocking the path of another person, using abusive language, following the person, or soliciting in groups of more than two people (BCSSA, 2004). Soliciting to a captive audience is defined as soliciting within five metres of an ATM, bus stop, pay telephone, public washroom, or parking lot, or soliciting on a roadway to a person who is entering, exiting, or occupying a vehicle (BCSSA, 2004).

Studies on the Ontario Safe Streets Act (OSSA) have uncovered alarming consequences of such legislation, including substantial financial burdens being placed on people in extreme poverty through fine administration, high costs of enforcement, and sociological effects including further marginalization and stigmatization of people experiencing extreme poverty and homelessness (O’Grady, Gaetz, & Buccieri, 2013, pp. 546-554). Although the BCSSA was modeled after the Ontario Safe Streets Act (OSSA) and bears striking similarity to it, no such study has been done to analyze the impacts of the BCSSA.

This study will seek to provide information about the BCSSA, including its enforcement patterns since it was enacted in 2004, its financial impact on those ticketed as well as the community at large, and the impacts of similar legislation across jurisdictions. The

report will then discuss the policy implications of the findings and recommendations for British Columbia's provincial government.

1.2 Project Objectives and Research Questions

The primary objective of this project is to examine the BCSSA as a legislative approach to addressing visible manifestations of homelessness, namely panhandling. In pursuit of this objective, the researcher will consider both primary, real-world data from British Columbia, and secondary data related to similar legislation in other jurisdictions.

Primary Research Question:

Do the costs of the BCSSA outweigh its benefits?

Secondary Research Questions:

- 1) How is the BCSSA enforced across the province?
 - a) What subsections of the Act are most often violated?
 - b) Does enforcement differ across municipalities?
 - c) Has enforcement differed over time?
- 2) What is the financial burden that has been placed on people who violate the BCSSA?
- 3) What does it cost to enforce the BCSSA?
- 4) What is the impact of SSA-style legislation in other jurisdictions?

1.3 Background

In 2004, BC enacted the Safe Streets Act (BCSSA, 2004). The Safe Streets Act was modeled after Ontario's Act of the same name and was created to address growing community and business concerns about panhandlers in urban centres. In 2004, Hon. Lorne Mayencourt, the MLA who tabled the first iteration of the BCSSA, stated that the BCSSA was meant to "give tools to the police to help them create a safer and more secure environment" (BC Legislative Assembly [BCLA] Debate, 2004, p. 10948). The tools he discussed included creating an offence for aggressive panhandling, outlawing squeegeeing on highways, and creating an offence for the unsafe disposal of drug paraphernalia and used condoms (BCLA Debate, 2003, p. 7514).

Hon. Mayencourt's bill was eventually withdrawn and replaced by a bill of the same name, tabled by Hon. Geoff Plant. This bill, which eventually became the BC Safe Streets Act that is in effect today, defined and created offenses for aggressive solicitation and soliciting to a captive audience, which includes people using a variety of public services as well as vehicle occupants (BCSSA, 2004). The BCSSA does not outlaw the unsafe disposal of drug paraphernalia and used condoms, as unsafe disposal was already outlawed under Section 9 of the Waste Management Act (1996).

At the time of its enactment, the BCSSA was controversial. Proponents of the legislation described it as a necessary public safety measure (BCLA Debates, 2004, p. 10948) while critics of the legislation stated that it only addressed the symptoms of extreme

poverty and did nothing to address its root causes (BCLA Debates, 2004, p. 10951). Interestingly, the OSSA continues to generate significant controversy, with advocates calling for its repeal as recently as 2019 (Mathieu, Bailey, & Tulk, 2019), while there has been little media coverage related to the BCSSA since the mid-2000s.

1.4 Organization of Report

This report is organized into eight sections. Section 1 introduces the research. Section 2 provides an overview of the research design that guided this study. Section 3 discusses the results of a jurisdictional scan which provides context to the study by discussing the criminalization of homelessness in Canada across time and place. Section 4 presents the findings of a literature review that discusses core themes emerging from the existing body of work related to SSA-style legislation. Section 5 presents novel data regarding the enforcement of the BCSSA across BC. Section 6 offers an answer to the primary research question and potential policy options. Section 7 discusses policy implications and recommendations to the provincial government. Finally, Section 8 is a concluding chapter.

2.0 Methodology and Methods

This section will describe the methodology and methods utilized to address both the primary and secondary research questions.

2.1 Methodology

This project utilized an empirical, mixed methods research design to achieve the stated project objective. Quantitative information regarding enforcement trends was collected via Freedom of Information (FOI) Requests from BC's 13 municipal police departments as well as the Royal Canadian Mounted Police (RCMP) and the Insurance Corporation of BC (ICBC). Qualitative information on the impacts of similar legislation across jurisdictions was collected through a literature review.

2.2 Methods

Data has been collected through FOI requests to municipal police departments and the RCMP. Information requested include:

- 1) Offences under the BCSSA;
- 2) Type of offence (aggressive solicitation or solicitation of a captive audience);
- 3) Date of offence;
- 4) Location of offence (municipality);
- 5) Fine amount.

A secondary FOI was filed with the Insurance Corporation of British Columbia (ICBC). As the agency responsible for collecting fees accumulated under the BCSSA, the information requested from ICBC included:

- 1) Tickets administered under the BCSSA by municipality and year;
- 2) Ticket payment status by municipality and year.

This method was utilized by Chesnay, Bellot, & Sylvestre in their 2013 study on the penalization of homelessness, which was reviewed during the literature review for this study.

The research methods and tasks took place in the following order:

- 1) File FOI requests with municipal police departments and RCMP to gather enforcement data from the enactment of the BCSSA in 2004 to present (2020).
- 2) Scan other Canadian jurisdictions for similar legislation.
- 3) Conduct a literature review on the impacts of SSA-style legislation across Canadian jurisdictions.
- 4) File an FOI request with ICBC regarding ticket administration across time and place and payment status of BCSSA tickets.
- 5) Compile data from FOIs as it becomes available.
- 6) Develop a data analysis strategy based on available information.
 - a. Financial burden will be assessed by calculating the sum of BCSSA tickets administered since its enactment in 2004.
 - b. Cost of enforcement will be calculated using the O'Grady et al. method, which averages ticketing time at 15 minutes and calculates overall cost of enforcement based on publicly available police salary data (2013, p. 552).
- 7) Interpret data.
- 8) Discuss policy implications and provide recommendations.
- 9) Report findings.

2.3 Data Analysis

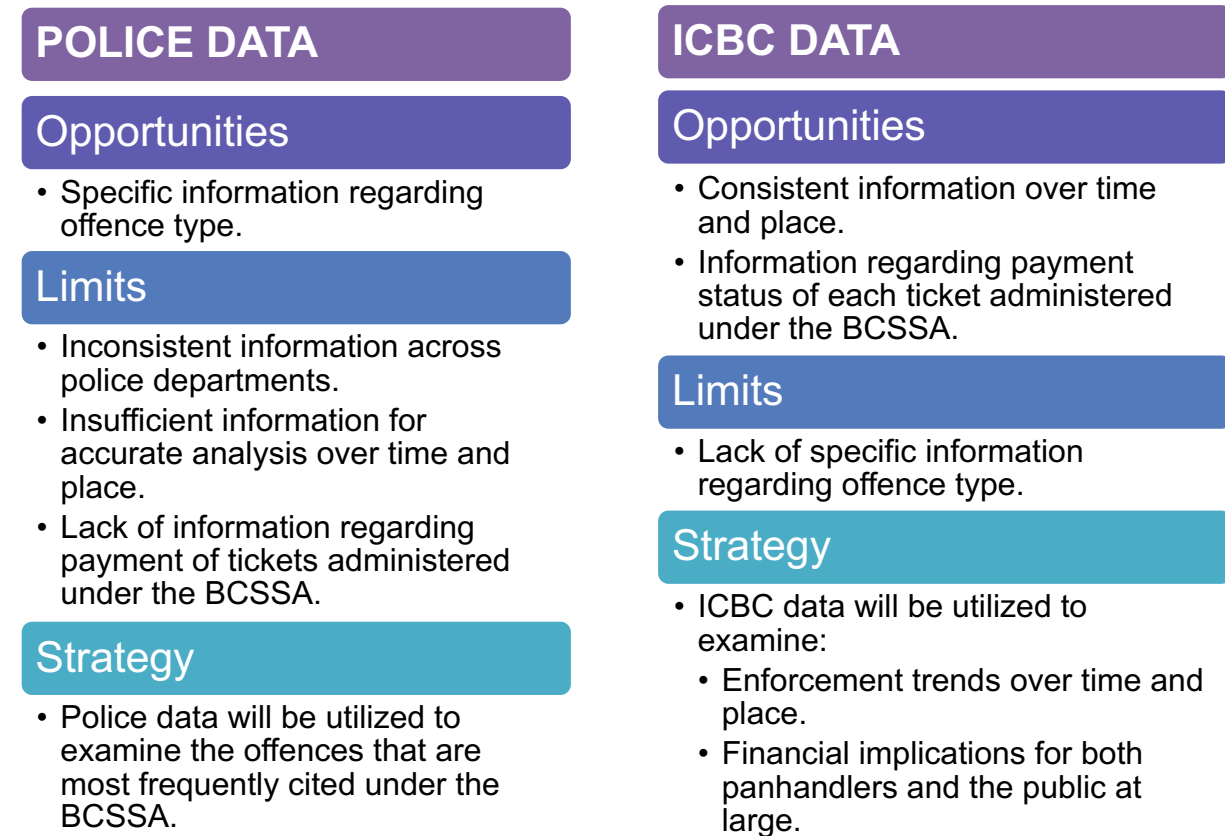
Several complementary data analysis techniques were utilized to explore the research questions. This section will discuss each technique in relation to the secondary research question(s) it is meant to explore and will conclude by discussing how weaving each technique together will provide a comprehensive answer to the primary research question. This section will also provide rationale for the use of certain datasets to answer certain questions.

Quantitative Data Analysis Framework

Each quantitative dataset (police and ICBC) came with its own set of opportunities and challenges. The police data was more specific and provided more information on the offence type and which part of the act had been violated. The ICBC data provided a better breadth of information, spanning all municipalities and years.

To utilize each dataset to its fullest potential, the researcher constructed the following data analysis framework based on the opportunities and limits of each dataset.

Figure 1. Data analysis framework



Secondary research question #1: How is the BCSSA enforced across the province?

1A) What subsections of the Act are most often being violated?

To analyze the offences that are most frequently ticketed under the BCSSA, the researcher first had to aggregate the 14 distinct police data sets (13 municipal police departments and the RCMP) into one dataset. Language was then standardized across datasets, as some datasets referred to the section of the Act (ie. S. 3(2)) and other datasets described the offence (ie. Aggressive Solicitation). Next, basic statistical analysis was performed to better understand the relative frequency of each offence.

1B) Does enforcement differ across municipalities?

To analyze the enforcement of the BCSSA across BC, ICBC data was organized by location of offence and plotted onto a bar graph. There was significant inter-municipality variance in ticket administration. To better understand this variance, the researcher compared the ticket administration to two independent variables:

- a) Municipal population; and
- b) Homeless population.

To understand the relationship between ticket administration and each of these secondary variables, the researcher calculated the number of tickets administered per 100,000 (municipal population) and per 100 (homeless population). These values were then plotted on bar graphs (Figures 4-7) and fit to linear regression models to quantify the relationship between the dependent variable (ticket administration) and each independent variable (municipal population and homeless population).

1C) Has enforcement differed over time?

To examine ticket administration over time, ICBC data was organized by year of offence and plotted onto a line graph. A line of best fit was added to the graph and the slope of the line was calculated to understand the degree of change over time.

Secondary research question #2: What is the financial burden that has been placed on people who violate the BCSSA?

Financial burden was assessed simply by multiplying the total number of tickets by the minimum ticket cost under the Offence Act (\$85).

Secondary research question #3: What does it cost to enforce the BCSSA?

Enforcement costs were assessed using the same strategy as was used by O'Grady et al. in a 2013 study on OSSA enforcement (p. 556). The number of tickets administered was multiplied by the estimated time taken to administer a ticket, and again by the average salary of a 1st Class Constable as per the Vancouver Police Department (VPD) salary grid (VPD, 2019). Ticket administration was estimated to take 15 minutes.

Secondary research question #4: What are the impacts of SSA-style legislation in other jurisdictions?

This research question was explored through qualitative data gathered through the literature review. This data was analyzed through inductive thematic analysis in which themes were identified and incorporated into the study as they emerged from existing literature. Fugard and Potts define thematic analysis as a process of constructing themes and categorizing information into them (2019, p. 3). Comparison is a key aspect of thematic analysis in that each distinct source is analyzed and interpreted with respect to each other source individually and also analyzed and interpreted with respect to the dataset as a whole (Fugard and Potts, 2019, p. 3). Through this process, four key themes were identified and further broken down into several sub-themes.

Primary research question: What is the impact of the BCSSA?

The information gathered through the secondary research questions was braided together to form a comprehensive and well-rounded answer to the primary research question. No additional data analysis was conducted at this stage.

2.4 Project Limitations

Police data accessibility was a key limitation in this study. The RCMP is only able to access data on tickets administered under the BC Safe Streets Act for two years from the offence date. Each municipal police department varied in what it could provide due to staggered transitions to digital record-keeping that occurred throughout the 2000s. ICBC was able to bridge this gap to an extent, but came with its own limitations in data specificity. As such, where long-term data is available, data specificity is sub-optimal, and vice versa.

Data on homelessness in BC was another limitation in this study. BC began quantifying homelessness through Point in Time (PiT) at the provincial level counts in 2018 and many municipalities have only conducted one homeless count. This lack of data prevented the researcher from examining the relationship between homelessness and BCSSA ticket administration over time.

Another limitation of this study is its scope and ability to portray the extent of criminalization that people experiencing homelessness face. Tracking the enforcement of the BCSSA provides a snapshot of a specific aspect of the criminalization of homelessness in BC and will not provide a comprehensive overview of the issue. Many BC municipalities have enacted bylaws to restrict panhandling in their communities. While these bylaws will be discussed briefly, the enforcement of these bylaws is outside of the scope of this project. The researcher feels it is important to note that while this study is focused on the BCSSA, municipal ordinances related to homelessness are increasingly relevant to lives of people experiencing homelessness and extreme poverty in BC.

Lastly, while this project highlights the negative consequences of the BCSSA and similar legislation in a broad sense, it does not provide data regarding differential enforcement of the BCSSA based on identity factors such as Indigeneity, race, gender, sexual orientation, mental health status, or ability. Differential enforcement of the BCSSA would have significant implications for the constitutionality of such enforcement. While an identity-based analysis of BCSSA enforcement trends was outside of the scope of this project, the researcher feels that such work is essential to understanding the true impact of this Act.

3.0 Jurisdictional Scan

3.1 The History of Homelessness Criminalization in Canada

Vagrancy Law

The “criminalization of homelessness” refers to the use of policing and the criminal justice system as a means to address homelessness (O’Grady et al., 2013, p. 543). The ubiquitous vagrancy laws of the 19th and 20th centuries were overt examples of this as they outlawed the very presence of people without employment in public spaces (Gordon, 2006, p. 75).

Canadian vagrancy laws predate confederation and continued until the late 20th century (Gordon, 2006, p. 76). After confederation, the Vagrancy Act of 1869 was passed as part of an effort to consolidate criminal law in the newly formed Dominion of Canada (Gordon, 2006, p. 76). Under the Vagrancy Act, a person could be classified as “loose, idle, or disorderly/vagrant” and consequently subjected to fines, imprisonment, and hard labour (Criminal Code, 1892, c. 29, s. 207). The criteria to be identified as a vagrant were broad and included being physically able to work and neglecting to do so, having no means to maintain oneself without employment yet failing to gain employment, loitering, obstructing the path of pedestrians, and causing disturbance in a public space (Criminal Code, 1892, c. 29, s. 207).

In the mid 1950’s, the Vagrancy Act was modified to limit the definition of a “vagrant” to someone who “not having any apparent means of support is found wandering abroad or trespassing and does not, when required, justify his presence in the place where is found” or “begs door to door in a public space” (Criminal Code, 1954, c.51, s. 164). This change effectively decriminalized unemployment in a literal sense, as was reflected in the parliamentary debates at this time (Gordon, 2006, p. 81). Later in the 20th century, all three major federal political parties agreed to remove the status offence from the legislation (Gordon, 2006, p. 81). This removal decriminalized vagrancy at the federal level and signified a shift in the federal government’s understanding of poverty from viewing it as an individual failure to a phenomenon that is, at least in part, exacerbated by societal forces (Gordon, 2006, p. 82).

While SSA-style legislation is more covert in its policing of homeless and “idle” people than the vagrancy laws of the 18th and 19th centuries, the objectives of these legislative approaches are similar. Esmonde states in her 2002 study of the OSSA, *“By enacting the Safe Streets Act, the province of Ontario has attempted to translate a direct attack on vagrancy, which it characterizes as intimidation and disorder, into street control. [...] The Safe Streets Act has the criminal law purpose of disciplining the contemporary vagrant, reinforcing that work and subsistence performed outside of capitalist social relations is criminal.”*

A copy of the now-defunct Vagrancy Act can be found in [Appendix A](#).

A copy of BC’s Safe Streets Act can be found in [Appendix B](#).

A copy of Ontario’s Safe Street Act can be found in [Appendix C](#).

Contemporary Criminalization of Homelessness

The period of decriminalization between the mid 1950s and 1972 was followed by a period of social sector cutbacks and retrenchment in the 1980s and 1990s (Esmonde, 2002, p. 80-81; Gordon, 2006, p. 83). Cuts to social programs like welfare, child support, public housing, and employment insurance led to increasing public reliance on the market to meet even the most basic of needs (Esmonde, 2002, p. 80-81; Gordon, 2006, p. 83). Predictably, this had poor outcomes for those whose ability to participate in the workforce was limited, leading to a multitude of negative consequences including

extreme poverty and homelessness (Carter, Friesen, Polevychok, & Osborn, 2007, p. 2). The increasing visibility of homelessness, coupled with the economic crisis of the 1970s, led to another shift in public opinions of poverty and homelessness, leading to a re-emergence of vagrancy style legislation (Gordon, 2006, p. 82).

Along with the OSSA and BCSSA, which were enacted in 1999 and 2004, respectively, municipalities across Canada began to enact their own ordinances to limit the movement and actions of people experiencing homelessness and extreme poverty (Bonnell, 2007).

These bylaws range from mirroring provincial legislation closely to restricting the activities of people experiencing homelessness far beyond activities classified as aggressive solicitation and solicitation to a captive audience (Bula, 2019). Vancouver, BC and Kamloops, BC banned sitting or lying on the street for the purpose of panhandling (Carter et. al, 2007, p. 2). Regina, SK and Windsor, ON required solicitors to purchase a permit to conduct any kind of solicitation activities, but restricted access to that permit to charitable organizations (Carter et al., 2007, p. 2). Brandon, MB, Ottawa, ON, Windsor, ON, and Sudbury, ON banned panhandling outright (Carter et al., 2007, p. 2).

There have been various court challenges since the onslaught of contemporary panhandling ordinances in the 1990s/2000s. At this time, no judge has ruled panhandling ordinances to be unconstitutional in Canada, although that ruling has been made numerous times in the United States, most significantly in *Reed v. Town of Gilbert*, where the Supreme Court of the United States ruled that panhandling ordinances are content-based and therefore subject to strict scrutiny regarding the restriction of freedom of speech (Lauriello, 2016, pp. 1106-1111). Since this 2015 ruling, every panhandling ordinance challenged in federal court in the United States has been stricken down as an unconstitutional infringement on panhandlers' right to free speech (Azis, 2021).

Although a similar outcome has yet to be seen in Canadian jurisdictions, it is possible that the challenges to panhandling ordinances that have been threatened over the years could have led to similar outcomes had a judge had the opportunity to make a ruling on the matter. In many Canadian jurisdictions the threat of constitutional challenges has been sufficient for legislative change. The municipalities of Regina, Winnipeg, Ottawa, Vancouver, and Brandon all modified their bylaws to be more permissive of some panhandling behaviours upon threat of court challenge (CBC News Regina, 2010; CBC News Winnipeg, 2000; City of Vancouver, 2001; The Globe and Mail Ottawa, 2000; Public Interest Law Centre, 2007, p. 54).

While the above examples took place primarily in the early to mid 2000s, municipalities across Canada and BC have continued to make attempts to further restrict the activities of panhandlers. In 2018, Kelowna City Council brought forward a motion to administer fines to members of the public who gave their recyclables to panhandlers within 500m of the bottle depot (McCullough, 2018). Later in 2018, Vernon's Activate Safety Task

Force issued a recommendation to ban the use of shopping carts in public spaces (Turcato, 2018). The rationale behind this recommendation was that if people experiencing homelessness do not have the means to accumulate and transport personal belongings, they will be more likely to access shelters and other community services (Turcato, 2018). Both Kelowna and Vernon City Councils eventually declined these ordinances, due to public opposition and threats of legal challenges from anti-poverty groups across BC (McCullough, 2018; Turcato, 2018).

While it may seem that municipalities are trending away from the most restrictive of anti-panhandling ordinances, it is important to note that many municipalities have recently enacted moderate anti-panhandling ordinances (Bula, 2019). Maple Ridge, Salmon Arm, Penticton, Surrey, and Quesnel have all enacted anti-panhandling bylaws within the last five years (Bula, 2019; McElroy, 2019), signaling ongoing public support for such municipal legislation.

Criminalization and COVID-19

The increase in visible homelessness that occurred as a result of COVID-19 and its associated public health measures led to increased public demand for government action at all levels across Canada.

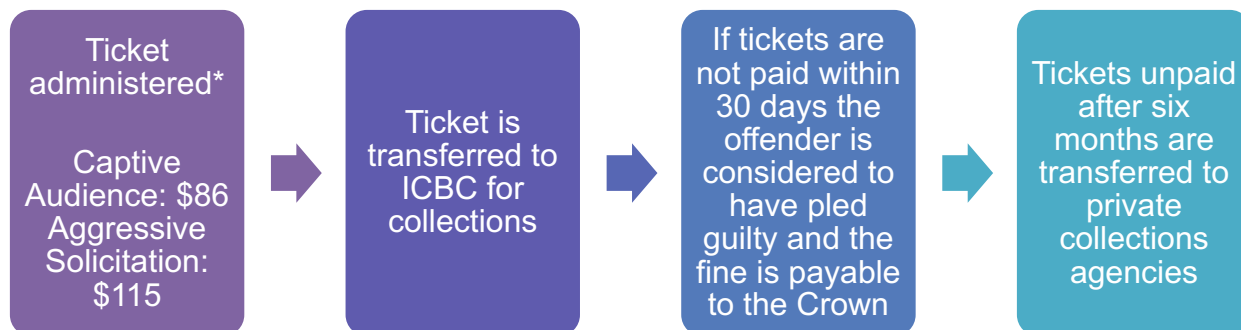
Perhaps the most salient example of criminalization of homelessness within the context of COVID-19 occurred in Quebec, where the province neglected to exempt people experiencing homelessness from the provincial curfew enacted in January of 2021 (Mignacca, 2021). The curfew required Quebecers to stay indoors between 8:00 PM and 5:00 AM and carried fines of between \$1000 and \$6000 for those found to be in violation of the public health order (Shingler, 2021). Advocates across Quebec opposed the inclusion of people experiencing homelessness under the curfew order, but ultimately it was the Superior Court of Quebec that issued a court order to exempt the province's homeless population from the curfew (Laframboise, 2021).

Locally in BC, the proliferation of encampments and other manifestations of visible homelessness since the pandemic began has led to renewed calls for law-and-order style approaches to homelessness. This broader public opinion was reflected in the most recent provincial election, where the opposition party at the time, the BC Liberals, campaigned for tougher enforcement of anti-homelessness ordinances, including the BCSSA, in response to encampments across the province (St. Denis, 2020).

3.2 Enforcement Mechanisms: BCSSA vs. OSSA

As the only two Canadian examples of provincial anti-panhandling legislation, the BCSSA and OSSA bear striking resemblance to one another. The enforcement of the two Acts is also quite similar, although there are some key differences regarding responsibility for fine collection and fine amounts. See Figures 2 and 3 below for visual representations of enforcement processes under each Act.

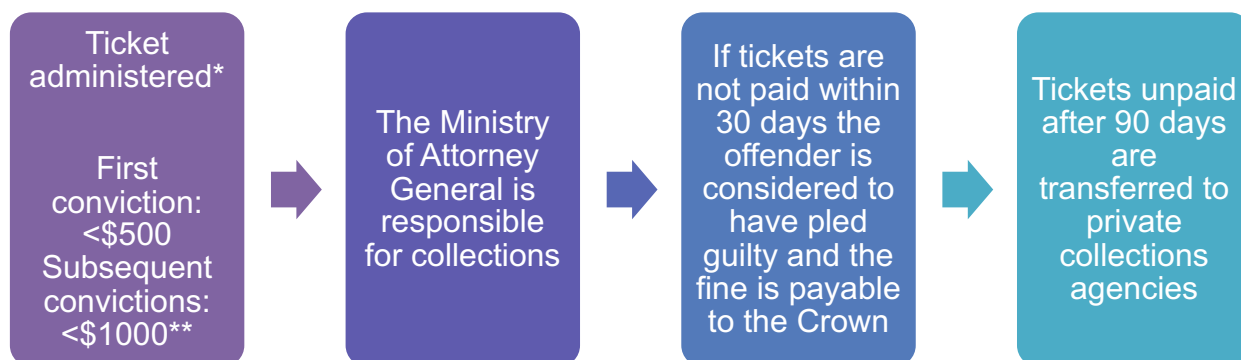
Figure 2. BCSSA enforcement process.



(Ministry of Attorney General, 2005)

**While the majority of offences under the BCSSA are punished via ticket, officers are authorized to make arrests under the BCCSA (BCSSA, s 4(2)). The Ministry of Attorney General identified repeat offences and “offences of a certain nature” as situations in which an offender under the BCSSA may be arrested (Ministry of Attorney General, 2005).*

Figure 3. OSSA enforcement process.



**While the majority of offences under the OSSA are punished via ticket, officers are authorized to make arrests under the OSSA, which states that “a police officer who believes on reasonable and probable grounds that a person has contravened section 2, 3, or 4 may arrest the person without warrant if:*

(a) before the alleged contravention of section 2, 3 or 4 the police officer directed the person not to engage in activity that contravenes that section; or

(b) the police officer believes on reasonable and probable grounds that it is necessary to arrest the person without warrant in order to establish the identity of the person or to prevent the person from continuing or repeating the contravention” (OSSA, s. 6(a)(b)).
***While the maximum ticket amount allowable under the OSSA is \$1000, the average ticket is approximately \$60 (O’Grady, Gaetz, and Buccieri, 2011, p. 35).*

4.0 Literature Review

4.1 Introduction

The criminalization of homelessness and poverty is a well-researched phenomenon in Canada and abroad. The following literature review will examine the various perspectives on SSA-style legislation as well as its impact in other Canadian jurisdictions.

Through preliminary research, four key themes have been identified to guide the review: social implications, economic implications, legal implications, and effectiveness. Through the process of reviewing existing literature, each theme was broken down further into sub-themes, which are identified in the sub-headings throughout this section.

4.2 Social Implications

Criminalization and Stigma

A common critique of any legislation that criminalizes those experiencing homelessness, including SSA-style legislation, is that such legislation further stigmatizes already extremely stigmatized classes of people. This criminalization and resulting stigmatization serve as catalysts in the cycle of poverty and homelessness, which worsens poverty and prevents people from accessing affordable, sustainable housing and services (Adams, 2014, p. 38). This section will review relevant literature to discuss the legitimacy of this critique.

“Stigma” can be defined as discrediting one’s identity and disqualifying them from experiencing social acceptance (Phelan, Link, Moore, & Stueve, 1997, p. 323). While people experiencing homelessness have been subject to stigmatization throughout history, researchers have observed a marked increase in such stigmatization with the rise of capitalism and individualism (Amster, 2004, p. 110; Heavren, 2019, p. 31). In Western societies, homelessness and extreme poverty tend to be viewed as individual issues as opposed to structural and systemic failures (Amster, 2004, p. 110; Heavren, 2019, p. 31). This mischaracterization of the causes of homelessness makes it easier for individual citizens to justify homelessness and distance themselves from those experiencing it (Heavren, 2019, p. 31).

Henry Miller identified two separate but related themes related to homelessness stigmatization: disorder and disease (Miller, 1991; Amster, 2004, p. 110). While Miller’s analysis took place 30 years ago, his findings hold true now. People experiencing

homelessness continue to be portrayed as dirty, diseased, and more likely to engage in criminal behaviour than their housed counterparts (Heavren, 2019, p. 32). One manifestation of this way of thinking about homelessness is the criminalization of survival acts like panhandling, sleeping in public, and loitering (Heavren, 2019, p. 32-33).

The criminalization of survival acts has profound and far-reaching implications for people experiencing homelessness. At the individual level, criminalization can lead not only to external stigma, but also internal or “self-stigma” in which the stigmatized person begins to internalize and believe in the negative characteristics that have been imposed upon them (Johnstone et al., 2015, p. 3). Criminalization of panhandling can also force people to engage in more dangerous income-generating activities such as begging in more secluded areas or working in the drug or sex trades (Adams, 2014, p. 39). Lastly, criminalization and interaction with the justice system deters people from accessing services they are entitled to, including police, for fear of being perceived as an offender rather than a victim (O’Grady, Gaetz, & Buccieri, 2011, p. 59; Institute for the Prevention of Crime [IPC], 2007, p. 20). This is especially dangerous for people experiencing homelessness, who are disproportionately victimized by acts of theft and assault (IPC, 2007, pp. 15-16).

At the community level, viewing behaviours that are inextricably linked to homelessness and poverty as crimes to be punished changes how members of the general public view and respond to homelessness (National Law Center on Homelessness and Poverty [NLCHP], 2019, pp. 66-67). Criminalization leads to less empathetic community responses, characterized by dehumanizing language used to speak about homelessness, community rejection of homelessness infrastructure and programs, and violent vigilantism against people experiencing homelessness (IPC, 2007, pp. 16-17; NLCHP, 2019, pp. 66-67).

On a structural level, the criminalization of homelessness leads to inconsistent patterns of law enforcement between people who are housed and those who are not (National Council of Welfare [NCW], 2000, p. 11). Despite committing crimes at a similar rate to those who are housed, people experiencing homelessness are more likely to be arrested and charged for crimes than their housed counterparts (NCW, 2000, p. 6). Interactions with the criminal justice system have profound impacts on people experiencing homelessness, decreasing their ability to exit homelessness by limiting housing and employment opportunities (Aykanian & Fogel, 2019, p. 192).

Stigmatization and criminalization of homelessness interact in a cyclical fashion, with each phenomenon exacerbating the other. The identification of people experiencing homelessness as “deviant” or “disorderly” creates an environment in which disproportionate policing is seen as palatable and even necessary by the public (Heavren, 2019, pp. 29-30). By criminalizing an activity, law makers signal that an activity is immoral, illicit, and unlawful, perpetuating stigmatized narratives about the activity and those who engage in it (Vanwessenbeeck, 2017, pp. 1631-1636).

In recognition of the cyclical nature of stigmatization and criminalization, and the far-reaching and profound impact of stigmatization, researchers have suggested that panhandling ordinances and other ordinances that regulate homeless individuals' use of public space can perpetuate homelessness rather than meaningfully address it (Adams, 2014, p. 38).

Service Use

One of the most commonly cited reasons for enacting panhandling ordinances across jurisdictions has been to incentivize panhandlers to access services to help them access sustainable housing and employment (Adams, 2014, p. 37; BCLA, 2004, p. 10950; Thompson, 2011; Abbotsford News Staff, 2020; Wiltz, 2015). This section will review relevant literature to discuss the effectiveness of this approach to incentivizing service use.

Proponents of SSA-style legislation often cite empty shelter beds as proof that people experiencing homelessness choose not to access shelters and that because of this, criminalization is not a cruel response, but a reasonable one (NLCHP, 2019, p. 60). However, there are numerous reasons why people experiencing homelessness may not be able to access empty shelter beds. Researchers from the NLCHP identified several of these reasons, including:

- Gender: many shelters only serve one gender, restricting access to other genders;
- Age: most shelters are adult-only and do not serve people under the age of majority;
- Identification requirements: some shelters require clients to provide identification before accessing shelter services, which can be difficult for people experiencing homelessness who may not have a place to store important documents;
- Family composition: many shelters serve single adults and do not allow couples to stay together or to bring their children to shelter with them;
- Substance use: many shelters do not allow people who are under the influence of substances to access their services;
- Lack of storage: most emergency shelters do not offer storage space, which can be problematic for people experiencing homelessness who may not have access to a secure place to store their belongings overnight while they are at the shelter;
- Lack of stability: shelter beds are often distributed on a "first come first serve" basis. This system can be especially difficult to navigate for people who are employed or have other obligations and cannot line up at the shelter hours in advance to secure their place;
- Pet ownership: most shelters do not accommodate pets;

- Lack of autonomy: shelters often have strict rules governing curfew and clients' movement in and out of the shelter, which can be challenging for adults are accustomed to a relatively high degree of personal freedom;
- Lack of privacy: most shelters are dormitory-style and do not offer many opportunities for private time;
- Physical disability: many shelters do not make the necessary accommodations to be able to serve people with physical disabilities and mobility issues;
- Mental health: many shelters impose rules and conditions that people with various mental health conditions cannot reasonably follow, which often leads to people with these conditions being removed from shelters and deemed "unsuitable" for shelter spaces going forward;
- Religion: some shelters are religiously affiliated and exclude people who have conflicting ideologies and beliefs;
- LGBTQ2S+ identity: many shelters exclude members of the LGBTQ2S+ community. This is especially true for trans and gender diverse youth experiencing homelessness (Abramovich, 2017, p. 1485);
- Immigration status: some immigrants experiencing homelessness may feel that accessing shelters, especially ones with strict identification requirements, makes them vulnerable to deportation;
- Sanitation concerns: overcrowded conditions at shelters contribute to infectious disease transmission and parasite infestation;
- Safety concerns: property theft and violence deter people from accessing shelters, an effect that is amplified for women experiencing homelessness. (NLCHP, 2019, pp. 34-35).

In line with the NLCHP's findings, studies have found that most panhandlers resort to panhandling after the services available to them have been expended (Cadaret, 2018, pp. 879-880; Smith, 2005, p. 559). These findings are contrary to the narrative that if people are unable to panhandle to access income, they will be forced to access the existing services available to them. This would suggest that the relationship between panhandling and service use is more likely the inverse of what supporters of SSA-style legislation believe; people do not panhandle to avoid accessing services, but rather they panhandle to supplement services that fail to adequately address their needs (Cadaret, 2018, p. 885; Pursaga, 2007).

The adequacy of ongoing government programs like income assistance and disability assistance can be measured quantitatively using various indicators including the Market Basket Measure (MBM), the Low-Income Measure (LIM), and the Low-Income Cutoff (Maytree, 2020). The MBM identifies households whose income is less than the cost of a "basket" of goods and services that represent a basic standard of living, the LIM identifies households whose income is less than half of the median income of the society, and the LICO identifies households that are likely to spend a disproportionately

large share of their income on basic needs such as food, clothing, and shelter (Maytree, 2020).

In both Canada and BC, income and disability assistance offerings are well below what is considered “adequate” by these three measures (Maytree, 2020). Accounting for the \$175 increase to social and disability (Statistics Canada, 2019) assistance announced by the BC government in March 2021 (Zussman, 2021), the assistance rates are still significantly below the thresholds set by the MBM, LIM, and LICO.

In addition to income-based programs, the availability of affordable, suitable housing continues to be an issue for low-income Canadians. In 2018, Statistics Canada incorporated questions about wait time for social housing into the National Housing Survey for the first time (Statistics Canada, 2019, p. 2). The survey found that over 250,000 Canadian households had at least one member of the household on a waiting list for social and/or affordable housing (Statistics Canada, 2019, p. 2). Of these households, 61.2% had been on a waiting list for two or more years (Statistics Canada, 2019, p. 2).

The inability of income and housing-based social programs to adequately meet the needs of low-income Canadians calls to question the validity of the claim that panhandlers are declining the services available to them because of the income they receive through panhandling. It is much more likely that panhandlers engage in panhandling to bridge the gap between their needs and what is available to them through existing social programs.

Crime and Public Safety

Throughout the debates leading up to the enactment of the BCSSA, public safety was highlighted several times as the primary concern of those pushing for such legislation (BCLA, 2003, pp. 7512-7514; BCLA, 2004, p. 10915; BCLA, 2004(A), pp. 10948-10952; BCLA, 2004(C), pp. 11464-11544). In line with this perspective, the prospect of aggressive panhandling was referenced over 65 times in the debates leading up to the enactment of the BCSSA (BCLA, 2003, pp. 7512-7514; BCLA, 2004, p. 10915; BCLA, 2004(B), pp. 10948-10952; BCLA, 2004(D), pp. 11464-11544).

This trend is not limited to the British Columbia context – this trend persists throughout the literature and news media, with many proponents of SSA-style legislation mentioning public safety and/or crime prevention. This section will review relevant literature to examine the connection between public safety, crime prevention, and SSA-style legislation.

The BCSSA and similar legislation are forms of “broken window policing” (La Vigne et al., 2007, p. 2; O’Grady et al., 2013, p. 548). The broken window model of policing was born out of a seminal article in the field of criminology that connected mild to moderate disorderly conduct to more serious crime and therefore called for strict enforcement against disorderly conduct (Wilson & Kelling, 1982, p. 2). The article discusses the success of Newark police in increasing feelings of public safety in the community by

cracking down on disorderly behaviours such as panhandling, sleeping or laying down outside, imbibing alcohol in public, and being visibly intoxicated in public (Wilson & Kelling, 1982, p. 2). Even though the crime rates in the neighbourhood remained unchanged during the study period, residents reported feeling safer having police officers patrol the area on foot and preventing people from engaging in behaviour deemed disorderly (Wilson & Kelling, 1982, p. 2).

Evaluations of broken-window policing's impact on crime rates have yielded diverse results, with some studies with similar research questions yielding completely opposite results. For example, two research teams that examined the connection between street disorder and serious crime in Chicago while controlling for confounding variables such as poverty, race, and stability came to opposite conclusions. Skogan's study found a significant correlation between street disorder and crime (1990, page unknown) and Sampson and Raudenbush found no significant correlation between the two phenomena (1999, p. 627).

In recognition of the conflicting results across studies, Braga, Welsh, and Schnell conducted a systematic review of 28 studies on disorder policing in 2019. Their study found that while policing disorder can provide a small to moderate reduction in property crime, violent crime, and drug crime, this effect is dependent on several variables (Braga, Welsh, & Schnell, 2019, p. 3). Policing efforts were most effective when they utilized community-based practices such as collaborating with community services to address the causes of disorder and least effective when they relied exclusively on intensive enforcement (Braga, Welsh, & Schnell, 2019, p. 24). Impacts on crime reduction were largest where disorder interventions were applied to a very small, high crime activity environment or "hot-spot" (Braga et al., 2019, p. 23)

As was observed in the original Wilson and Kelling experiment, community members' perception of police activity and its impact on crime and public safety is not always aligned with the actual prevalence of crime in their community (1982, p. 2). In recognition of this, a 2014 meta-analysis of disorder policing examined not only its effect on crime rates, but also on citizens' perception of crime and disorder in their neighbourhood, citizens' perception of police legitimacy, and the public's overall satisfaction with police (Gill, Weisburd, Telep, Vitter, & Bennett, 2014, pp. 414-415). Of the four variables studied, the only one that proved to be significantly impacted by disorder policing strategies was public satisfaction with police – impacts on crime rates, fear of crime, and perceptions of police legitimacy were negligible (Gill et al., 2014, pp. 418-419).

More research is needed to fully understand the role SSA-style legislation plays in crime prevention and public safety.

4.3 Economic Implications

Business Impacts

The business impacts of panhandling were cited multiple times in the debates leading up to the enactment of the BCSSA (BCLA, 2003, p. 7512; BCLA, 2004(A), pp. 10949-10953; BCLA, 2004(B), p. 11464; BCLA, 2004(D), pp. 11537-11540). This section will review relevant literature to discuss the business impacts of panhandling and whether anti-panhandling legislation is an effective policy lever to address them.

Businesses and business associations across Canada have identified panhandling as a significant threat to local business (Mendleson, 2009; Penner, 2021; McMillan, 2018). The most common explanation for this phenomenon is that consumers feel that their safety and security are threatened by panhandlers (La Vigne, Scott, & Palmer, 2007, p. 4; Scott, 2003., p. 4, McMillan, 2018, Mendleson, 2009), a discomfort that is amplified when panhandlers are male, able-bodied, young, and members of a racial minority group (Lee & Farrell, 2003, p. 300). This fear causes consumers to avoid shopping where panhandling occurs, which is often downtown business districts and other busy urban areas. A survey completed in Edmonton in 2018 provided evidence of this fear of panhandling when it found panhandling to be the primary safety concern of downtown residents. (McMillan, 2018). In this survey, panhandling was identified to be more concerning to downtown residents than both homelessness and drug use (McMillan, 2018).

Farrell conducted a study to test the real-world impact of this phenomenon in 2003. Farrell found that ~7% of consumers did, in fact, change their shopping, transportation and entertainment plans after being exposed to panhandling (2003, p. 315). However, this result was not uniform across demographics. The most likely demographic to use avoidance as a response to panhandling were older, politically conservative men (Farrell, 2003, p. 316).

Responses from businesses and business associations have varied significantly across the country. Some businesses install “No Panhandling” signs and refuse service to those who panhandle within or near their business (McMillan, 2018). Others have gone a step further and hired private security firms to “move panhandlers along” in an effort to decrease the number of panhandlers near their businesses (Mendleson, 2009). Some businesses have taken a supportive approach, offering opportunities for their paying customers to donate to a meal fund for panhandlers (McMillan, 2018), and even going as far as to provide employment opportunities and labour essentials like steel-toed boots and hard hats to panhandlers willing to do physical labour as an employee of the business association (Mendleson, 2009).

Apart from these on-the-ground strategies, many business associations lobby their municipal, provincial, and federal governments for laws and ordinances to address panhandling in their area (Mendleson, 2009; Bentley, 2021). In 2021, a Vancouver café manager requested that the Vancouver Police Department create a hotline that

businesses can call to report instances of aggressive panhandling, citing increasing concerns with such behaviour in the Mount Pleasant neighbourhood (Bentley, 2021). Despite anti-panhandling ordinances being associated with business interests and often lobbied for by businesses and their associations, there is no evidence that such ordinances improve business outcomes in the long-term (Carter et. al, 2007, p. 4; Mendleson, 2009).

Short-term studies have shown panhandling ordinances to be effective in temporarily relocating panhandling activities (La Vigne et al., 2007, p. 2). However, in practice, panhandlers generally move on to an area where there is less policing, beginning the cycle anew (National Law Center on Homelessness and Poverty [NLCHP], 2019, p. 64). The literature provides several potential explanations for the low long-term efficacy of anti-panhandling legislation in improving business outcomes. The most common explanation is that panhandlers are generally extremely poor and unlikely to pay a ticket, which effectively negates the punitive nature of a ticket (O'Grady, Gaetz, & Buccieri, 2013, p. 551-552). In recognition of the futility of administering tickets to those in abject poverty, police and bylaw officers reduce enforcement of panhandling ordinances (Mendleson, 2009).

Financial Impacts

Any legislative tool that depends on the administration of tickets has financial implications for both the offender and the taxpayer. This section will explore relevant literature related to the financial implications of SSA-style legislation on panhandlers and the larger public.

Ticket administration is a costly endeavor in that it requires significant public resources not only to administer tickets, but to manage the collection of fee payments once tickets have been administered. In other contexts, the public costs associated with the administration and management of tickets are offset by the revenue brought in when offenders pay their tickets. For example, traffic tickets in BC brought in an average of \$54M annually from 2015-2018 (DriveSmartBC, 2018). However, the revenue generation side of this equation is significantly impacted when tickets are being administered to populations that do not have the means to pay them (O'Grady, Gaetz, & Buccieri, 2013, p. 551-552).

In a case study of the enforcement of the OSSA, it was found that administration costs far outweighed ticket revenue (O'Grady, Gaetz, & Buccieri, 2013, pp. 551-552). In this study, which examined 63,173 tickets administered between 2004 and 2010, the researchers found that while over \$3.7M in tickets had been administered, only 0.2% of those tickets were ever paid (O'Grady, Gaetz, & Buccieri, 2013, pp. 551-552). This lack of payment, coupled with the estimated \$877,472 in public dollars spent on police expenses related to ticket administration, led the researchers in this study to conclude that the administration of tickets under the OSSA is a costly endeavor for offenders and taxpayers alike (O'Grady, Gaetz, & Buccieri, 2013, pp. 551-552). It is important to note that this study included public costs associated with the on-the-ground administration of tickets only and did not discuss the processing of tickets or enforcement against those

who fail to pay, which likely bears additional public costs (O’Grady, Gaetz, & Buccieri, 2013, pp. 551-552).

Along with the significant public costs associated with SSA-style legislation, those who receive tickets under such legislation are also significantly financially impacted (Adams, 2014, p. 38). Multiple researchers and journalists in Ontario have studied the financial burden placed upon offenders under the OSSA. The study referenced above found that over \$3.7M in fines had been administered over a seven-year period (O’Grady, Gaetz, & Buccieri, 2013, p. 551). A more recent study found that over \$1.5 million dollars in OSSA tickets had been administered over the previous 5 years in Toronto alone (Mathieu, Bailey, & Tulk, 2019).

The financial impacts of SSA-style legislation are not uniformly spread across offenders. A 2013 study on the enforcement of the OSSA and BCSSA found that while a larger proportion of individuals had received one ticket under the Act (~72.6% in Ontario, ~60% in BC), those who had received six or more tickets made up a large proportion of the total tickets administered under each Act (~52.7% in Ontario, ~40.3% in BC) (Chesnay, Bellot, & Sylvestre, 2013, p. 172). This has led to several instances in which individuals accumulate insurmountable fines, some of which have been documented by the media: one man in Toronto accumulated \$45,000 in OSSA tickets (Mathieu, Bailey, & Tulk, 2019), and another man in Hamilton accumulated \$23,000 in OSSA tickets (Fragomeni, 2017). These fines, which are unlikely to ever be paid due to the financial realities of those most often panhandling, have negative impacts on the credit, work, housing, and educational opportunities of those who are ticketed under panhandling ordinances (Douglas, 2011, p. 50).

4.4 Legal Implications

The law has been used to both justify and challenge SSA-style legislation across Canada. This section will explore the legal implications of such legislation, from official court challenges to less formal but common arguments cited throughout the literature.

Constitutionality

Both supporters and opponents of SSA-style legislation have cited the Canadian Charter of Rights and Freedoms to support their arguments. These arguments have occurred on various platforms, from news media, to city halls across Canada, to the Supreme Court of Canada. Across platforms the arguments can usually be boiled down to the rights of the panhandler versus the rights of the pedestrian (Blomley, 2010, p. 342; Schafer, 2007, p. 5).

When discussing panhandling ordinances in relation to the rights of various actors, supporters of such ordinances generally centre the conversation around the need to balance the rights of pedestrians with the rights of panhandlers (Blomley, 2010, p. 342). This argument is predicated on an informal “social contract” between all members of modern societies and is not based in any of Canada’s constitutional laws. This social contract, though unwritten, stipulates that members of society moving through public spaces are entitled to move freely without having their feelings of safety and security

threatened (Blomley, 2010, p. 337). This focus on the perception of security and safety is an important distinction when discussing anti-panhandling legislation; it is not that citizens must be free to move through public spaces without physical harm, that is enshrined in the Criminal Code (Schafer, 2007, p. 18), but that even a feeling or perception of insecurity is a violation of one’s rights (Blomley, 2010. p. 341).

Proponents of the BCSSA and similar legislation often cite “pedestrian rights”; the right to go to a bank machine without being “harassed”, the right to get from Point A to Point B without having to give up their sense of safety and liberty (Blomley, 2010, p. 342).

While the BCSSA has never been challenged in court, the OSSA has. The 2006 case was born out of the convictions of thirteen men in Ontario who used panhandling and squeegeeing as methods of subsistence. Justice for Children and Youth (JFCY) challenged the constitutionality of the OSSA on the following grounds:

Table 1. Appellant Claim vs. Judicial Decision in R v. Banks, 2007.

Appellant Claim*	Decision**
In pith and substance, the OSSA is criminal law, which is not the jurisdiction of the province.	The overlap between OSSA and the Canadian Criminal Code is permissible as per the double aspect doctrine, which allows provincial and federal governments to create overlapping legislation regarding the same subject from different perspectives. The OSSA promotes the safe, comfortable, and enjoyable use of public spaces, an aspect that falls under provincial jurisdiction.
The OSSA violates freedom of speech by restricting the way in which people can ask for money.	The acts of begging and squeegeeing are right to be classified as expression and therefore limiting of either of these acts is a violation of s. 2(b) of the Charter. Therefore, any provisions that limit begging and squeegeeing must be justified under s. 1 of the Charter. This justification can be made because the limits on begging and squeegeeing under the Act are minimal compared to the benefits of the legislation, which include public safety, efficient circulation, and public enjoyment of public thoroughfares.
The OSSA infringes upon the Charter right to life, liberty, and	There is no evidence that the prohibited activities are necessary for the appellants to survive. The

<p>security of the person because it prevents people from earning the money they need to eat.</p>	<p>legislation does not restrict the appellant's ability to beg or provide services that are not in contravention of the Act.</p>
<p>The OSSA infringes upon the Charter right to equality because:</p> <ul style="list-style-type: none"> a) so-called "legitimate soliciting" (soliciting done by charities) is exempt from the Act. b) The Act has a discriminatory purpose and effect on those who beg for subsistence due to extreme poverty. 	<p>The amendment that permitted charity solicitation under the OSSA was not in effect until after the appellants were convicted of their offences and are therefore not relevant to this case.</p> <p>Selective enforcement of the Act on those who beg or squeegee was not established as a fact. Even if it were, the administration of legislation is different than the discriminatory effects of legislation. Discriminatory enforcement of legislation does not make the legislation itself unconstitutional.</p> <p>To infringe upon the right to equality, the appellants must demonstrate that differential treatment is based on enumerated or analogous grounds. Enumerated or analogous grounds are personal characteristics that are defined in the Charter or are immutable or constructively immutable (cannot be changed without unacceptable cost to personal identity). The appellants defined the proposed group not by a shared personal characteristic but by a shared activity (begging), which is not an immutable or constructively immutable personal quality.</p>
<p>The OSSA infringes upon the Charter right to be presumed innocent, because the definition of "aggressive" panhandling includes many activities that are not inherently aggressive (such as panhandling in groups, etc.)</p>	<p>It is possible that the Act could be construed in a way that is unfair and extends past the intended use of the Act, but it is unlikely.</p>

**Information about the appellants' claim is taken from the Appellants' Factum (R v Banks, 2005).*

***Information about the decision is taken from the published decision (R v Banks, 2007).*

The Ontario Court of Appeal rejected all of the appellants claims and therefore upheld the constitutionality of the OSSA (*R v Banks*, 2007). While the appellants attempted to elevate the case to the Supreme Court of Canada (SCC), the SCC refused to hear the appeal and the Ontario Court of Appeal's decision stands (Centre for Constitutional Studies, 2007).

In 2017, Fair Change Community Services announced there would be another court challenge of the OSSA (Mathieu, 2017). However, it is unclear what the current status of that court challenge is.

A similar challenge of the BCSSA has never occurred.

Redundancy

Along with the argument that provincial SSA-style legislation is effectively criminal law and is therefore unconstitutional, many argue that the behaviours outlawed by the SSA are already largely illegal under the Canadian Criminal Code (Schafer, 2007, p. 18; *R v Banks*, 2006, p. 12; Graser, 2000, p. 46). Section 175(1) of the Criminal Code reads as follows:

- **175 (1)** Everyone who
 - **(a)** not being in a dwelling-house, causes a disturbance in or near a public place,
 - **(i)** by fighting, screaming, shouting, swearing, singing or using insulting or obscene language,
 - **(ii)** by being drunk, or
 - **(iii)** by impeding or molesting other persons,
 - **(b)** openly exposes or exhibits an indecent exhibition in a public place,
 - **(c)** loiters in a public place and in any way obstructs persons who are in that place, or
 - **(d)** disturbs the peace and quiet of the occupants of a dwelling-house by discharging firearms or by other disorderly conduct in a public place or who, not being an occupant of a dwelling-house comprised in a particular building or structure, disturbs the peace and quiet of the occupants of a dwelling-house comprised in the building or structure by discharging firearms or by other disorderly conduct in any part of a building or structure to which, at the time of such conduct, the occupants of two or more dwelling-houses comprised in the building or structure have access as of right or by invitation, express or implied,

is guilty of an offence punishable on summary conviction.

(*Criminal Code*, RSC 1985, c. C-46, s 175(1))

Opponents of SSA-style legislation argue that the above section of the Criminal Code, if properly enforced, would be adequate to protect pedestrians from harassment and assault associated with panhandling (Schafer, 2007, p. 19). Further, such opponents argue that the inclusion of these redundant sections of the OSSA and BCSSA

effectively serve to directly target people experiencing homelessness and extreme poverty (Nefs, 2014; Schafer, 2007, p. 19).

That said, there are sections of the BCSSA that are unique and do not overlap with the Criminal Code; namely Section 3, which outlaws solicitation to a captive audience (BCSSA, 2004, s 3). Captive audience ordinances outlaw peaceful, non-aggressive panhandling on the basis of proximity to identified places and items such as ATMs, bus stops, and vehicles (Schafer, 2007, pp. 1-2). As with the criminalization of other activities such as sex work, Schafer argues that designating this kind of peaceful solicitation as an offence signals to the public that these sorts of behaviours are dangerous in some way, further stigmatizing and marginalizing people who panhandle (2007, pp. 1-2). When researchers reviewed the proportion of tickets administered under “aggressive” and “captive audience” sections of the OSSA, they found that 80% of the tickets administered under the OSSA between 2004 and 2010 were for non-aggressive solicitation, despite the common pro-SSA narrative that the primary purpose of the SSA is to address aggressive solicitation (O’Grady, Gaetz, & Buccieri, 2011, p. 543).

4.5 Effectiveness

The effectiveness of anti-panhandling legislation at actually curbing panhandling has been debated across jurisdictions. This section will review relevant literature and discuss the effectiveness of SSA-style legislation.

Supporters of panhandling ordinances cite the proliferation of panhandling in recent decades as proof that policing of such behaviour needs to be amplified (Scheidegger, 1992, p. 1; CBC News Edmonton, 2009). Kent Scheidegger, who authored a guide for American cities wishing to restrict panhandling, notes in said guide that lobbying from special interest groups has effectively stripped police of their power to meaningfully address situations wherein there has been no clear violation of a criminal statute (1992, pp. 1-2). He goes on to state that the results of this phenomenon can be seen in cities across the United States, where neighbourhoods have become “inhospitable and even menacing” due to the presence of panhandlers and people experiencing homelessness who “boisterously and abusively ply their trade” (1992, p. 2).

The Urban Institute later authored a guide for municipalities wishing to prevent panhandling (La Vigne et al., 2007, p. 1). While the Urban Institute identified panhandling ordinances as an important tool in addressing panhandling, the guide also clarified that policing alone cannot prevent panhandling, and that panhandling needs to be addressed through a comprehensive approach including public education and the bolstering of social services (La Vigne et al., 2007, p. 2).

The Urban Institute’s guide offers several examples of communities where panhandling ordinances have been effective in curbing panhandling activity (La Vigne et al., 2007, p. 6). The only Canadian jurisdiction included is Vancouver, where the Vancouver Police Department reported a 28.5% reduction in panhandling-related calls (from seven calls in 1997 to five calls in 1998) in the area surrounding the intersection of Commercial Drive

and 1st Avenue after the implementation of a multifaceted initiative that included increased police patrols and enforcement of anti-panhandling bylaws (this initiative predates the BCSSA) and the removal of benches and alcoves where people experiencing homelessness were able to rest (La Vigne et al., 2007, p. 6; Vancouver Police Department, 1999, p. 9).

Contrary to the short-term results of that initiative, the Grandview-Woodland Community Policing Centre (GWPCPC), which administers a comprehensive community survey to residents of the Commercial Drive neighborhood every 10 years, reported nominal changes in panhandling activity over the 20-year period from 1997-2017 (GWPCPC, 2017, p. 27). The 1997 survey found that 97% and 79% of community members had witnessed instances of passive and aggressive panhandling, respectively, in the six months prior to completing the survey (GWPCPC, 2017, p. 27). The 2017 survey found that 93% and 69% of community members had witnessed instances of passive and aggressive panhandling, respectively, in the six months prior to completing the survey (GWPCPC, 2017, p. 27). Although this represents a 12% decrease in aggressive panhandling over the 20-year period, the authors of the report noted that the GWPCPC had recently distributed a brochure that clarified the differences between passive and aggressive panhandling and informed residents about the right to panhandle passively (GWPCPC, 2017, p. 27). The authors speculated that the brochure may have been partially responsible for the decrease in respondents' reports of experiencing aggressive panhandling (GWPCPC, 2017, p. 27).

Critics of SSA-style legislation argue that legislation that criminalizes the life-sustaining activities of people experiencing poverty and homelessness serve only to decrease the visibility of homelessness to housed citizens and do not address the root causes of poverty and homelessness (National Law Center on Homelessness and Poverty [NLCHP], 2019, p. 63; O'Grady et al., 2013, p. 543; Row, 2005, p. 22; Schafer, 2007, p. 1).

Further, critics argue that this type of legislation, which is generally enforced with fines, perpetuates homelessness and extreme poverty by saddling people with fines they are likely unable to pay (NLCHP, 2019, p. 52; O'Grady et al., 2013, p. 543). The inability to pay fines can have a cascading effect that can lead to increased fines, poor credit, warrants for arrest, and incarceration (NLCHP, 2019, p. 52). This not only leads to poor outcomes for the individual by deepening their entrenchment in poverty, but exacerbates the community-level effects of homelessness, including crime and street disorder (NLCHP, 2019, p. 65).

There is evidence that these concerns are legitimate. In Ontario, over \$4 million in fines have been administered under the OSSA and 1% of these fines have been paid, signaling major issues with the enforcement and effectiveness of SSA-style legislation (Young, 2020).

5.0 Findings

This section presents the findings of the primary research portion of this project, which includes the data gathered from the RCMP, police departments, and ICBC.

5.1 Introduction

Police Data

Police data was collected through Freedom of Information (FOI) requests to all thirteen municipal police departments as well as the RCMP. The researcher requested the following information from all departments from 2004 when the BCSSA was created to 2020, when this research began:

- 1) Number of offences under the BCSSA;
- 2) Type of offence (aggressive solicitation or solicitation of a captive audience);
- 3) Year of offence
- 4) Location of offence (municipality);
- 5) Fine amount.

After the FOI requests were sent out, over 2900 records were returned to the researcher spanning 2005-2020 and distributed across every region of BC. Data collection and storage is not standardized across police departments, which complicated analysis. Most municipal police departments could not access data back to 2004 due to the transition from hard copy to digital data storage throughout the 2000s. Further, the RCMP's data storage policies require data on ticket administration to be archived after two (2) years.

ICBC Data

A study conducted by Chesnay, Bellot, & Sylestre was reviewed during the literature review for this project. The 2013 study utilized an FOI request to ICBC to better understand ticket administration and payment in BC. The researcher replicated this method to better understand ticket payment in BC over a longer time period and to fill the gaps left by inconsistent data storage practices across police departments. The information requested from ICBC included:

- 1) The number of tickets administered under the BCSSA by municipality and year;
- 2) Ticket payment status by municipality.

The ICBC FOI request returned over 7,800 records spanning 2005-2021.

5.2 Enforcement of the BCSSA

Location of Offence

Since taking effect in January of 2005, BCSSA tickets have been administered in 59 municipalities. There is significant inter-municipal variation, with fourteen municipalities having issued only one BCSSA ticket between 2005-2021 and bigger centres like Vancouver having issued over 3000 in the same time period. Due to this variation between municipalities, the dataset is significantly positively skewed and the mean

value of 129.35 tickets per municipality is artificially inflated. The median value of 8 tickets per municipality is a more accurate measure of ticket administration across BC municipalities.

Table 2. Descriptive statistics of BCSSA offences by BC municipality.

<u>Offences by Municipality</u>	
Mean	129.35
Median	8
Standard Deviation	472.169132
Minimum	1
Maximum	3392

BCSSA ticket administration was compared to municipal population and homeless population. Municipal population was assessed using BC’s municipal population estimates for the three years studied: 2011, 2015, and 2019 (Government of British Columbia, 2021). Homeless population data was assessed using the most recent data available from each municipality, which varied depending on the last Point-in-Time (PiT) count conducted in each community. All homeless population data is from either the 2018 or 2020 PiT count (British Columbia Non-Profit Housing Association [BCNPHA], 2020, p. 19; Capital Regional District [CRD], 2020, p. 4; Fraser Valley Regional District [FVRD], 2020, p. 1; BC Housing, 2018, p. 4).

Municipalities that did not participate in the 2018 or 2020 homeless counts were excluded from any analysis that required homeless count data. Some regions did not provide municipal-level data, in these cases, municipal ticket counts were grouped according to the homeless count data available: the 13 municipalities of the CRD were combined and identified as “Greater Victoria” the Tri-Cities were combined (Coquitlam, Port Coquitlam, and Port Moody), and the North Shore municipalities were combined (West Vancouver and North Vancouver).

There is a strong correlation between municipal population and enforcement of the BCSSA ($R=0.66-0.77$ over three years studied), which signals that the Act is being enforced somewhat uniformly across municipalities. However, there were seven municipalities where enforcement was much higher than expected given municipal population on at least one of the three years studied. High enforcement was classified as more than three standard deviations from the average number of tickets administered per 100,000 population. Municipalities with abnormally high enforcement given their municipal populations were: Duncan, Langley, Quesnel, Terrace, and Victoria.

The correlation between homeless population and enforcement of the BCSSA is even stronger ($R=0.83-0.91$), signalling that homeless population is a better predictor of enforcement of the BCSSA than municipal population. Three municipalities/regions

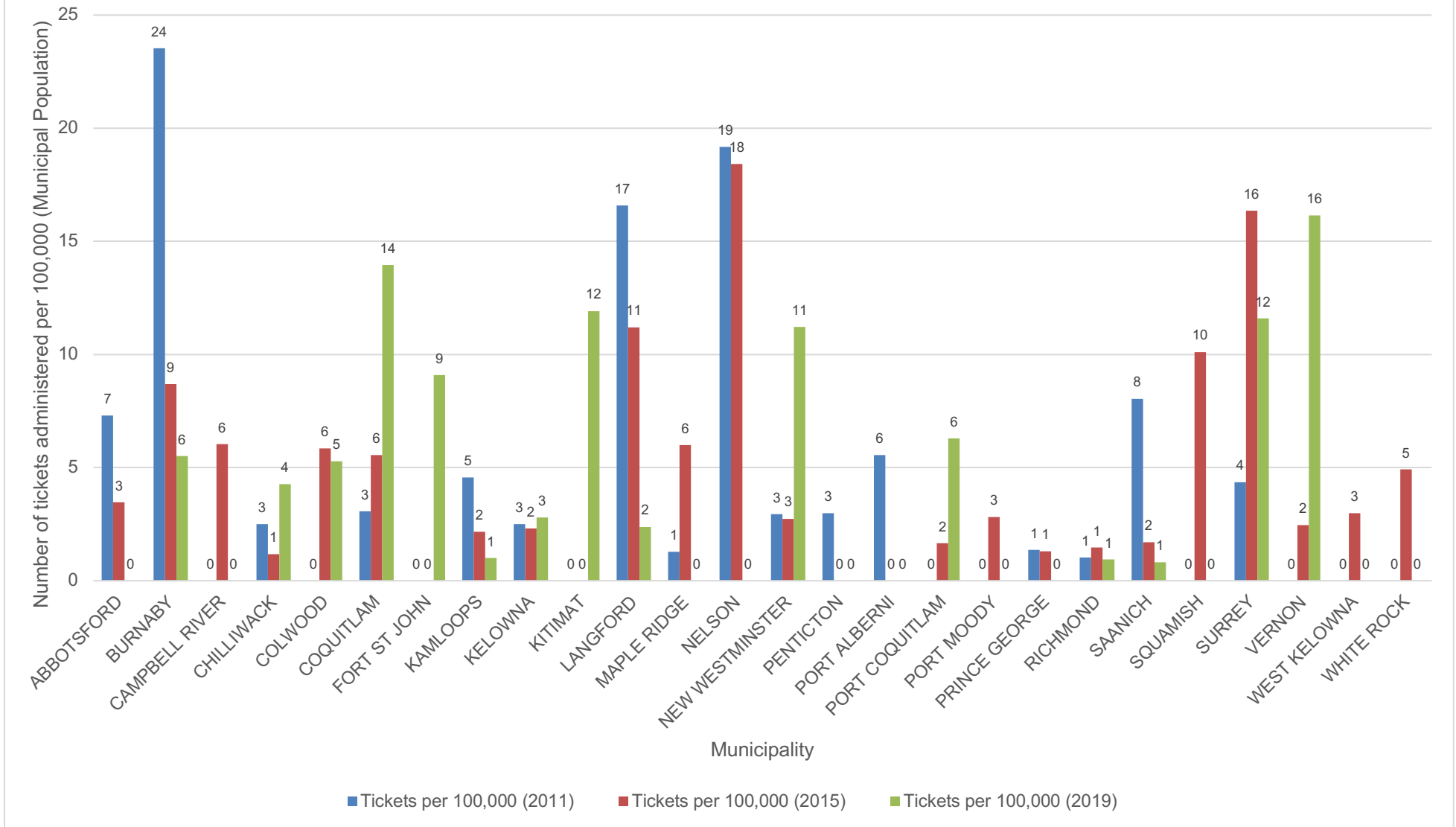
exhibited high levels of enforcement relative to their homeless populations. These municipalities/regions were: Delta, Duncan, and Tri-Cities (Coquitlam, Port Coquitlam, and Port Moody).

Figures 4-8 below provide visual representations of ticket administration across BC municipalities. Figures 4-6 illustrate ticket administration per 100,000 municipal population. Figures 7 and 8 illustrate ticket administration per 100 people experiencing homelessness. The figures have been further broken up into the following groups:

- <30 tickets administered per 100,000 municipal population (Figure 4)
- ≥ 30 tickets administered per 100,000 municipal population (Figures 5 and 6)
- <10 tickets administered per 100 people experiencing homelessness (Figure 7)
- ≥ 10 tickets administered per 100 people experiencing homelessness (Figure 8)

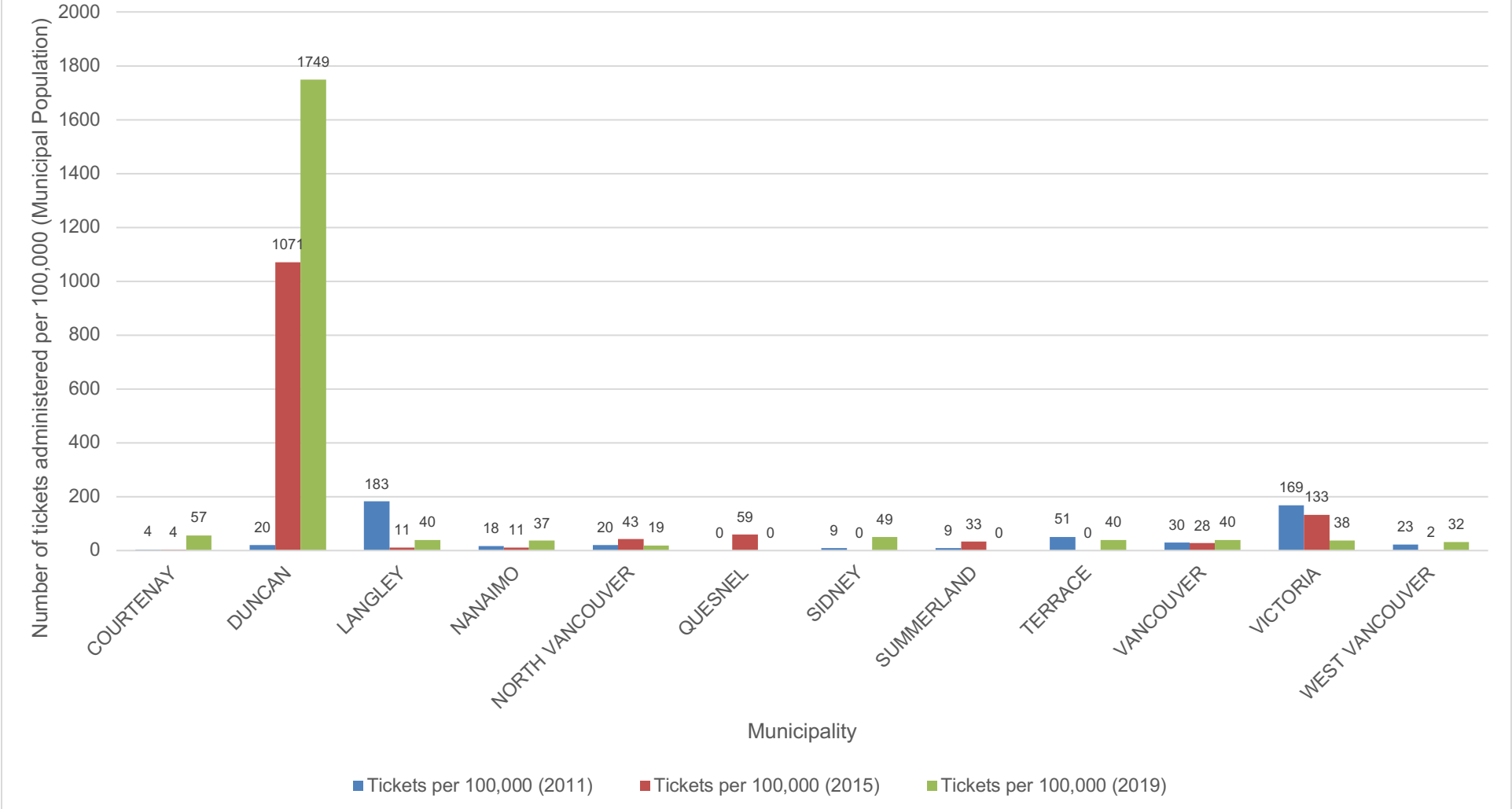
These further categorizations were made solely to improve the readability of the figures given the large number of municipalities/regions included. Further data analysis was completed using the full datasets.

Figure 4. Tickets administered per 100,000 people in municipalities across British Columbia.*



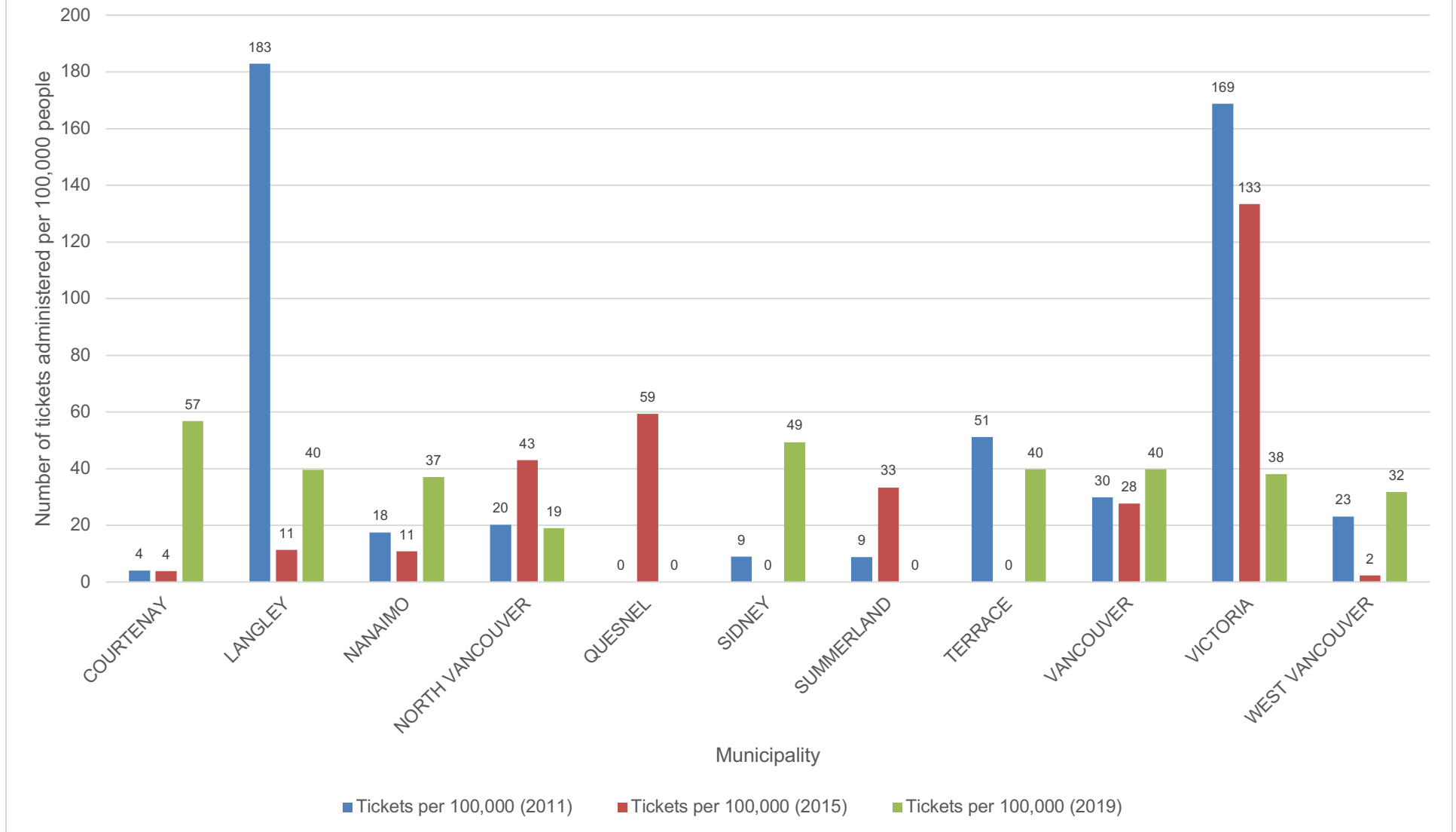
*This figure represents municipalities with less than 30 tickets administered per 100,000 people in each of the three years studied. Municipalities that did not administer any tickets over the three years studied were excluded from this visual.

Figure 5. Tickets administered per 100,000 people in municipalities across British Columbia.*



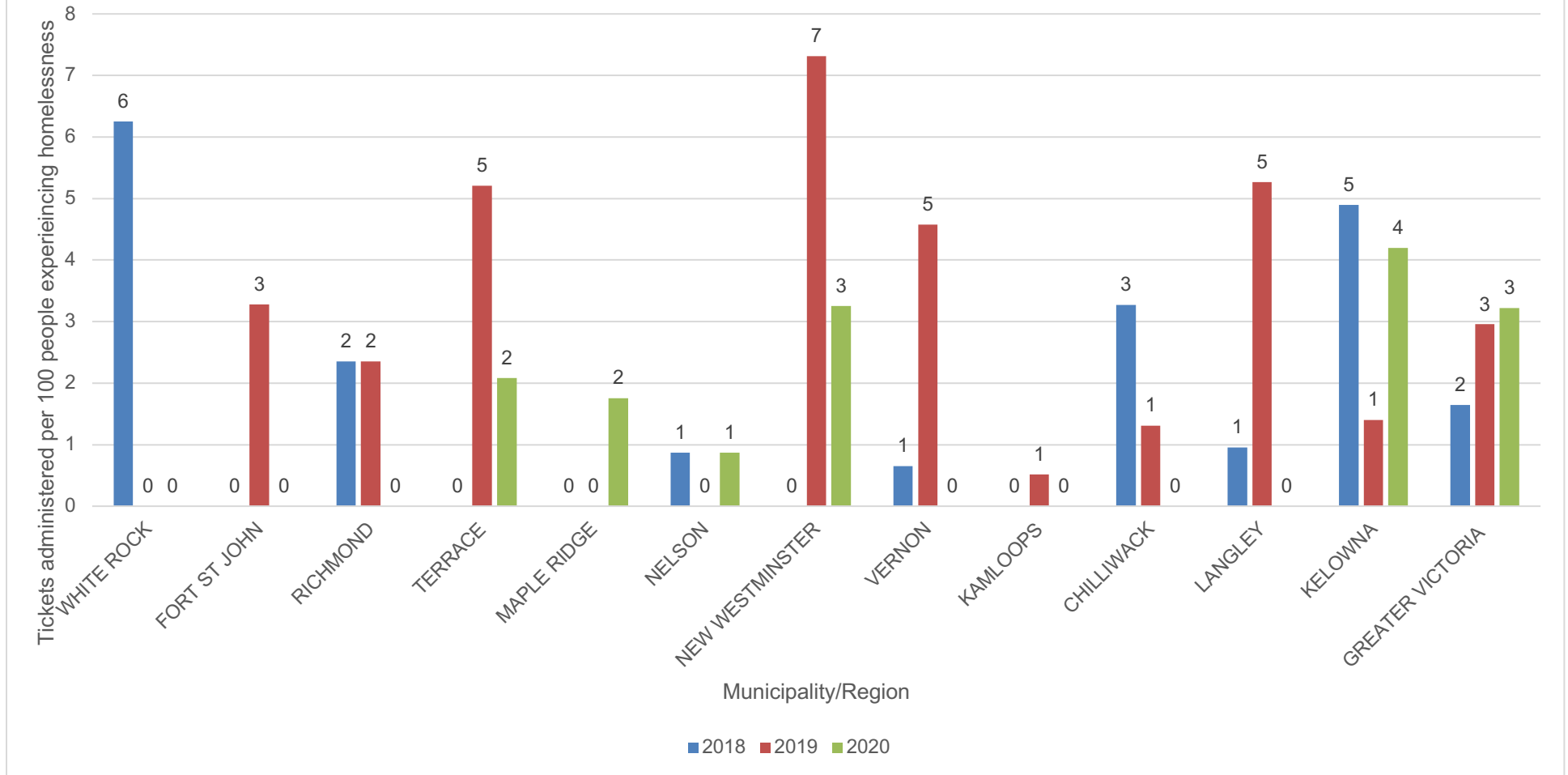
*This figure represents municipalities with more than 30 tickets administered per 100,000 people in at least one of the three years studied.

Figure 6. Tickets administered per 100,000 people in municipalities across British Columbia.*



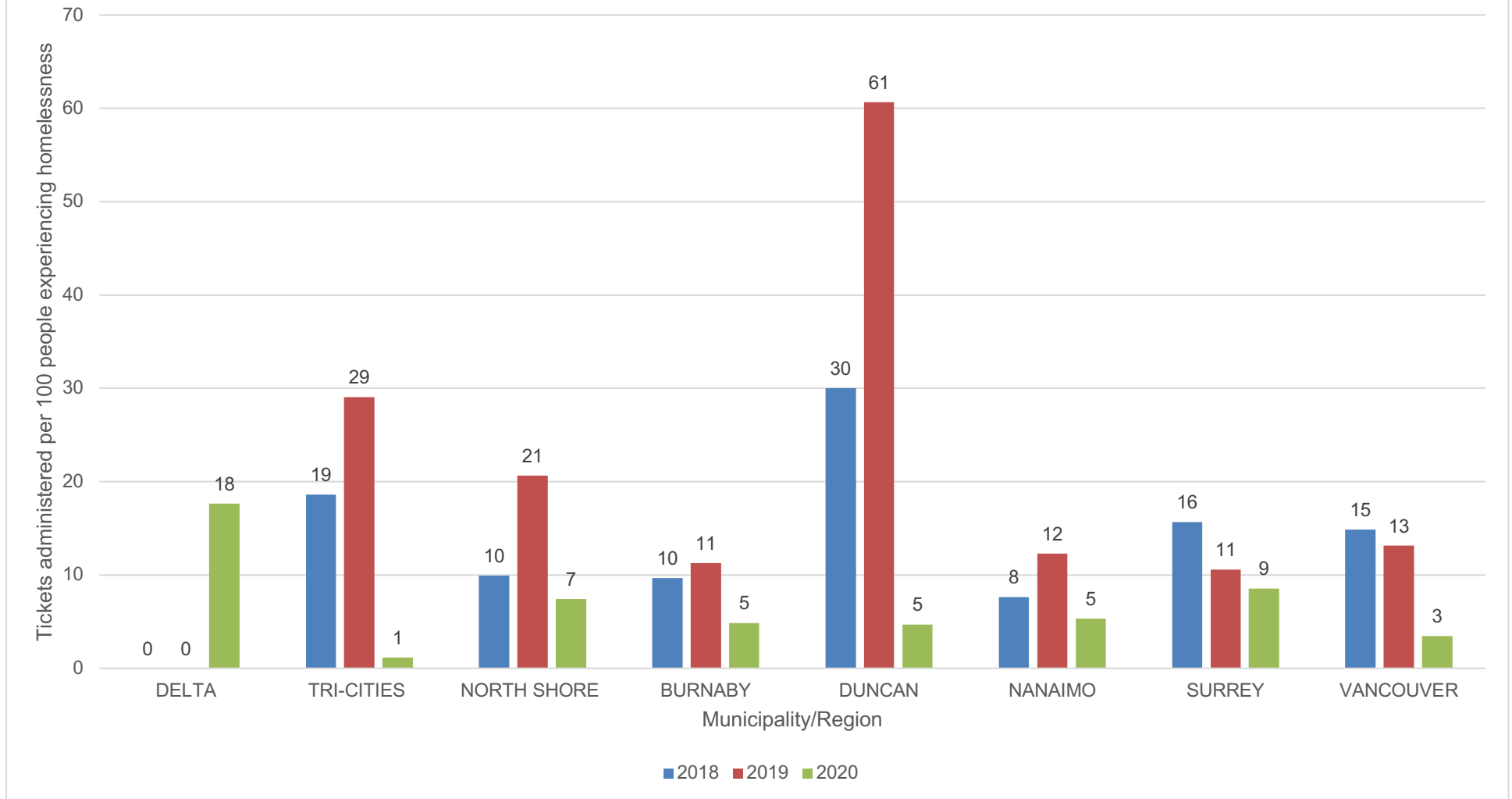
*This figure represents municipalities with more than 30 tickets administered per 100,000 people in at least one of the three years studied. The municipality of Duncan has been removed from this figure to allow for easier comparison of the other municipalities.

Figure 7. Tickets administered per 100 people experiencing homelessness in municipalities across British Columbia.*



*This figure represents municipalities/regions with fewer than 10 tickets administered per 100 people experiencing homelessness in each of the three years studied. Municipalities/regions that did not administer any tickets over the three years studied were excluded from this visual.

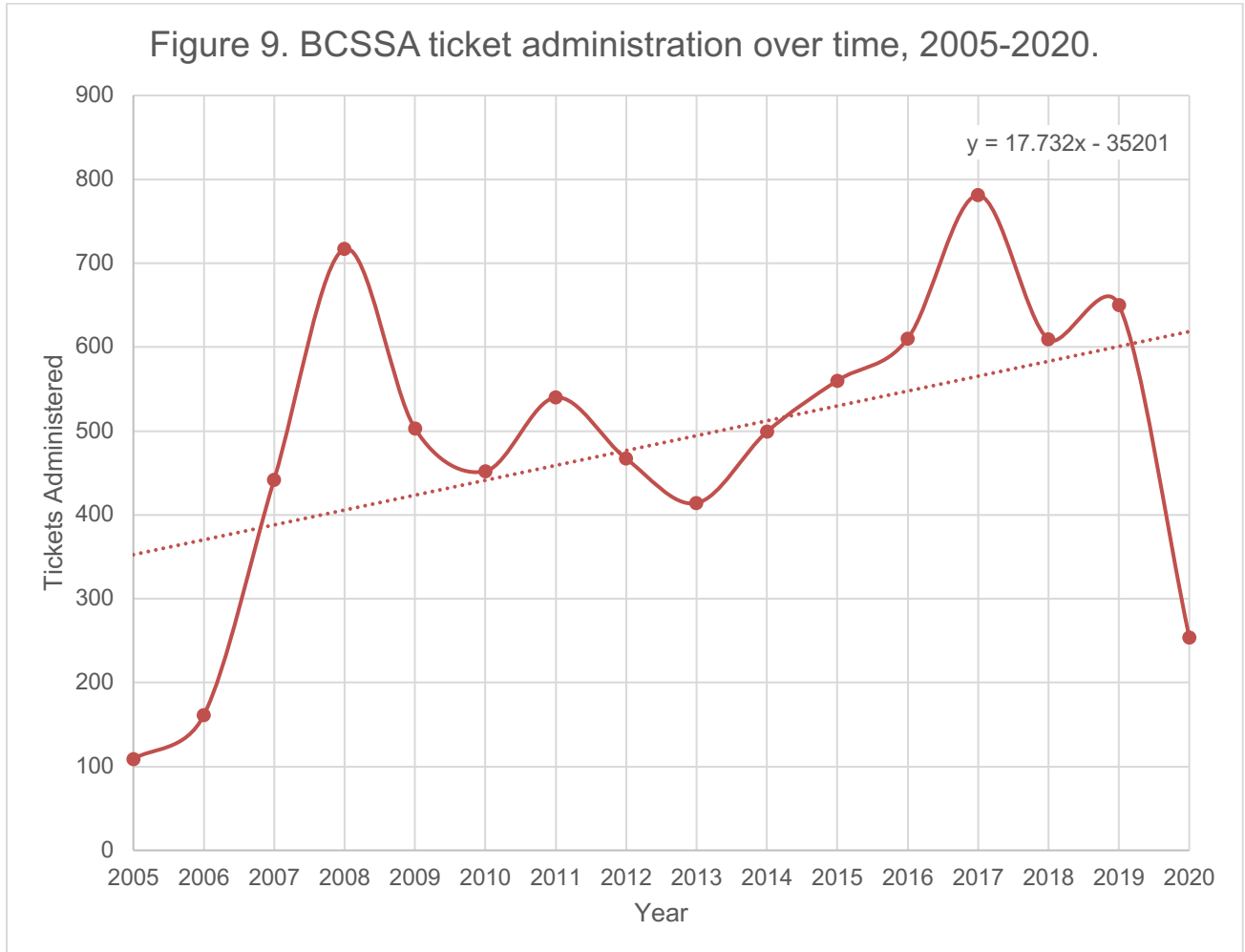
Figure 8. Tickets administered per 100 people experiencing homelessness in municipalities across British Columbia.*



*This figure represents municipalities with more than 10 tickets administered per 100 people experiencing homelessness in at least one of the three years studied.

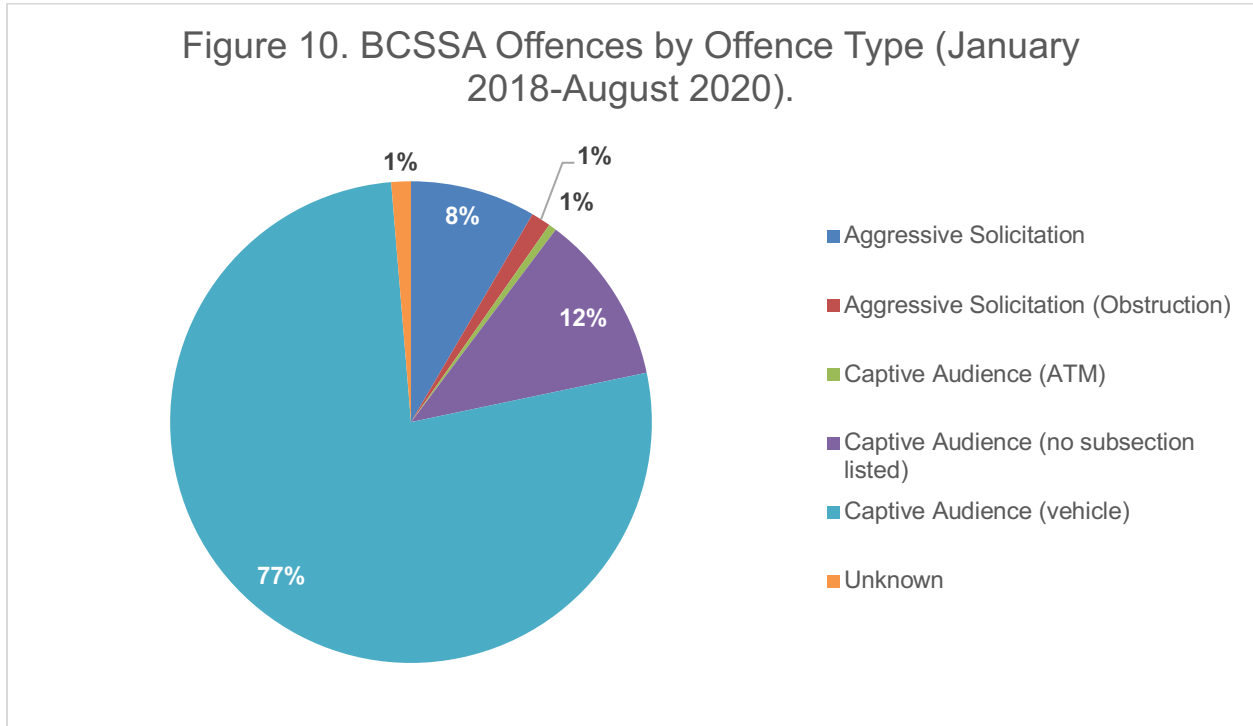
BCSSA Ticket Administration Over Time

An average of 459 BCSSA tickets are administered every year throughout BC. Ticket administration is trending upwards to a small degree. An average of 18 additional BCSSA tickets are administered every year in BC. Ticket administration decreased significantly in 2020 with only 254 tickets issued throughout the year. This decrease is likely associated with the numerous emergency housing facilities that emerged out of the COVID-19 pandemic, as well as the dearth of pedestrians on the streets throughout the year.



Type of Offence

The majority (90%) of offences under the BCSSA were classified as “Captive Audience” offences. Of these offences, the majority (77%) were further classified as “Solicitation to a person in a motor vehicle.”



5.3 Impact of the BCSSA

Financial Burden on Offenders

Since coming into force in 2005, 7,801 tickets have been administered under the BCSSA. Unfortunately, the ICBC data, which was able to provide a fulsome picture of the number of offences across BC throughout the time period, was not able to provide specific information related to fine amount. However, the fine amounts for each violation are listed on the BC Offence Act:

- Captive audience offences bear a fine of \$86 (BC Offence Act, 2021).
- Aggressive solicitation offences bear a fine of \$115 (BC Offence Act, 2021).

Therefore, a conservative estimate of the financial burden that has been placed on panhandlers via the BCSSA can be calculated by multiplying the lowest possible fine amount by the number of tickets administered, which provides a total financial burden of \$670,886.

Payment Status

Table 3. Payment status of BCSSA tickets, 2005-2021.

<i>Payment Status</i>	
# Paid	# Unpaid
253	7,548
Total Tickets Administered	
7,801	
% Paid	% Unpaid
3.24%	96.76%

As of May 2021, 96.76% of tickets administered under the BCSSA since it came into force in 2005 remain unpaid.

Cost of Enforcement

The cost of enforcement was calculated by multiplying the number of tickets administered by the average salary of a 1st Class Constable as per the Vancouver Police Department salary grid (VPD, 2019), adjusted to reflect an average ticket administration time of 15 minutes. This calculation produced a total enforcement cost of \$96,317 from January 2005 to May 2021.

6.0 Discussion and Analysis

The discussion and analysis section brings together the findings from the literature review, and primary data gathered from police departments and ICBC to address the research questions.

6.1 Answering the Research Questions

How is the BCSSA enforced across the province?

The data gathered from British Columbian police departments and ICBC provided adequate information to understand how the BCSSA is enforced across the province.

Location: As discussed in [Section 5.2](#), there is a strong correlation between municipal population and enforcement of the BCSSA, which signals that the Act is being enforced somewhat uniformly across municipalities when controlled for municipal population. However, there were seven municipalities where enforcement was much higher than expected on at least one of the three years studied. These municipalities were: Duncan, Langley, Quesnel, Terrace, and Victoria.

As discussed in [Section 5.2](#), the correlation between homeless population and enforcement of the BCSSA is even stronger, signalling that homeless population is a better predictor of ticket administration under the BCSSA than municipal population.

Three municipalities/regions exhibited high levels of enforcement relative to their homeless populations. These municipalities/ regions were: Delta, Duncan, and Tri-Cities (Coquitlam, Port Coquitlam, and Port Moody).

It is likely that Langley, Terrace, and Victoria, at first glance, had higher ticket administration due to larger homeless populations relative to municipal population. It is more difficult to ascertain the reasoning behind variations from the strong relationship between ticket administration and homeless population. Variations may stem from any of the many actors involved in BCSSA ticket administration – a militant police force, a litigious local population, or a population of panhandlers that more frequently use techniques that are illegal under the Act could potentially account for the variations seen in Duncan, Delta, and Tri-Cities.

Examining why these extreme variations exist, especially in Duncan where 61 tickets were administered per 100 people experiencing homelessness (eight standard deviations above the average of 5) is a topic for future research.

Enforcement over time: Overall ticket administration in BC is trending upwards to a small degree, with an average annual increase of 4% (see [Figure 9](#)). Tickets administered per 100,000 municipal population also increased over the three years studied, suggesting that the increases in ticket administration are not proportionate to annual population growth in BC, which is between 1-2% (Statistics Canada, 2020). Unfortunately, the lack of provincial data on homelessness over time did not allow for comparative analysis of ticket administration vs. homeless populations over time.

Given the slight increase in ticket administration over time, there is no evidence that the BCSSA is achieving its goal of decreasing panhandling activities that have been outlawed under the Act.

Jurisdictional Comparison: While the researcher was unable to find information on the exact number of tickets issued under the OSSA during the study period, the OSSA is evidently being enforced with more frequency than the BCSSA. Mathieu's study of tickets issued in Toronto from January 2013 to May 2018 uncovered over 31,000 tickets (Mathieu, 2017), compared to a total of 7,801 tickets administered under the BCSSA across British Columbia between January 2005 and May 2021. BC's population is nearly double that of the City of Toronto, suggesting an even greater disparity in enforcement between the two jurisdictions (Statistics Canada, 2022(a); Statistics Canada, 2022(b)).

This disparity in enforcement between the two jurisdictions may explain why the OSSA continues to receive ample media attention while the BCSSA does not.

Type of offence: The vast majority of tickets administered under the Act were classified as "Captive Audience" offences. Captive audience offences include soliciting to someone who is:

- 1) Using or waiting to use an ATM

- 2) Using or waiting to use a public toilet or pay phone
- 3) Waiting for or disembarking from a commercial passenger vehicle
- 4) Entering, exiting, or occupying a motor vehicle.

Only 9% of tickets administered under the Act were classified as “Aggressive Solicitation”. This result highlights a discrepancy between actual enforcement and advertised purpose of the Act. During the initial legislative debates regarding the BCSSA, aggressive solicitation was mentioned 70 times, whereas captive audience solicitation was mentioned 9. In the words of the bill’s sponsor, Hon. Lorne Mayencourt, “the problem that we have in our community is aggressive solicitation. We’re talking about people that get in people’s faces and threaten them or make them feel very uncomfortable when they’re asking for money” (BCLA, 2004(A), p. 10948). This quote and the language used throughout the legislative debates on this issue signals that the key issue to be addressed by the BCSSA is aggressive solicitation. With over 90% of BCSSA tickets administered for reasons other than aggressive solicitation, it is clear that the prevalence of aggressive solicitation was overestimated, or that the BCSSA is not the right tool to address it.

What is the financial burden that has been placed on people who violate the BCSSA?

As calculated in the [Section 5.3](#), at least \$670,886 in fines has been administered under the Safe Streets Act. Of these fines, only 3.24% (\$21,736) have been paid, leaving the remaining \$649,150 as outstanding debt owed by those who have been ticketed under the BCSSA.

These results are especially troubling when considered in the context of Chesnay, Bellot, and Sylvestre’s 2013 study, which found that 10% of individuals held 40% of tickets (p. 172). These results indicate that this debt is unlikely to be spread uniformly across the population of people who have been ticketed under the BCSSA and that there are likely some individuals who are in significant personal debt as a result of the BCSSA.

When considering the extent of non-payment under the BCSSA, it is important to consider the enforcement process noted in [Section 3.2](#). After six months of non-payment, tickets can be sent to private collections agencies and begin to impact individuals’ credit scores. This can have far reaching, long-term consequences for housing, employment opportunities, and ability to access credit (Wood, 2020), effectively deepening the entrenchment of people already experiencing homelessness and extreme poverty.

What does it cost to enforce the BCSSA?

The BCSSA appears to be a relatively low-cost piece of legislation to enforce, estimated to cost approximately ~\$6,000 in police salaries annually across British Columbia and ~\$96,317 over the lifespan of the Act so far. This is considerably lower than the

enforcement costs observed in Ontario, where cost of enforcement in Toronto alone was estimated at ~\$125,000/annually (Grady et al., 2013, p. 552).

While \$96,317 makes up an exceedingly small percentage of the cumulative police budget across British Columbia, the cost of enforcement is more than four times larger than the ticket revenue brought in by the Act (~\$21,758).

Do the costs of the BCSSA outweigh its benefits?

To answer the primary research question, the findings of the literature review must be integrated with the findings from the primary research. This section will examine the findings of the literature review in the context of enforcement realities in BC.

The key positive impacts of SSA-style legislation are related to crime and disorder reduction and business interests.

In studies that have found the impact of enforcing SSA-style legislation on crime rates to be statistically significant, the results have been strongest in hot spots where disorder interventions were applied to very small, high crime activity environments (Braga et al., 2019, p. 23). Similarly, in case studies where panhandling ordinances have been effective at curbing panhandling activities and therefore had positive business outcomes, the study area is generally confined to a small neighbourhood or business district with high levels of enforcement over a short period of time (La Vigne et al., 2007, p. 6; GWPCPC, 2017, p. 27).

These results signal that the ability of SSA-style legislation to affect crime rates and business interests hinges on its ability to rid a defined geographic space from problematic panhandling activity for a limited period of time. The literature review did not uncover any evidence that panhandling ordinances are effective over large geographic areas or over sustained periods of time, signalling a misalignment between evidence-based use of SSA-style legislation and the BCSSA, which spans the entire province of BC and is not time-limited.

The literature review uncovered various reasons why the long-term efficacy of panhandling legislation does not match its short-term efficacy. Most commonly, researchers found that while panhandlers may “move along” temporarily after interacting with law enforcement, the deterrent effect of ticketing is moot given that panhandlers generally do not have the financial means to pay the ticket. This explanation aligns with the reality of ticket administration in BC, with approximately 3% of BCSSA tickets being paid.

The literature review also found that enforcement of SSA-style legislation seems to decrease over time as frontline officers realize the futility of ticketing panhandlers. This finding does not align with the BCSSA, as enforcement increased over the study period. However, it is important to note that while enforcement increased over the study period, overall enforcement is quite low compared to analogous legislation in Ontario. The

reason for this disparity between Ontario and BC is outside of the scope of this project, but may signal a difference in law enforcement's approach to homelessness and panhandling in the two provinces.

The key negative impacts of SSA-style legislation were related to the socioeconomic outcomes of such legislation for people experiencing homelessness and extreme poverty. The socioeconomic outcomes of such legislation span individual, community, and system levels.

Individually, SSA-style legislation leads to poor outcomes related to stigmatization and marginalization, barriers to exiting homelessness, and distrust and avoidance of public services such as the police. Perhaps most obviously, SSA-style legislation can lead to the accumulation of significant debts that ultimately perpetuate homelessness and poverty. While this report did not examine individual BCSSA debt loads, it did find a cumulative debt load of over \$670,886 which, when paired with literature review findings, likely disproportionately impacts a small subsection of total individuals ticketed under the Act.

At the community level, the stigma that comes from criminalizing life-sustaining activities like panhandling leads members of the general public to reject empathetic and evidence-based service models of care in favour of enforcement and law-and-order style approaches to addressing homelessness and panhandling. In practice, this leads to dehumanization of people experiencing homelessness, community rejection of critical homelessness services and infrastructure, and vigilantism against people experiencing homelessness. Understanding the scope of the community-level impacts of the BCSSA is an area for future research.

These individual- and community-level impacts perpetuate homelessness on a systemic level by reinforcing an individualistic conception of homelessness that identifies the individual, instead of the structure and system they are a part of, at the centre of homelessness and poverty as policy issues. This leads to approaches to homelessness and associated issues like panhandling that centre law-and-order as opposed to support- and service-oriented approaches. Although it was not an initial aim of this research, it was clear throughout the research process that law-and-order approaches to addressing homelessness have been popular focuses of media discourse over the past decade. Many municipalities have enacted municipal bylaws that extend the role of the criminal justice system in addressing homelessness and there is a high level of community support for such approaches across vast swaths of British Columbia (Bula, 2019). Examining the role the BCSSA has played in community support of law-and-order approaches to addressing homelessness is an area for future research.

The individual, community, and structural impacts of SSA-style legislation interact with one another in a cyclical fashion. The deepening of individuals' entrenchment in homelessness creates a ripple effect that worsens community-level impacts of homelessness such as increased crime rates and urban decay, leading to reactionary

community pressure to address homelessness using punitive tools as opposed to supportive ones.

Where SSA-style legislation may have the ability to positively impact crime reduction and local business initiatives in specific instances, there is no evidence that the provincial and non-time-limited scope of the BCSSA is providing these benefits. Therefore, the significant potential costs of such legislation, including the financial costs that have been quantified in this report, outweigh the benefits of the BCSSA.

7.0 Policy Implications

7.1 Introduction

The findings of this project provide insight into the history of SSA-style legislation, the potential benefits and drawbacks of such legislation, and the actual enforcement trends of the BCSSA. These insights have important implications for the homelessness policy landscape in BC. This chapter will discuss four recommendations for the British Columbia provincial government, based on the findings of this project.

7.2 Recommendations

1) Repeal the BC Safe Streets Act.

This report's findings support repealing the BC Safe Streets Act. The BCSSA and similar legislation across jurisdictions have various negative implications spanning social, economic, and physical dimensions. To justify the use of a legislative tool with significant risks, there would need to be significant benefits to such an approach. However, there is no evidence that there are significant benefits to the use of the BCSSA as an approach to addressing problematic panhandling behaviours. Not only is there no evidence that the BCSSA is reducing such behaviours, there is clear evidence that the BCSSA is having significant negative financial impacts on those receiving tickets. Further, there is clear evidence that the financial debts being placed on those in violation of the BCSSA are not being paid, leading to the accumulation of such debts and signalling that financially punitive approaches are ineffective when working with people who are experiencing extreme poverty and homelessness.

2) Fund evidence-based support models for addressing poverty and homelessness.

The vast majority of panhandling activity, including most aggressive panhandling, is the result of poverty and homelessness. Discussing the most effective ways to address such large, complex problems is outside of the scope of this project. However, research overwhelmingly supports service-oriented, support-based models over enforcement-based models like the BCSSA. To adequately address problematic panhandling behaviours, the underlying causes of such behaviours must be addressed.

3) Amplify the voices of panhandlers to educate members of the public about the root causes of panhandling.

As discussed in the literature review, the broader concept of criminalization of homelessness and poverty interacts with SSA-style legislation in a cyclical fashion. Criminalization both creates the conditions necessary for the enactment of SSA-style legislation and is exacerbated by the enactment of such legislation. Due to the continuous implementation of both provincial and municipal SSA-style legislation over the past two decades, it is likely that public perceptions of panhandling have been negatively affected by SSA-style legislation. The literature review found that negative public perceptions of homelessness and poverty lead to community support of punitive measures and community rejection of service-oriented approaches, which may impact community responses to any service-based approaches to addressing panhandling. In preparation for this response, the provincial government has an active role to play in addressing public perceptions of panhandling.

Creating public awareness campaigns that discuss the structural and systemic reasons for homelessness, poverty, and associated behaviours like panhandling may help to increase community understanding of the issue and lead to better-informed conversations about appropriate and evidence-based responses. Centering the voices and perspectives of those who have lived experiences of homelessness, poverty, and panhandling is critical to developing effective, accurate public education initiatives.

4) Where necessary, rely on existing legislation to address aggressive panhandling.

There may be concerns that repealing the BCSSA will create a gap in law enforcement's ability to respond to aggressive solicitation in BC. This result is unlikely. As noted in the literature review, acting in an aggressive, abusive manner is unlawful, regardless of whether or not a person is engaged in panhandling activity. This kind of behaviour is already outlawed under Section 175(1) of the Criminal Code and any physical assault related to panhandling could be addressed using sections 265-267 of the Criminal Code. In lieu of the BCSSA, law enforcement officers are free to utilize relevant sections of the Criminal Code to address aggressive panhandling behaviours.

8.0 Conclusion

This report set out to determine whether the costs associated with the BC Safe Streets Act outweigh the Act's benefits. In pursuit of this goal, the researcher took a two-pronged, mixed methods approach which involved reviewing existing literature regarding the use of similar legislation across Canadian jurisdictions and examining real-world data regarding the enforcement of the BCSSA. This mixed methods approach allowed the researcher to adequately answer all primary and secondary research questions.

Using the above noted methodology, the following findings were uncovered:

- 1) Criminalization of homelessness and poverty interacts with SSA-style legislation in a cyclical fashion, which perpetuates poverty and deepens entrenchment in homelessness.
- 2) SSA-style legislation can lead to poor social, economic, and physical outcomes for people experiencing homelessness.
- 3) Enforcement of the BCSSA is relatively stable as a function of both municipal and homeless population. However, there are some outlier municipalities in which ticketing under the BCSSA is disproportionate to the municipal and/or homeless population.
- 4) The BCSSA is enforced with less frequency than the OSSA in Ontario, however, enforcement is gradually increasing at an average of 4% per year.
- 5) ~90% of offences under the BCSSA have been classified as “Captive Audience” offences that are not aggressive in nature.
- 6) There is no evidence that the BCSSA has reduced problematic panhandling behaviour.
- 7) The cumulative debt load of those ticketed under the BCSSA is \$670,886.
- 8) 96.76% of BCSSA tickets remain unpaid.
- 9) The public cost of enforcement of the BCSSA was ~\$96,317 for the period from January 2005 to May 2021.

Considering the above findings, the researcher concluded that the costs of the BCSSA outweigh its benefits. In recognition of this, the researcher made four recommendations to the provincial government of British Columbia. These recommendations were:

- 1) Repeal the BC Safe Streets Act.
- 2) Fund evidence-based solutions for addressing the underlying causes of problematic panhandling.
- 3) Amplify the voices of panhandlers to educate members of the public about the root causes of panhandling.
- 4) Where necessary, rely on existing legislation to address aggressive panhandling.

In closing, the researcher would like to note that the BCSSA is just one piece of a large network of issues contributing to the criminalization of homelessness in BC. It is her hope that this research project will support more work to decriminalize homelessness and poverty in British Columbia.

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APPENDIX A: The Vagrancy Act of 1869

1892.

The Criminal Code, 1892.

Title IV.

89

with reference to the burial of any dead human body or human remains; or

(b.) improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not.

PART XV.

VAGRANCY.

207. Every one is a loose, idle or disorderly person or vagrant who— Vagrant defined.

(a.) not having any visible means of maintaining himself lives without employment;

(b.) being able to work and thereby or by other means to maintain himself and family wilfully refuses or neglects to do so;

(c.) openly exposes or exhibits in any street, road, highway or public place, any indecent exhibition;

(d.) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;

(e.) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpath, or by using insulting language, or in any other way;

(f.) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;

(g.) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly disturbs the peace and quiet of the inmates of any dwelling-house near such street or highway;

(h.) tears down or defaces signs, breaks windows, or doors or door plates, or the walls of houses, roads or gardens, or destroys fences;

(i.) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

(j.) is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;

(k.) is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or

(l.) having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming

APPENDIX B: The BC Safe Streets Act

This Act is current to July 28, 2021

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

SAFE STREETS ACT **[SBC 2004] CHAPTER 75**

Assented to October 26, 2004

Contents

- 1 [Definition](#)
- 2 [Solicitation in aggressive manner prohibited](#)
- 3 [Solicitation of captive audience prohibited](#)
- 4 [Arrest without warrant](#)
- 5 [Consequential Amendment](#)
- 6 [Commencement](#)

Definition

- 1 In this Act, "**solicit**" means to communicate, in person, using the spoken, written or printed word, a gesture or another means, for the purpose of receiving money or another thing of value, regardless of whether consideration is offered or provided in return.

Solicitation in aggressive manner prohibited

- 2 (1) A person commits an offence if the person solicits in a manner that would cause a reasonable person to be concerned for the solicited person's safety or security, including threatening the person solicited with physical harm, by word, gesture or other means.
- (2) A person commits an offence if the person engages, in a manner that would cause a reasonable person to be concerned for the solicited person's safety or security, in one or more of the following activities during a solicitation or after the solicited person responds or fails to respond to the solicitation:
 - (a) obstructing the path of the solicited person;
 - (b) using abusive language;
 - (c) proceeding behind or alongside or ahead of the solicited person;
 - (d) physically approaching, as a member of a group of 2 or more persons, the solicited person;
 - (e) continuing to solicit the person.

Solicitation of captive audience prohibited

3 (1) In this section:

"commercial passenger vehicle" means a motor vehicle operated on a roadway by or on behalf of a person who charges or collects compensation for the transportation of passengers in that motor vehicle, and includes a vehicle operated by or on behalf of the British Columbia Transit Authority or the South Coast British Columbia Transportation Authority to provide a regularly scheduled public passenger transportation service;

"roadway" means a highway, road, street, lane or right of way, including the shoulder of any of them, that is improved, designed or ordinarily used by the general public for the passage of vehicles;

"vehicle" includes non-motorized vehicles.

(2) Subject to subsection (3), a person commits an offence who does any of the following:

- (a) solicits a person who is using, waiting to use, or departing from a device commonly referred to as an automated teller machine;
- (b) solicits a person who is using, or waiting to use, a pay telephone or a public toilet facility;
- (c) solicits a person who is waiting at a place that is marked, by use of a sign or otherwise, as a place where a commercial passenger vehicle regularly stops to pick up or disembark passengers;
- (d) solicits a person who is in, on or disembarking from a commercial passenger vehicle;
- (e) solicits a person who is in the process of getting in, out of, on or off of a vehicle or who is in a parking lot.

(3) No offence is committed under subsection (2) if the person soliciting is 5 metres or more from the following:

- (a) in the case of subsection (2) (a) to (c), the automated teller machine, pay telephone, public toilet facility entrance or commercial passenger vehicle marker, as applicable;
- (b) in the case of subsection (2) (d) or (e), the commercial passenger vehicle or vehicle, as applicable.

(4) No offence is committed under subsection (2) (a) if the person soliciting

- (a) has express permission, given by the owner or occupier of the premises on which the automated teller machine is located, to solicit within 5 metres of the automated teller machine, and
- (b) solicits only on the premises.

(5) A person commits an offence if the person, while on a roadway, solicits a person who is in or on a stopped, standing or parked vehicle.

Arrest without warrant

- 4 (1) In this section, "**peace officer**" means a peace officer described in paragraph (c) of the definition of "peace officer" in section 29 of the *Interpretation Act*.
- (2) A peace officer may arrest without warrant any person who the peace officer believes on reasonable and probable grounds is committing an offence under this Act.

Consequential Amendment

Editorial Note

Section(s)	Affected Act
5	<i>Motor Vehicle Act</i>

Commencement

- 6 This Act comes into force by regulation of the Lieutenant Governor in Council.

APPENDIX C: The Ontario Safe Streets Act



Français

Safe Streets Act, 1999

S.O. 1999, CHAPTER 8

Consolidation Period: From December 15, 2005 to the e-Laws currency date.

Last amendment: 2005, c. 32, s. 1.

Legislative History: [+]

Definition

1. In sections 2 and 3,

"solicit" means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means. 1999, c. 8, s. 1.

Definition

2. (1) In this section,

"aggressive manner" means a manner that is likely to cause a reasonable person to be concerned for his or her safety or security. 1999, c. 8, s. 2 (1).

Solicitation in aggressive manner prohibited

(2) No person shall solicit in an aggressive manner. 1999, c. 8, s. 2 (2).

Examples

(3) Without limiting subsection (1) or (2), a person who engages in one or more of the following activities shall be deemed to be soliciting in an aggressive manner for the purpose of this section:

1. Threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to respond to the solicitation.
2. Obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
3. Using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation.
4. Proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
5. Soliciting while intoxicated by alcohol or drugs.
6. Continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation. 1999, c. 8, s. 2 (3).

Definitions

3. (1) In this section,

"public transit vehicle" means a vehicle operated by, for or on behalf of the Government of Ontario, a municipality in Ontario or a transit commission or authority in Ontario, as part of a regular passenger transportation service; ("véhicule de transport en commun")

"roadway" has the same meaning as in the *Highway Traffic Act*; ("chaussée")

"vehicle" includes automobile, motorcycle, van, truck, trailer, bus, mobile home, traction engine, farm tractor, road-building machine, bicycle, motor-assisted bicycle, motorized snow vehicle, streetcar and any other vehicle drawn, propelled or driven by any kind of power, including muscular power. ("véhicule") 1999, c. 8, s. 3 (1); 2002, c. 17, Sched. F, Table.

Solicitation of captive audience prohibited

(2) No person shall,

- (a) solicit a person who is using, waiting to use, or departing from an automated teller machine;
- (b) solicit a person who is using or waiting to use a pay telephone or a public toilet facility;
- (c) solicit a person who is waiting at a taxi stand or a public transit stop;
- (d) solicit a person who is in or on a public transit vehicle;
- (e) solicit a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or
- (f) while on a roadway, solicit a person who is in or on a stopped, standing or parked vehicle. 1999, c. 8, s. 3 (2).

Permitted fund-raising by charities

(3) Subsection (2) does not apply to fund-raising activities that meet the following conditions:

- 1. They are conducted by a charitable organization registered under the *Income Tax Act* (Canada) on a roadway where the maximum speed limit is 50 kilometres per hour.
- 2. They are permitted by a by-law of the municipality in which the activities are conducted. 2005, c. 32, s. 1.

Section Amendments with date in force (d/m/y) [+]

Definition

4. (1) In this section,

"outdoor public place" means,

- (a) a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, includes but is not limited to a sidewalk, street, parking lot, swimming pool, beach, conservation area, park and playground, and
- (b) school grounds. 1999, c. 8, s. 4 (1).

Disposal of certain dangerous things prohibited

(2) No person shall dispose of any of the following things in an outdoor public place:

- 1. A used condom.
- 2. A new or used hypodermic needle or syringe.
- 3. Broken glass. 1999, c. 8, s. 4 (2).

Defence

(3) It is a defence to a charge under subsection (2) for the person who disposed of the condom, the needle or syringe or the broken glass to establish that he or she took reasonable precautions to dispose of it in a manner that would not endanger the health or safety of any person. 1999, c. 8, s. 4 (3).

Offence

5. (1) Every person who contravenes section 2, 3 or 4 is guilty of an offence and is liable,

- (a) on a first conviction, to a fine of not more than \$500; and
- (b) on each subsequent conviction, to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1999, c. 8, s. 5 (1).

Subsequent conviction

(2) For the purpose of determining the penalty to which a person is liable under subsection (1),

- (a) a conviction of the person of a contravention of section 2 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3;
- (b) a conviction of the person of a contravention of section 3 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3; and
- (c) a conviction of the person of a contravention of section 4 is a subsequent conviction only if the person has previously been convicted of a contravention of section 4. 1999, c. 8, s. 5 (2).

Arrest without warrant

6. A police officer who believes on reasonable and probable grounds that a person has contravened section 2, 3 or 4 may arrest the person without warrant if,

- (a) before the alleged contravention of section 2, 3 or 4, the police officer directed the person not to engage in activity that contravenes that section; or
- (b) the police officer believes on reasonable and probable grounds that it is necessary to arrest the person without warrant in order to establish the identity of the person or to prevent the person from continuing or repeating the contravention. 1999, c. 8, s. 6.

7 Omitted (amends or repeals other Acts). 1999, c. 8, s. 7.

8 Omitted (provides for coming into force of provisions of this Act). 1999, c. 8, s. 8.

9 Omitted (enacts short title of this Act). 1999, c. 8, s. 9.

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