

Policy brief submitted by Donovan King for:

"Montreal, Cultural Metropolis: Combine creativity and the citizen experience in the digital age 2017-2022 Draft cultural development policy"



April 10, 2017

## Introduction

My name is Donovan King and I am a professional actor, teacher, cultural worker and businessperson. As a business person, I run several companies that hire professional actors on a long-term basis, including **Haunted Montreal** and **Secret Montreal**. I always pay our actors union wages, I pay GST/QST on all ticket sales, and I also pay almost 50% in taxes on my personal income. My businesses receive no subsidy from any level of government. I feel that to strengthen culture in Montreal we need to create exceptional artistic products while providing stable, unionized work to artists.

When I heard about the public consultation entitled "Montreal, Cultural Metropolis: Combine creativity and the citizen experience in the digital age 2017-2022 Draft cultural development policy", I felt it might be a good opportunity to analyze ways to improve conditions in Montreal's culture for artists, spectators, cultural workers and citizens alike, especially in the Anglophone community.

At the moment there are serious cultural problems in Montreal's arts community that are preventing the city from realizing its full cultural potential. The City of Montreal would be wise to examine these problems and create policies to resolve them in the near future.

## Montreal's Cultural Problems in the Arts Community

The Montreal Arts Community is responsible for much of Montreal's culture. However, there appears to be systemic problems that create situations that disempower artists, spectators and citizens, effectively weakening Montreal's culture overall.

I would like to highlight one recent example to put these problems into perspective.

As a cultural worker, I run the **infringement festival**, an inclusive festival that empowers artists (by offering them a free opportunity to present their work in a festival setting). It is based on the original Edinburgh Fringe Festival, which was founded by artists in 1947 when they were excluded from playing in the Edinburgh International Festival.

The reason I founded the infringement festival is because an earlier festival I helped establish, the Montreal Fringe Festival, was co-opted by business interests and trademarked in 1997 without any sort of consultation with the community. What was intended to be a community event that empowers artists was transformed into a marketing event that disempowers them.

The trademarked St. Ambroise Fringe Festival charges now artists hundreds of dollars to play, demands “service fees” from spectators on each tickets, is named after a corporation, has lots of other corporate sponsorship, is mostly run by unpaid volunteers and takes money in the form of grants from various different levels of government, including the City of Montreal.

In contrast, the infringement festival receives no government subsidy, does not charge artists or spectators, and has no corporate sponsors despite being a remarkably similar event (artists putting on performances of their choosing or creation in a festival setting). The original Edinburgh Fringe of 1947 operated in the exact same manner.

The infringement movement was born on June 19, 2001, when the trademarked St. Ambroise Fringe Festival expelled the innovative show *Car Stories* from the festival, allegedly on orders of a corporate sponsor who was offended when criticized by artists. When artists didn't receive their ticket sales after paying hefty fees to participate in the trademarked St. Ambroise Fringe Festival, they were outraged.

This sparked off the creation of the [infringement movement](#), an activist and do-it-yourself way of producing the arts based on the original Edinburgh Fringe of 1947. The infringement festival was founded in Montreal in 2004. Mandated to protect grassroots culture by challenging corporate interference, it has since been staged in other cities, such as New York, Hamilton, Ottawa, Toronto, Regina, Brooklyn and Buffalo. Incredibly, the festival took root in Buffalo and it currently the largest festival in the city!

In Canada, a [CBC analysis](#) recently revealed that out-of-control arts administrators now “make up the 1%” in the arts world – at the expense of the artists producing the work and spectators in attendance. This problem of arts exploitation exists in Montreal and across the world and is only getting worse. Essentially, it ruins culture for both artists and spectators.

The infringement festival movement aims to challenge this unfair dynamic and put some power back into the hands of artists. Incidentally, artists held all the power at the first Fringe Festival in Edinburgh, 1947, whereas now it is [forbidden to do Fringe theatre in Canada](#) without paying hefty fees and agreeing to follow a system based on corporate advertising.

The infringement festival takes issue with negative practices which are known to occur at various Fringe Festivals around the world, especially in Canada where the word “Fringe” has actually been trademarked by business interests.

To raise awareness about these issues, the Infringement Festival has also [participated](#) at the first two World Fringe Congresses in Edinburgh, Scotland in 2012 and 2014. In an effort to persuade Fringe administrators to start putting artists first, in the tradition of the original Fringe of 1947, Infringement has presented workshops and performances at the Edinburgh Fringe and the World Fringe Congress that are critical of excessive corporate manipulation at Fringe Festivals (e.g. "[A World Fringe Philosophy?](#)").

Following the 2014 Edinburgh World Fringe Congress, a decision was made to hold the event in another city every second Congress. Montreal was selected as the site of the 2016 Congress. While artists from Montreal and Buffalo Infringement festivals had hoped to continue to dialogue with Fringe managers about important issues in the arts, their applications were [rejected](#) by the Canadian Association of Fringe Festivals (CAFF), hosts of the 2016 Congress being held in Montreal. CAFF has the word "Fringe" locked in a Canada-wide trademark and uses this fact to [exclude](#) people from participating in Fringe arts.

To counter the exclusion, not only was the Infringement Festival being offered as an inclusive space, also hosted the first-ever [World Infringement Congress](#) on Saturday, November 19, to examine issues that tend to get glossed over at the original event and to provide a platform for the excluded artists to voice their [concerns](#).

Furthermore, the Montreal Infringement Festival issued a [debate invitation](#) to CAFF to engage in a Canadian parliamentary-style debate about its trademark on the word "Fringe" and the resulting exclusion of local and international artists in Montreal. The CAFF refused to debate the issue, preferring to simply exclude the artists from the World Fringe Congress.

Montreal was made to look bad internationally as a result of this scandal. For example, excluded American burlesque artist Cat McCarthy wrote in an [article](#) in Buffalo's *Public Voice*:

"I will be attending the Montreal Infringement Festival this year, November 15-20, and simultaneously protesting the World Fringe Conference. Everyone who tried to attend the conference from both the Montreal and Buffalo Infringement Festivals has been denied without reason."

A total of four artists were excluded from the World Fringe Congress in Montreal, including three from Buffalo, New York and one from Montreal. Cat McCarthy continued:

“Why do we scare you so much? If you want to have a well-run festival, you must know the counterculture you have excluded. Fringe artists are supposed to be cutting-edge and on the fringe of new and exciting artistic expression. They must pay money to be part of the festival. Politically motivated acts are not welcome due to the chance of pissing off sponsors. Censorship and corporate sponsorship are evil.”

A [Letter of Complaint](#) was also issued to the CEO of the Edinburgh Fringe, Shona McCarthy, who ultimately disagreed with the decision to exclude the infringement artists in Montreal. In fact, she personally invited them to attend the next Congress in Edinburgh in 2018.

To conclude this example before moving on to my recommendations, it is important to note that the Montreal Arts Council funds the St. Ambroise Fringe Festival and also allowed them to use their venue (the Gaston-Miron Building) for the World Fringe Congress, despite being aware of the exclusion of artists (see Appendix A).

The “World Fringe Fair”, a showcase of Fringe Festivals around the world, featured the Montreal infringement festival in Edinburgh in both 2012 and 2014. It was a proud showcase of Montreal's unique culture. However, during the 2016 Congress, the Montreal and Buffalo infringement festivals were censored from the same event in Montreal itself.

Leading human rights lawyer Julius Grey sent letters (see Appendix B) to the Montreal Arts Council, CAFF and the St. Ambroise Fringe Festival to demand that the laws be respected so the excluded artists could be included, but neither the Montreal Arts Council nor the St. Ambroise Fringe Festival complied. Indeed, the Montreal Arts Council explained that they have no power to influence how the organizations they fund behave, even when in contradiction to policies and laws created by or supported by the City of Montreal (see Appendix C).

Ironically, an international festival that was born in Montreal was censored here with the involvement of the Montreal Arts Council, which also funds the organization responsible for the exclusion and censorship. Instead of using taxpayers' money to promote a unique Montreal festival, the City of Montreal funneled the taxpayers' money to exclude and censor the festival.

As someone who pays artists unionized wages, pays high taxes and does not take any government subsidy, I find this situation shocking and appalling. It causes extensive damage to Montreal's culture and reputation. Valuable tax dollars should be going to improve Montreal's culture, not to subsidize exclusion and censorship of local and visiting international artists.

As such, my recommendations are as follows:

***The City of Montreal and the Montreal Arts Council in particular should never fund organizations that refuse to follow important laws and policies such as the Canadian Charter of Rights and Freedoms, the Quebec Charter of Human Rights and Freedoms and the Action Plan for Cultural Diversity in the Arts 2012-2015.***

***To protect taxpayers, artists, spectators, citizens and Montreal's culture, the City of Montreal and the Montreal Arts Council should make funding contingent upon signing an agreement to respect the laws and policies that are designed to foster inclusion and protect citizens against discrimination and exclusion.***

***Furthermore, the City of Montreal and the Montreal Arts Council should have a mechanism to revoke funding in instances where the policies and laws are broken, such as the case outlined above.***

I feel that my recommendation addresses the following policy objectives:

**First cross-cutting project: Cultural and creative entrepreneurship to make creation sustainable**

Objective 2: Intervene at crucial moments in the development of a project or an enterprise, as leverage with other public and private partners.

Objective 3: Promote the discoverability of works and Montreal's brand image to Montrealers, and in Quebec, Canada and abroad.

Objective 4: Support the Conseil des arts de Montréal as the front-line stakeholder of the Cultural Development Policy.

**Third cross-cutting project: Living together, embodied in cultural districts**

Objective 2: Stimulate citizens' involvement in their community

Objective 3: Build on the power of culture and the arts

If Montreal wants to be serious about its culture, organizations like the Montreal Arts Council need to be empowered to take action to ensure the tax dollars it is doling out match the said laws and policies designed to promote cultural inclusion and protect citizens from discrimination. As such, I hope my recommendations are taken seriously to help ameliorate Montreal's culture instead of allowing it to deteriorate, as presently seems to be the case. Thank you for your consideration!

Sincerely,

Donovan King, Montreal Cultural Worker

Appendix A - Email to Conseil des arts de Montréal

November 13, 2016

Dear members of the Conseil des arts de Montréal,

My name is Donovan King and I am a professional actor (Union des Artistes), teacher (Montreal Teacher's Association) and cultural worker (Montreal Infringement Festival).

I am writing to you today regarding the World Fringe Fair that your organization is co-hosting on Thursday, November 17 from 5 pm - 8 pm.

As a representative of the Montreal Infringement Festival, I attended the World Fringe Fair in Edinburgh, Scotland at the World Fringe Congresses in 2012 and 2014 after being invited by the organizers.

I had planned to attend the World Fringe Fair in my home city of Montreal in 2016, but this year instead of being invited I had to apply: the event is being hosted by different organizations, including the Saint-Ambroise Fringe and the Canadian Association of Fringe Festivals.

My application was rejected, along with the applications of several other artists from both the Montreal and Buffalo Infringement Festivals. Please read the about the controversy [here](#).

The problem is that the Infringement Festival exists because artists were ejected from the Saint-Ambroise Fringe in 2001, allegedly on orders of a corporate sponsor, prompting artists to create a new festival that opposes corporate interference in the arts and celebrates diversity, inclusion and critical thinking.

The Canadian Association of Fringe Festivals, on the other hand, trademarked the word "Fringe" and now makes [legal threats](#) against anyone trying to use the word without their permission. Canadian Fringe Festivals also practice exclusion on a regular basis, denying artists the right to participate in Fringe arts unless they pay hefty fees and associate themselves with unethical corporate sponsors.

Because the Canadian Association of Fringe Festivals rejected the applications of all artists from Montreal and Buffalo Infringement Festivals, we are not invited to participate in the World Fringe Fair, despite having done so in Edinburgh in 2012 and 2014. Because we are being excluded, we will not be able to share information about our festivals with the public, resulting in a form of censorship.

As a taxpayer and member of Montreal's professional arts community, I don't think the Conseil des arts de Montréal should be participating in this type of exclusion.

According to the [Action Plan for Cultural Diversity in the Arts 2012-2015](#):

"Montreal revels in the diversity of visions, talents and artistic practices that flourish within the city. When the Conseil des arts de Montréal decided in 2003 to fully commit itself to this issue, it did not attract as much attention as it does today. The ambitious and promising 2006-2010 Policy for the Promotion and Development of Cultural Diversity in the Arts, which the Conseil adopted on December 5, 2006, marked an important step that enabled it to take on a leadership role regarding the inclusion of culturally diverse artists."

The message suggests that the Conseil des arts de Montréal is serious about inclusion in the arts and concludes with the following words:

"At the avant-garde of its society, the arts sector not only has the capacity of confronting our collective fears and questioning a number of prejudices that block inclusion and participation, but it also has the magnificent power to reveal the best of all our cultural contributions so that we can all benefit from them, together!"

The Conseil des arts de Montréal has committed itself to the concepts of inclusion and diversity, and yet it is working with an organization that is deliberately excluding artists, both local and international, because of a difference in vision and politics.

As such, I am asking you today to confront "our collective fears" about this issue and to find a way to ensure artists from the Montreal and Buffalo Infringement Festivals can participate in the World Fringe Fair that your organization is co-hosting on Thursday, November 17 from 5 pm - 8 pm.

Thank you for taking this matter seriously.

Sincerely,

Donovan King

Montreal Infringement Festival



Appendix B - Letter from Julius Grey



Montreal, this 16<sup>th</sup> day of November, 2016

WITHOUT PREJUDICE

BY EMAIL AND MAIL:  
[congress@fringefestivals.com](mailto:congress@fringefestivals.com)  
[executivedirector@vancouverfringe.com](mailto:executivedirector@vancouverfringe.com)  
[fringe@montrealfringe.ca](mailto:fringe@montrealfringe.ca)  
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**David Jordan**

*President*  
CANADIAN ASSOCIATION OF  
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**Amy Blackmore**  
FESTIVAL ST-AMBROISE  
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**Nathalie Maillé**

*Executive Director*  
CONSEIL DES ARTS DE MONTEAL  
Édifce Gaston-Miron  
1210 Sherbrooke St. E.  
Montréal (Québec) H2L 1L9

**Re: Donovan King and the Montreal Infringement Festival**

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Dear Mr. Jordan, Ms. Blackmore and Ms. Maillé,

We represent Mr. Donovan King and the Montreal Infringement Festival, who have mandated us to write you the following letter regarding the *World Fringe Congress* (the "Congress") and our clients' exclusion from the Congress. We understand that the *Conseil des arts de Montreal* ("Conseil") is co-hosting and sponsoring the Congress and as such we include them to this letter.

As a representative of the Montreal Infringement Festival, our client has traditionally been invited at the Congress. As an example, we attach the invitation letters for the Congress taking

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Me Julius H. Grey  
Courriel: [jhgrey@greycasgrain.net](mailto:jhgrey@greycasgrain.net)  
Tour CIBC, 1155 René-Lévesque Ouest, bureau 1715, Montréal, Québec, H3B 2K8  
Tél.: 514-288-6180, Téléc.: 514-288-8908, Site internet: [www.greycasgrain.net](http://www.greycasgrain.net)

place in Edinburgh, Scotland in 2012 and 2014. This year, however, Mr. King and various other artists representing the Montreal and Buffalo Infringement Festival were not allowed to participate at the Congress taking place in Montreal. Following their rejected applications, our clients have not received the reasons for their exclusion from the Congress.

Based on the history of Montreal Infringement Festival and its tensions with the Canadian Association of Fringe Festivals, as well as the oddity of this exclusion at the Congress, it appears that our clients were excluded purely on political grounds. An exclusion on the basis of political reasons is unconstitutional and invalid under both the *Canadian Charter of Rights and Freedoms* (s. 2) and the *Quebec Charter of Human Rights and Freedoms* (s. 10). As such, we request that you provide us with the following information:

- 1) Your reasons for refusing our clients to participate at the Congress;
- 2) Your criteria for selection of attendees at the Congress; and
- 3) The contract between the Canadian Association of Fringe Festivals and the Edinburgh Festival Fringe Society, where our client was traditionally invited.

Further, we demand that Mr. Donovan King and the other artists from Montreal and Buffalo Infringement Festivals who had applied to attend the Congress be immediately allowed to partake at the Congress, including the World Fringe Fair, taking place on Thursday, November 17<sup>th</sup>, 2016. An unlawful exclusion will be subject to a legal action for injunction and damages without further notice.

DO GOVERN YOURSELVES ACCORDINGLY

GREY CASGRAIN, s.e.n.c.



*JHG*: Julius H. Grey

Cc. Edinburgh Festival Fringe Society, 180 High Street, Edinburgh EH1 1QS, United Kingdom

Appendix C - Response from Montreal Arts Council

Montréal, le 16 novembre 2016

SANS PRÉJUDICE PAR COURRIEL

Me Julius Grey  
Tour CIBC  
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[jhgrey@greycasgrain.net](mailto:jhgrey@greycasgrain.net)

**Objet : Donovan King et le Montreal Fringe Festival**

Me Grey,

Nous accusons réception de votre lettre de ce jour au sujet de votre client et de l'événement World Fringe Fair, laquelle nous a surpris.

Nous tenons à vous informer que le Conseil des arts de Montréal est un organisme qui subventionne plus de 400 organisations artistiques à Montréal. En aucun cas, le Conseil ne fait d'ingérence dans la gestion interne des organismes qu'il subventionne. Par ailleurs, le Conseil a pour pratique de louer des espaces aux organismes subventionnés à la Maison du Conseil.

Dans ce contexte, le rôle du Conseil se limite à subventionner le Festival Fringe de Montréal lequel tient l'événement World Fringe Fair et les responsables de cet événement sont libres de déterminer les participants et invités. Le World Fringe Fair se déroule dans des espaces que leurs responsables ont loués et payés et le Conseil n'agit pas à titre de partenaire hôte, ni de commanditaire pour cet événement.

Nous osons croire que la présente aura bénéfice de clarifier le rôle du Conseil dans le contexte actuel rendant votre mise en demeure non fondée en ce qui nous concerne.

Vous comprendrez que nous nous réservons le droit d'entreprendre toute démarche jugée nécessaire si votre client s'avisait à poser tout geste causant dommage ou portant atteinte à la réputation du Conseil, le cas échéant.

Veillez agréer nos salutations les plus distinguées.

La Directrice générale et Secrétaire du Conseil

Nathalie Maillé