

Montreal, 6 May 2021

**Commission sur les finances et l'administration**

Division du soutien aux commissions

155, rue Notre-Dame Est

Montréal (Québec)

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**PRE-BUDGET CONSULTATION BRIEF**

**RadLaw McGill**

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**1. Overview of Radlaw**

The Radical Law Students Association, or RadLaw, is a club affiliated with the Faculty of Law at McGill University. Our purpose is to encourage law students to work in solidarity with Montreal organizations and to develop egalitarian relationships with communities. Some examples of local organizations that we support include the Resilience Montreal shelter, the Immigrant Workers Centre, Solidarity Across Borders, and Open Door Books.

Since the mass demonstrations against police brutality began in May 2020, members of RadLaw have been thinking critically about the role police play in our communities, revising a society without prisons, policing, surveillance, and reflecting creatively about lasting alternatives to punishment and imprisonment.

**2. Our Position**

RadLaw welcomes the City of Montreal's invitation to public pre-budget consultations. In this memorandum, **we submit our recommendation to cut the budget allocated to the Service de Police de la Ville de Montréal (SPVM) by 50 percent for 2022.** The SPVM's budget for 2021 was \$679.1 million, constituting approximately 11 percent of Montreal's \$6.17 billion budget. We find this figure to be unacceptable, and we propose divesting the SPVM's budget and reinvesting in social services and infrastructure projects that keep communities safe and healthy. The SPVM is a target area from which to divest for two main reasons. First, we find that the police as an institution has a track record of racial and social profiling, using excessive force against marginalized communities, and being unaccountable for their abuses. Second, the police are unequipped to bolster public health and safety.

**A. Abusive and discriminatory practices, and poor accountability mechanisms**

The 'neighbourhood policing' model adopted by the SPVM in 1997—while claiming to "strengthen community ties through an approach based on solving problems, building

partnerships and on a greater openness toward community groups”<sup>1</sup>—has perpetuated racist and classist law enforcement. For instance, ‘broken windows’ policing practices, embraced by the neighbourhood policing model, lead to the targeting of homeless populations for by-law infractions such as ‘disorder’ and ‘incivility’.<sup>2</sup> A policing strategy based on an unproven criminological theory, ‘broken windows’ links visual cues and behavior begetting low-level infractions, such as littering, vandalism, or public drinking, to high-level crime, such as gang and gun violence.<sup>3</sup> This theory suggests that physical and social disorder corrode a community’s social controls and safety, thereby encouraging crime and fear.<sup>4</sup> This approach has led to more aggressive patrolling in marginalized neighbourhoods and the enforcement of incivility offences.<sup>5</sup> As a result of this practice, the *Commission des droits de la personne et des droits de la jeunesse* found that while only making up one percent of Montreal’s population, homeless people received 30 percent of tickets for municipal offences.<sup>6</sup> The *Commission* also deemed this type of practice a matter of “social profiling” that is inextricably tied to the SPVM’s policing model.<sup>7</sup>

The SPVM regularly uses excessive force against marginalized individuals. A report by the CBC affirms that people who are Black, Indigenous, experiencing mental illness, or experiencing substance abuse issues are overrepresented among deadly encounters with the police in Canada.<sup>8</sup> In Montreal, Anthony Griffin (1987), Preslie Leslie (1990), Osmond Fletcher (1991), Marcellus François (1991), Trevor Kelly (1993), Anas Bennis (2004), Fredy Villanueva (2008), Mario Hamel (2011), Patrick Limoges (2011), Alain Magloire (2013), René Gallant (2015), Jean-Pierre Bony (2016), Pierre Coriolan (2017), Nicholas Gibbs (2018), Sheffield Matthews (2020), and many more have been killed by the SPVM. Recent events of police brutality against racialized Montrealers, such police choking and punching a man accused of public drinking at Jeanne-Mance Park<sup>9</sup> or transit officers fighting a Black woman accused of not paying her metro

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<sup>1</sup> “History of the police in Montréal” online: *SPVM* <spvm.qc.ca/en/Pages/Discover-SPVM/Police-museum/History-of-the-police-in-Montreal>.

<sup>2</sup> Commission des droits de la personne et des droits de la jeunesse, “la judiciarisation des personnes itinérantes à Montréal” (6 Novembre 2009), online: <www.cdpdj.qc.ca/storage/app/media/publications/itinerance\_avis.pdf>

<sup>3</sup> See e.g. Yili Xu, Mora L Fiedler & Karl H Flaming, “Discovering the Impact of Community Policing: The Broken Windows Thesis, Collective Efficacy, and Citizens’ Judgment” (2005) 42:2 *J Research Crime & Delinquency* 147.

<sup>4</sup> *Ibid* at 148.

<sup>5</sup> Marie-Eve Sylvestre, “Policing the homeless in Montreal: Is this really what the population wants?” (2010) 20:4 *Policing & Society* 432 at 453.

<sup>6</sup> Commission des droits de la personne et des droits de la jeunesse, “The Judicialization of the Homeless in Montréal: A Case of Social Profiling” (6 November 2009), online: pdf <www.cdpdj.qc.ca/Documents/Homeless\_Summary.pdf> at 2.

<sup>7</sup> *Ibid*.

<sup>8</sup> Inayat Singh, “2020 already a particularly deadly year for people killed in police encounters, CBC research shows” (23 July 2020), online: *CBC* <newsinteractives.cbc.ca/fatalpoliceencounters/>.

<sup>9</sup> Luca Caruso-Moro, “Montreal mayor renews call for bodycams after video shows officers hitting, holding man’s neck” (2021), *CTV News*: online <montreal.ctvnews.ca/montreal-mayor-renews-call-for-bodycams-after-video-shows-officers-hitting-holding-man-s-neck-1.5383128>.

fare at Jean-Talon station,<sup>10</sup> illustrates the continued discriminatory and abusive practices of Montreal police.

The mechanisms in place to keep the SPVM accountable for its abuses are also inadequate. For example, Quebec's police ethics board, the *Commissaire à la déontologie policière*, received 1,867 complaints between 2018 and 2019, but only filed 85 citations with the *Comité de déontologie policière*.<sup>11</sup> From these citations, the *Comité* carried out 31 hearings, finding 21 instances of infringement of the code of ethics. Moreover, a report by an attorney and an independent civilian observer found that the *Bureau des enquêtes indépendantes* is “unacceptably opaque” when it comes to investigating complaints about police conduct<sup>12</sup> and has “one of the worst records in Canada in terms of transparency.”<sup>13</sup> Research conducted by the *Ligue des Droits et Libertés* reveals that the SPVM operates with widespread impunity and sanctions against police officers are rare.<sup>14</sup> What's more, if SPVM officers are found civilly or criminally liable for their misconduct, it is the City of Montreal that shoulders the cost. This is because of the robust collective agreement concluded between the City and the SPVM's union, *la Fraternité des policiers et policières de Montréal*, which provides that the City must be responsible for any pecuniary damages assigned to the officer.<sup>15</sup> We urge the City of Montreal to aggressively renegotiate this agreement when it is due for renewal this year, so that strong incentives are put in place for police to avoid misconduct.

## **B. Policing does not address the structural issues that make our communities unsafe**

There is growing evidence that police do not keep communities safe. Even the Prime Minister of Canada has acknowledged that “the reality is many people in this country simply do not feel protected by the police. In fact, they're afraid of them.”<sup>16</sup> Despite good intentions, reforms do not change the broader culture of policing. This is because “policing is rooted in a history of racism,

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<sup>10</sup> Alessia Simona Maratta & Annabelle Olivier, “Video showing violence between Montreal transit security and citizen under investigation” (2021), *Global news*: online <[globalnews.ca/news/7768335/montreal-public-transit-security-black-man-video/](http://globalnews.ca/news/7768335/montreal-public-transit-security-black-man-video/)>.

<sup>11</sup> Commissaire à la déontologie policière, Annual Report 2018–2019 at 7, 54.

<sup>12</sup> Fannie Lafontaine, “Assessment of the integrity and impartiality of SPVM investigations into allegations of criminal acts made by Indigenous persons in Québec against police officers” (2020) Ministère de la Sécurité Publique, online: <[www.securitepublique.gouv.qc.ca/fileadmin/Documents/ministere/rapports/summary\\_ind\\_spvm\\_phase2.pdf](http://www.securitepublique.gouv.qc.ca/fileadmin/Documents/ministere/rapports/summary_ind_spvm_phase2.pdf)> at 25.

<sup>13</sup> Lindsay Richardson, “Transparency major issue at police watchdog unit in Quebec says new report” APTN News (21 October 2020), online: <[www.aptnnews.ca/national-news/transparency-major-issue-at-police-watchdog-unit-in-quebec-says-new-report/](http://www.aptnnews.ca/national-news/transparency-major-issue-at-police-watchdog-unit-in-quebec-says-new-report/)>

<sup>14</sup> Pier Belisle et al. “Regards critiques sur les trois premières années d'activité du Bureau des enquêtes indépendantes” (2020) Ligue de droits et libertés et Coalition contre la répression et abus policiers, online: <[liguedesdroits.ca/wp-content/fichiers/2020/09/rapport-bei-2020\\_60pages\\_couleurs\\_20200309.pdf](http://liguedesdroits.ca/wp-content/fichiers/2020/09/rapport-bei-2020_60pages_couleurs_20200309.pdf)>.

<sup>15</sup> “Convention collective de travail entre la Ville de Montréal et la Fraternité des policiers et policières de Montréal” (2015–2021), ss 26.09, 26.10, 26.14, 26.16.

<sup>16</sup> Alex Boutilier, “Many Canadians ‘don't feel protected by the police,’ Justin Trudeau says”, online: Toronto Star <[www.thestar.com/politics/federal/2020/06/08/trudeau-says-hell-push-provinces-on-body-cameras-for-police.html](http://www.thestar.com/politics/federal/2020/06/08/trudeau-says-hell-push-provinces-on-body-cameras-for-police.html)>.

white supremacy, and punitive retribution that is hard to overcome.”<sup>17</sup> Mayor Valérie Plante has pledged to equip SPVM officers with body cameras,<sup>18</sup> ignoring studies that demonstrate that such devices do not reduce police violence nor do they result in greater accountability.<sup>19</sup> Indeed, “[not]ot only are they ineffective, but they are expensive, and therefore used to justify massive budget increases for the police.”<sup>20</sup> Ample video footage already shows SPVM officers violently assaulting Montrealers; we do not need more evidence that the police are harming people in our city. Body cameras are a misguided policy that serve to inflate police budgets rather than keeping people safe.

There is now an emerging consensus among Canada’s highest offices that the root causes of crime and criminalization are systemic. In its 2019 “Final Report on the Review of the Canada’s Criminal Justice System,” the Department of Justice, spear-headed by the Honourable David Lametti, noted that governments must “take into consideration how the criminal justice system relates to other critical support systems in our society, such as housing, health care, education, employment, training and child protection.” The report further highlighted that “they must strive to better understand the root causes of crime” and ensure that they “are not using instruments of criminal justice to address social problems.”<sup>21</sup> The Supreme Court of Canada also increasingly acknowledges these fundamental issues with our current criminal justice system. In *R v. Le*, Justices Brown and Martin concluded that “we have arrived at a place where the research now shows disproportionate policing of racialized and low-income communities.”<sup>22</sup> In *R v. Boudreault*, the Court acknowledged that “[m]any of the people involved in our criminal justice system are poor, live with addiction or other mental health issues, and are otherwise disadvantaged or marginalized.”<sup>23</sup>

It is clear that issues such as addiction, mental health, and poverty are not best addressed through policing, but by redressing the structural flaws that place people in conditions of vulnerability. Homelessness and access to proper health care are public health issues that should be tackled with the appropriate means – outside the criminal justice system. Seeing that not only policing, but also social housing, community and social development, and land planning are within

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<sup>17</sup> Jill Suttie, “Is Funding Police the Best Way to Keep Everyone Safe?”, online: Greater Good Magazine <[greatergood.berkeley.edu/article/item/is\\_funding\\_police\\_the\\_best\\_way\\_to\\_keep\\_everyone\\_safe](http://greatergood.berkeley.edu/article/item/is_funding_police_the_best_way_to_keep_everyone_safe)>

<sup>18</sup> The Montreal Gazette, “Video of Montreal cop punching man shows need for body cameras, Plante says”, online; <[montrealgazette.com/news/local-news/video-of-montreal-cop-punching-man-shows-need-for-body-cameras-plant-says](http://montrealgazette.com/news/local-news/video-of-montreal-cop-punching-man-shows-need-for-body-cameras-plant-says)>

<sup>19</sup> Nell Greenfield Boyce, “Body Cam Study Shows No Effect On Police Use Of Force Or Citizen Complaints”, online: NPR <[www.npr.org/sections/thetwo-way/2017/10/20/558832090/body-cam-study-shows-no-effect-on-police-use-of-force-or-citizen-complaints](http://www.npr.org/sections/thetwo-way/2017/10/20/558832090/body-cam-study-shows-no-effect-on-police-use-of-force-or-citizen-complaints)>

<sup>20</sup> Julianna Duholke, “Mayor Plante, body cameras aren’t the answer to police violence”, online: Ricochet Media <<https://ricochet.media/en/3611/mayor-plant-body-cameras-arent-the-answer-to-police-violence>>

<sup>21</sup> Canada, Department of Justice, *Final Report on the Review of the Canada’s Criminal Justice system* (2019), online (PDF): *Department of Justice* <[www.justice.gc.ca/eng/cj-jp/tcjs-tsjp/fr-rf/docs/fr.pdf](http://www.justice.gc.ca/eng/cj-jp/tcjs-tsjp/fr-rf/docs/fr.pdf)> at 6.

<sup>22</sup> 2019 SCC 34, para 97

<sup>23</sup> 2018 SCC 58, para 3.

Montreal’s jurisdictional purview,<sup>24</sup> we see no reason why the allocations of funds do not reflect this.

### **3. Recommendations**

#### **A. Divesting**

Fifty percent of the SPVM’s budget—roughly \$340 million—is a considerable amount that could help foster safer and healthier communities.<sup>25</sup> We recommend allocating these funds to community services and infrastructure projects that promote public health and social wellbeing, as well as criminal-justice alternatives.

As the majority of the SPVM’s budget is assigned to unionized officers’ salaries,<sup>26</sup> it may prove difficult for the City of Montreal to remove such a significant amount from this budget line. However, we urge the City to engage in assertive discussions with the SPVM about the fairness of this contract. Practices such as halting new hires, disarming officers, and avoiding investment in costly and ineffective technologies such as body cameras can help offset this budget cut.

#### **B. Investing**

##### **1. Homelessness-centered resources**

People experiencing homelessness are at a heightened risk of violent victimization,<sup>27</sup> criminalization,<sup>28</sup> and contracting disease (such as COVID-19<sup>29</sup>). To address these harms, Montreal should increase the emergency response budget to better address the homeless crisis. The City should invest in more public washroom facilities, drop in centers offering indoor and

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<sup>24</sup> *Charter of Ville de Montréal, metropolis of Québec*, 2017, c 16, s 87.

<sup>25</sup> Marian Scott, “Allow Montreal to run deficit for 2020, report urges” (2 June 2020), online: *The Montreal Gazette* <[montrealgazette.com/news/local-news/plante-announces-plan-to-relaunch-economy](http://montrealgazette.com/news/local-news/plante-announces-plan-to-relaunch-economy)>.

<sup>26</sup> “Présentation à l’intention des membres de la Commission sur les finances et l’administration: Budget 2020” (29 November 2019), Presentation by Sylvain Caron, SPVM Director, online (pdf): <[ville.montreal.qc.ca/pls/portal/docs/page/commissions\\_perm\\_v2\\_fr/media/documents/pres\\_spvvm\\_20191129-2.pdf](http://ville.montreal.qc.ca/pls/portal/docs/page/commissions_perm_v2_fr/media/documents/pres_spvvm_20191129-2.pdf)> at 31; see also Tom Cardoso & Molly Hayes, “Canadian cities’ police spending ranges from one-10th to nearly a third of total budgets, Globe analysis finds” (16 August 2020), online: *The Globe and Mail* <[www.theglobeandmail.com/canada/article-canadian-cities-police-spending-ranges-from-one-10th-to-nearly-a/](http://www.theglobeandmail.com/canada/article-canadian-cities-police-spending-ranges-from-one-10th-to-nearly-a/)>.

<sup>27</sup> See Marie-Ève Sylvestre “Policing the homeless in Montreal: is this really what the population wants?” (2010) 20:4 *Policing and Society* 432. See also Stephen Gaetz, Bill O’Grady & Kristi Buccieri, “Surviving Crime and Violence: Street Youth and Victimization in Toronto” (2010), online (pdf): *The Homeless Hub* <[yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/29374/Surviving%20the%20Streets.JFCY\\_September16.2010.pdf?sequence=1&isAllowed=y](http://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/29374/Surviving%20the%20Streets.JFCY_September16.2010.pdf?sequence=1&isAllowed=y)>. (Report finds that homeless youth in Toronto increased risk of experiencing violent criminalization, and homeless women being at higher risk of experiencing sexual assault, and partner violence).

<sup>28</sup> See “Incivilities” (2020), online: *Service de Police de Montréal* <[spvm.qc.ca/en/PDQ38/Pages/Projects/Incivilities](http://spvm.qc.ca/en/PDQ38/Pages/Projects/Incivilities)>. By laws, such as against drinking, loitering, urinating/defecating in public, and nighttime noise inherently criminalize the homeless population.

<sup>29</sup> See Jaspreet Khangura et al, “Why communities need to move fast, get creative to protect homeless from COVID-19” (2 April 2020), online: *CBC* <[www.cbc.ca/news/opinion/opinion-covid-19-homeless-1.5516075](http://www.cbc.ca/news/opinion/opinion-covid-19-homeless-1.5516075)>.

outdoor spaces, and homeless shelters to increase beds available. Moreover, it should fund programs and services to improve access to healthy, affordable food to alleviate food insecurity.

## **2. Access to social services**

Montreal's investment in social programs must put historically marginalized communities at the centre. Safe injection and consumption sites, safe spaces for sex workers, and culturally-appropriate community centres for BIPOC, LGBTQ+, and new migrants are examples of projects where people can build a sense of community and more easily access resources.

Furthermore, the City can use its right of first refusal on properties to ensure community projects have priority to adequate, affordable, and accessible spaces. This can be linked to neighbourhoods that have seen the highest levels of police intervention and violence, or areas that have been historically neglected.

## **3. Recreative and educative tools**

We recommend that funds be allocated to recreational and educational tools to improve the safety and quality of life of our communities. Equitable access to library spaces and internet resources are integral to the redistribution of opportunity, and increase the communities' social and economic prosperity.<sup>30</sup> Montreal should invest in municipal libraries, expanding programs offered based on specific community demands in arts, recreation, educational (homework help, literacy skills, subject based), and practical-skills, and hire the necessary staff to run such programs. It could also implement a program for low-cost computers and tablets available for low income families and individuals, equipped with software, and invest in high speed internet access for low-income earners across Montreal.<sup>31</sup> Finally, the City should fund the implementation of air purifiers and ventilation systems in libraries and schools, to reduce risk of transmissible diseases.

## **4. Affordable and social housing developments**

Montreal has been experiencing a serious housing crisis for a number of years. This year, the vacancy rate is 2.7 percent.<sup>32</sup> Mayor Valérie Plante has expressed her worries about this crisis,<sup>33</sup>

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<sup>30</sup> See e.g. "Calgary Public Library Community Benefits Study 2013/14" (2016), online (pdf): *Calgary public library* <[libraryfoundation.ca/wp-content/uploads/2020/03/CalgaryLibraryCommunityBenefitsStudy.pdf](http://libraryfoundation.ca/wp-content/uploads/2020/03/CalgaryLibraryCommunityBenefitsStudy.pdf)>. For every dollar invested in the Calgary Public Library during the 2014-2015 study period, the community received a midway return on investment (ROI) of \$4.20. In Toronto, the Public Library received a \$3.83 ROI for every dollar spent.

<sup>31</sup> See "Low-Cost Computers" (2020), online: *Seattle Information Technology* <[www.seattle.gov/tech/services/free-and-discounted-devices/affordable-computers](http://www.seattle.gov/tech/services/free-and-discounted-devices/affordable-computers)>. Currently a similar private program exists, the OPEC CLIC, funded only partially by the federal government, however requests for OPEQ may only be made through organizations on behalf of individuals causing a huge barrier, and the income thresholds are extremely low.

<sup>32</sup> JP Karwacki, "Montreal's landlords are bumping up prices to whittle down applicants even as vacancy rate increases" (26 March 2021), online: *The Montreal Gazette* <<https://montrealgazette.com/news/local-news/montreals-landlords-are-bumping-up-prices-to-whittle-down-applicants-even-as-vacancy-rate-increases>>

<sup>33</sup> Isaac Olson, "'Now is the time for action,' says Mayor Valérie Plante, as Montreal vacancy rate hits 15-year low" (16 Jan 2020), online: *CBC* <[www.cbc.ca/news/canada/montreal/montreal-low-rental-housing-rates-1.5428726](http://www.cbc.ca/news/canada/montreal/montreal-low-rental-housing-rates-1.5428726)>.

and has made sensible investments and policies to combat this issue.<sup>34</sup> For instance, the City has pledged to make 12,000 new social housing units by 2021 and has undertaken to use its right of first refusal in order to buy lands and buildings to develop to this end.<sup>35</sup> Despite these promises, the Mayor cut funding for housing by \$13 million in the 2021 budget.<sup>36</sup>

## 5. Environmentally-friendly waste management

The effects of climate change affect poor and racialized people the most.<sup>37</sup> It is imperative that Montreal fights environmental racism by investing in sustainable forms of waste disposal, and contributes to the best of its ability to fight against climate change. Money should be invested to distribute compost bins to all citizens as soon as possible, and more aggressive enforcement strategies should be developed to ensure corporations and businesses compost adequately. More should also be done to avoid food waste in the restaurant industry. This can be done by funding existing programs that transfer restaurants' and grocers' surpluses to charitable organisations,<sup>38</sup> or creating new programs that have similar mandates.

## 6. Parks and green spaces

The City should invest more in green spaces. In a recently published review of scientific evidence, the Canadian Public Health Agency found that green spaces in people's living environments have positive effects on a number of health indicators, including mental illness, such anxiety and depression.<sup>39</sup> A new policy option, implemented in Toronto in 2009 mandates that buildings with more than 2000 square metres of total floor space are obliged to plant vegetation on their roofs.<sup>40</sup> Montreal should follow suit.

## 7. Public transport

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<sup>34</sup> Isaac Olson, "City of Montreal to exercise right of first refusal to turn properties for sale into social housing" (17 February 2020), online: *CBC* <[www.cbc.ca/news/canada/montreal/right-of-first-refusal-social-housing-1.5466347](http://www.cbc.ca/news/canada/montreal/right-of-first-refusal-social-housing-1.5466347)>.

<sup>35</sup> *Ibid.*

<sup>36</sup> Kamila Hinkson and Antoni Nerestant, "Montreal's pandemic budget aims to give citizens, businesses a break" (13 November 2020), online: *CBC*

<<https://www.cbc.ca/news/canada/montreal/montreal-budget-pandemic-1.5798512>>

<sup>37</sup> See Nadine Scott et al. "The Production of Pollution and Consumption of Chemicals in Canada" in Dayna Nadine Scott, ed, *Our Chemical Selves: Gender, Toxics and Environmental Health* (Vancouver: UBC Press, 2015) 3. See also Ingrid Waldron, *There's Something in the Water: Environmental Racism in Indigenous and Black Communities*, (Halifax: Fernwood Publishing, 2018); Jesse Thistle "Definition of Indigenous Homelessness in Canada" (2017), online (pdf): *Canadian Observatory on Homelessness Press* <[homelesshub.ca/sites/default/files/COHIndigenousHomelessnessDefinition.pdf](http://homelesshub.ca/sites/default/files/COHIndigenousHomelessnessDefinition.pdf)>.

<sup>38</sup> See e.g. "Food Recovery in Supermarkets Program" (2020), online: *Moisson Montréal* <[www.moissonmontreal.org/en/campaigns-programs/frps/](http://www.moissonmontreal.org/en/campaigns-programs/frps/)>.

<sup>39</sup> See Marianne Kingsley & EcoHealth Ontario "Climate change, health and green space co-benefits" (2019), online: *Health Promotion and Chronic Disease Prevention in Canada: Research, Policy and Practice* <[www.canada.ca/en/public-health/services/reports-publications/health-promotion-chronic-disease-prevention-canada-research-policy-practice/vol-39-no-4-2019/climate-change-health-green-space-co-benefits.html](http://www.canada.ca/en/public-health/services/reports-publications/health-promotion-chronic-disease-prevention-canada-research-policy-practice/vol-39-no-4-2019/climate-change-health-green-space-co-benefits.html)>.

<sup>40</sup> See "City of Toronto Green Roof Bylaw" (2020), online: *City of Toronto* <[www.toronto.ca/city-government/planning-development/official-plan-guidelines/green-roofs/green-roof-bylaw/](http://www.toronto.ca/city-government/planning-development/official-plan-guidelines/green-roofs/green-roof-bylaw/)>.

One of RadLaw's student-run projects is a weekly legal information clinic at Cabot Square, where participants who are low-income or homeless have expressed how they depend on public transit to access services every day. Many are forced to jump turnstiles, and are consistently ticketed because they cannot afford to pay the fare. This perpetuates a disadvantage and leaves people with hundreds, sometimes thousands, of dollars in debt from unpaid fines that they cannot afford to pay. When buses boarded from the back door during COVID-19, they were able to board even when they could not afford the fare. Access to free public transit is particularly important for low-income or precariously-housed people because they are often redirected to numerous social services, which are spread out across the city.

Affordable public transit is directly linked to employment opportunities and job security.<sup>41</sup> The City of Montreal has implemented many measures to support people experiencing homelessness.<sup>42</sup> Unfortunately, this has included an increased presence of transit agency security officers. This has negative outcomes during the colder months, when people are forced to seek refuge in stations during the day. Half of tickets for by-law infractions are related to public-transit use, and these tickets disproportionately target people who are marginalized, racialized and homeless.<sup>43</sup> Montreal must address these inequities by adopting policies that allow low- and fixed-income people to freely use public transit, and prohibit SPVM and *Société de transport de Montréal* officers from targeting these populations. Alternatively, Montreal should offer free public transportation to all.

## 8. Water and sewers

Despite having access to some of the largest freshwater reserves, many people in Montreal do not have access to clean drinking water. Lead-testing programs in Montreal show a correlation between higher lead levels<sup>44</sup> in neighbourhoods with greater rates of poverty among families with children.<sup>45</sup> Because of the pandemic, promises to test lead in Montreal daycares have been delayed.<sup>46</sup> Montreal has also promised to test public fountains and publish its findings online

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<sup>41</sup> Canadian Poverty Institute, "Transportation" online: *Homeless Hub* <[www.homelesshub.ca/povertyhub/basic-needs/transportation](http://www.homelesshub.ca/povertyhub/basic-needs/transportation)>.

<sup>42</sup> Ville de Montreal, "The city is taking measures to support homeless residents" (updated 27 July 2020), online: <[montreal.ca/en/news/city-taking-measures-to-support-homeless-residents](http://montreal.ca/en/news/city-taking-measures-to-support-homeless-residents)>.

<sup>43</sup> Justin Douglas, "The Criminalization of Poverty: Montreal's Policy of Ticketing Homeless Youth for Municipal and Transportation By-Law Infractions" (2011) 16 *Appeal* 49-64, online: *Homeless Hub* <[www.homelesshub.ca/resource/criminalization-poverty-montreals-policy-ticketing-homeless-youth-municipal-and](http://www.homelesshub.ca/resource/criminalization-poverty-montreals-policy-ticketing-homeless-youth-municipal-and)>. See also Véronique Fortin, "The Control of Public Spaces in Montreal in Times of Managerial Justice" (2018) 15 *Champ pénal/Penal field*, online: <[journals.openedition.org/champpenal/10115](http://journals.openedition.org/champpenal/10115)>.

<sup>44</sup> Global News and the Institute for Investigative Journalism, "Is Montreal's lead problem worse than Flint, Michigan's?" (4 November 2019) online: *Global News* <[globalnews.ca/news/6113701/montreal-drinking-water-lead-flint-michigan/](http://globalnews.ca/news/6113701/montreal-drinking-water-lead-flint-michigan/)>.

<sup>45</sup> "2018 Poverty Map: Guide to the Poverty Map of Families with Children Under the Age of 18 on the Island of Montréal" (2018), online: *Comité de gestion de la taxe scolaire de l'île de Montréal* <[www.cgtsim.qc.ca/images/documents/GUIDE\\_2018ANW\\_CARTE\\_DEFavo.pdf](http://www.cgtsim.qc.ca/images/documents/GUIDE_2018ANW_CARTE_DEFavo.pdf)>.

<sup>46</sup> Raquel Fletcher, "Lead testing in Quebec schools and daycares delayed due to COVID-19" (11 August 2020), online: *Global News* <[globalnews.ca/news/7266938/quebec-schools-drinking-water-lead-testing/](http://globalnews.ca/news/7266938/quebec-schools-drinking-water-lead-testing/)>.

which, to date, is still not available.<sup>47</sup> In fact, there is no map or list of public fountains in Montreal, despite the noted benefits public access to water has for health and dignity.<sup>48</sup> The same is said of public access to toilets and showers.<sup>49</sup> The pandemic showed us that more restrooms are needed, and Montreal responded by installing temporary portable toilets.<sup>50</sup> In 2017, Montreal said it would install a more permanent solution of self-cleaning toilets, but has only built four of the 12 that were promised.<sup>51</sup> Montreal must promote health and safety by providing adequate water fountains, toilets, and showers in public places and ensure households and organizations do not have tainted tap water due to lead pipes. Greater access to public fountains and restrooms will also lead to fewer public disturbance infractions such as urination, prevent public health emergencies, and reduce waste that ends up untreated in storm drains and city green spaces.

## 9. Extrajudicial dispute resolution systems

Recognizing that the criminal justice system has an active role in increasing family separation, perpetuating intergenerational trauma, intergenerational poverty, and re-victimization of survivors, more funding needs to be allocated to paths with extra-judicial means of attaining justice. This includes increasing access to de-escalation and mediation services, as well as restorative justice programs that steer citizens away from correctional facilities and traditional sentencing. By focusing on community sanctions, and involving the community members directly affected by conflict,<sup>52</sup> the root causes of crime and the high rates of recidivism will be better addressed.<sup>53</sup> This investment is necessary for the municipal government to uphold its call by the Truth and Reconciliation Commission (TRC) to eliminate the gross overrepresentation of Indigenous adults and youth in custody.<sup>54</sup> Without adequate funding to such programs, the municipal government's responsibility to "provide sufficient and stable funding to implement

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<sup>47</sup> Ville de Montréal, "Campagne de dépistage des fontaines d'eau des parcs et des bâtiments municipaux" online: <ville.montreal.qc.ca/portal/page?\_pageid=6497,143430162&\_dad=portal&\_schema=PORTAL>; Ville de Montréal, "Fontaines à boire extérieures" (updated 17 January 2020), online: <donnees.montreal.ca/ville-de-montreal/fontaines-a-boire-eau-exterieures>.

<sup>48</sup> See Marcia Rosalie Hale, "Fountains for Environmental Justice: Public Water, Homelessness, and Migration in the Face of Global Environmental Change" (2019) 12:2 *Environmental Justice* 33; Association pour la santé publique du Québec, "Un modèle de résolution pour les municipalités: Faciliter l'accès à l'eau potable gratuite dans les lieux publics" (2015), online: *Coalition Poids* <cqpp.qc.ca/documents/file/2016/resolution\_faciliter\_acces\_eau\_potable\_gratuite.pdf>.

<sup>49</sup> See R Stanwell-Smith, "Public toilets down the drain? Why privies are a public health concern" (2010) 124 *Public Health* 613.

<sup>50</sup> Sarah Leavitt, "Porta-potties fill Montreal bathroom void caused by COVID-19 closures" (27 June 2020), online: *CBC* <www.cbc.ca/news/canada/montreal/porta-potties-montreal-1.5629006>.

<sup>51</sup> *Ibid.*

<sup>52</sup> See Samuel Perrault "Criminal victimization in Canada" (2014), online (pdf): *Canadian Centre for Justice Statistics* <www150.statcan.gc.ca/n1/pub/85-002-x/2015001/article/14241-eng.html> at 18.

<sup>53</sup> See "A Comprehensive Study of Recidivism Rates among Canadian Federal Offenders" (2012), online: *Correctional Services Canada* <www.csc-scc.gc.ca/research/err-19-02-en.shtml>.

<sup>54</sup> See "Truth and Reconciliation Commission of Canada: Calls to Action" (2015), online (pdf): *Truth and Reconciliation Commission of Canada* <trc.ca/assets/pdf/Calls\_to\_Action\_English2>. See especially Call to Action 30, which urges Federal, provincial and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody, and Call to Action 38, which urges Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody.

and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders” (TRC, Call to action 31) will not be met.<sup>55</sup>

Mediation, de-escalation and restorative justice programs allow for the participation of persons directly affected by the harms, importantly empowering them with agency over decision making, instead of rebranding them as “offenders” or “victims”.<sup>56</sup> These approaches are worthy of more funding as they will contribute to safer and healthier societies who are active participants in their own conflict resolution path.

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<sup>55</sup> *Ibid.* See Call to Action 31, which encourages sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

<sup>56</sup> See Jo-Anne Wemmers, “Judging Victims: Restorative choices for victims of sexual violence” (2018), online: *Department of Justice, Victims of Crime Research Digest No. 10* <[www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd10-rr10/p3](http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd10-rr10/p3)>. See especially the section “Benefits For Victims”.