

June 12, 2017

To: Denis Coderre and Serge Lareault

**Introduction:**

In the spirit of reconciliation and on the 375th anniversary of the City of Montreal, we are writing to you to correct the effects of discriminatory City policies on its most vulnerable population: Indigenous people in homelessness. We represent the Justice SubCommittee of the Montreal Urban Aboriginal Community Strategy Network. The vision of the Network is to improve the quality of life of Aboriginal people in the Greater Montreal Area through a coordinated and concerted approach that will align our collective interests in supporting locally-driven initiatives. Our SubCommittee is alarmed by the judicialisation of Indigenous people in Montreal and we seek to find collaborative and multi-level solutions to this problem.

**Purpose:**

***We ask that the City of Montreal take steps in preventing the judicialization of its Indigenous homeless population by removing specific city bylaws.*** We believe that the bylaws are both overly and wrongfully used inhibiting the well-being of those in very vulnerable situations, but also stress that the bylaws themselves represent social and racial profiling, and are thus discriminatory. Furthermore, these bylaws do not address public security nor do they improve co-habitation in Montreal. The judicialization of Indigenous people in homelessness is a direct consequence of bylaws relating to the use of public space and also to the effects of colonization for Indigenous peoples, which include poverty, substance use, and racial profiling.

**Background: Indigenous homelessness in Montreal**

Indigenous people represent 0.6% of the Montreal population, but 10% of the homeless population signifying they are 16 times more likely to live in homelessness than the average Montrealer. Inuit represent about half of all homeless Indigenous people. In Montreal like the rest of Canada, Indigenous poverty is rooted in multi-generational effects of residential schools and socio-economic marginalization connected to colonialism. The effects of this historic trauma

often show up as problems with substance use and mental health struggles, which also create difficulty in exiting homelessness.

**Specific concerns:**

As a committee focusing on the rights and interests of Indigenous people in Montreal, we are very concerned about the discriminatory nature of certain city bylaws. To this effect, the use of ticketing for minor infractions particularly affects the homeless population, of which a large proportion is Indigenous. Those who have little choice other than using public spaces due to poverty and homelessness have increased visibility and surveillance of their behaviours. Negative behaviours (idling, being under the influence, urinating in public, having an open alcoholic drink, etc.) are directly linked to their life conditions and ticketing of these behaviours is a result of people not having access to private spaces. Ticketing is also used to remove people from public spaces, "cleaning" parks and ultimately removing those judged "undesirable" from the street.

Indigenous peoples have experienced multiple forced displacements throughout the history of Canada and Quebec. Further displacements, even on a smaller scale, by police in enforcing bylaws when removing people from parks and public spaces is remnant of this larger historical pattern. Indigenous peoples will never feel belonging if they are targeted when using public spaces. The Cabot Square Project that focused on the Indigenous homeless population in the park carried out an evaluation in 2016 that found that having a sense of belonging was the basis of co-habitation and public safety. In removing Indigenous homeless people from public spaces, the City of Montreal is allowing discrimination to continue.

The existence and application of certain municipal bylaws contribute to the social profiling of people in homelessness. In 2009, the Commission des droits de la personne et des droits de la jeunesse du Québec (CDPDJ) found that social profiling of people in homelessness in Montreal made up close to 30% of ticketing.

We are concerned about the following municipal bylaws and their use with Indigenous people in homelessness for the reasons mentioned above. It is clear that these bylaws do not protect the citizens of Montreal, homeless or not, and that they are directly linked to the use of public spaces.

- Ayant utilisé le mobilier urbain à une autre fin que celle à laquelle elle est destiné. (RVM CP 12.2 article 20)
- Ayant été trouvé gisant ivre sur une place publique (RVM CP-1, article 2)
- Ayant consommé des boissons alcoolisées sur le domaine public (RVM C-P1 article 3)
- Flânant ivre (P-1, article 2)
- Étant ivre ou en se promenant ivre dans un lieu public (RVM CP 1380 article 29)
- Ayant consommé des boissons alcoolique sur le domaine public (RVM CP-1 article 3)
- Ayant répandu un liquide sur le sol du domaine public (RVM CP12.2 article 3)
- Ayant jeté, déposé ou laissé des immondices sur le sol du domaine public (RVM CP12 article 2, article 4)
- Ayant gêné ou entravé la circulation des piétons sur la voie publique ou la place publique en rôdant ou flânant et en refusant sans motif valable de circuler à la demande d'un agent de la paix (RVM CP1, article 1)
- En ayant sali le domaine public, (RA CA 24-085 article 11)
- S'étant tenu sur le domaine public pour offrir moyennant contrepartie ses services (RVM CP-1, article 7)
- En ayant continué ou répété un acte interdit après avoir reçu l'ordre d'un agent de la paix de cesser cet acte (RVM CP-1, article 5)
- Ayant émis un bruit audible : cris, clameurs, chants, altercations ou imprécations et toute autre forme de tapage (RRVM c. B-3 article 9 (4))

Because many people in homelessness seek refuge and use spaces in the metro system, certain bylaws of the Société de transport de Montréal also represent discrimination based on social condition. Precisely, in the metro system, it is prohibited to:

- Se coucher ou de s'étendre sur un banc, sur un siège ou sur le sol, s'asseoir sur le sol ou occuper la place de plus d'une personne dans une station (R036 article 4c)
- Consommer ou d'avoir un objet ouvert contenant des boissons alcoolisées dans une station (R036, article 4g)
- Gêner ou entraver la libre circulation dans une station (R036, article 4a)
- D'être pied nus (R036, article 4i)
- Crier, de clamer, de se livrer à une altercation ou à toute autre forme de tapage (R036, article 4i)

- Souiller un bien, notamment en déposant sur ce bien ou en y abandonnant tout déchet, papier, liquide ou autre rebus ailleurs que dans une poubelle (R036, article 6a)

Lastly, the application of certain provincial laws negatively affect people in homelessness and particularly Indigenous women engaged or assumed to be engaged in sex work:

- Piéton qui ne s'est pas conformé aux feux de circulation (CSR, article 445)
- Se tenir sur la chaussée pour solliciter son transport ou pour traiter avec l'occupant d'un véhicule (CSR, article 448)
- Traverser la chaussée perpendiculairement à son axe, en diagonale (CSR, article 451)

Our Sub-Committee states that:

1. Ticketing does not improve chances of having access to a social worker or psychosocial assistance for homeless Indigenous individuals. Les policiers justifient la judiciarisation comme levier afin d'obtenir des services sociaux et de santé pour les personnes itinérantes. In most cases, these individuals usually already have intervenants and ticketing will not lead to improving access to supports.
2. Having no fixed address, people in homelessness have no reasonable way to follow up on their tickets since they receive mail at every judicial step of the ticket.
3. Due to lack of services, if an Indigenous person is under the influence they have no choice of having to sleep outside since most shelters do not allow entry to those under the influence. Bylaws passed by the City which prohibit sleeping or being in a park overnight violate the rights to life, liberty and security.
4. The constant requirement of homeless individuals to physically move and relocate from parks or other public spaces increases their vulnerability, especially when they are sick or injured, and prevents their family, friends, as well as intervenants from finding them and working with them.
5. Homeless women are particularly vulnerable and the judiciarization of these women can be prohibitive to their seeking safety both by decreasing their trust in police and also by preventing them from staying in open areas that are safer, but lead to more tickets. Indigenous women, particularly Inuit women, are more likely to sleep on the street, stay on the street longer than non-Indigenous women. Furthermore, the implementation of laws around solicitation are used to control or punish street

prostitution, beyond the power of provincial legislation. Indigenous women are often racially targeted by these laws by police; assumptions are made that they are involved in street sex work, simply because they are Indigenous.

6. Fines given as a result of the bylaws specified in this letter go against Article 10 of Québec's Charter of Rights and Freedoms in that they are against social condition, race, and ethnic origin.
7. Tickets related to the use of substance use, such as drinking alcohol in public, are directly related to poverty and addictions. For Indigenous peoples, research has linked substance use to historical traumas. The judicialization of substance use is not the solution and just creates further shame, mistrust in the system, and unsafe behaviours by creating the need to hide substance use from the public eye. In turn, there is a higher risk of overdose when drug use is hidden, done alone, or is hurried. Canada is currently in the midst of a national overdose crisis. Research shows that when drug injection users fear sanctions by the law, this creates unsafe and hurried injection practices, which can lead to additional vulnerabilities of contracting Hepatitis C and HIV. This therefore becomes a public health issue.

### **Conclusions:**

Municipal bylaws do not take into consideration the social or historical conditions that are the basis of Indigenous homelessness and lead to the use of public space. Indigenous people in homelessness are victims of a system that does not take into account their life conditions that in turn lead to breaking municipal bylaws. As a result, they are disproportionately targeted by police for not complying with these bylaws. Furthermore, they are expected to pay fines that they will never be able to pay on their income or lack of income. The application of these bylaws are a stressful burden for Indigenous people in homelessness who have access to few resources. By judicializing and punishing undesirable behaviour through ticketing, the SPVM only contributes to the further impoverishment and marginalization of a very vulnerable population.

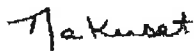
Along with the social profiling inherent in both the bylaws themselves and their implementation, Indigenous people face additional racial profiling making them more vulnerable to over-

judicialization. The bylaws do not take into account the effects of colonialism as the base of Indigenous homelessness, poverty, and substance use, and they open the door to discriminatory practices of implementation on the part of individual police officers.

As the Justice SubCommittee, we believe that these Municipal Bylaws are an unnecessary burden for the Aboriginal population of Montreal that is already vulnerable and marginalized.

Ticketing and judicialization of Indigenous people in homelessness using the above mentioned bylaws constitutes social and racial discrimination and it is imperative that these bylaws are abolished.

Signed,



Nakuset

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