

Montréal, September 23<sup>rd</sup>, 2020

[Click here to sign the letter](#)

The COVID-19 pandemic revealed once again the extent to which marginalized communities are disproportionately targeted by a repressive policing approach. As representatives of community organizations defending individual and collective rights or working specifically with these individuals, lawyers, social workers and legal researchers in Quebec, we must draw your attention to the denial of rights caused by the repressive mechanisms put in place to encourage the population to comply with public health directives. **We are calling for a full amnesty for all individuals who have received a statement of offence under the Public Health Act since the beginning of the state of emergency.** By complete amnesty, we mean the immediate withdrawal of these findings, as well as a collective reflection on the use of repressive methods in a public health context.

The recourse to judicial measures, through the issuance of statements of offence under the Public Health Act, as well as the discretion granted to police forces in the application of the said Act, have exacerbated the violations of the rights of the communities we defend: Black people, urban and remote Indigenous people, other racialized and marginalized groups, including homeless and under-housed people, migrants, LGBTQ2S+ communities, sex workers, people who use drugs and people living with mental health issues.

While the various police forces in Quebec have been singled out by civil society for many years for their systemic racial and social profiling practices, it is appalling that Quebec has opted for a repressive approach, through the adoption of new decrees, in order to deal with the pandemic. Now that deconfinement is underway and that the peak of sanctions under the Public Health Act seems to be behind us - at least for the first wave of COVID-19 - it is clear that the punitive approach advocated by the authorities has fuelled discriminatory police practices without, however, preventing the spread of the virus.

### **Quebec: the most repressive province in Canada**

Published on June 23rd, the report "Stay off the grass: COVID-19 and law enforcement in Canada"[1] by the Canadian Civil Liberties Association (CCLA), in partnership with the Policing the Pandemic Mapping Project, reveals that Quebec is doing very poorly compared to other provinces in terms of law enforcement during the pandemic. The report indicates that 6 660 of the 10,000 tickets or charges identified in connection with COVID-19 in Canada between April 1 and June 15, 2020 were issued in Québec (representing \$10,085,598, 77% of the Canadian financial burden). The vast majority of these are associated with non-compliance with physical distancing measures. In addition, we would like to draw your attention to the disproportionate role played by the Service de Police de la Ville de Montréal (SPVM), which, as of June 7, had issued 2,909 statements of offence[2]. Although Canada has opted for such practices, they are not the norm in the majority of countries affected by COVID-19, where the use of tickets as a tool of social control in the context of a pandemic is rare.

In addition to being the province where the vast majority of statements of offence were issued, Quebec stands out for the amount of the associated fines (totalling a minimum of \$1,546), which are the most onerous in Canada after Saskatchewan. It is clear that these costs are detrimental to low-income people. Need we remind you that with the prohibitive cost of housing, the increase in financial insecurity and the rise in the price of many goods and food due to the pandemic, these

people are already struggling to keep their heads above water? Nothing can justify such a disproportionate judicialization to respond to so-called public health imperatives.

### **Arbitrary and often discriminatory enforcement of the law**

The Public Health Act has been applied arbitrarily in Quebec since the lack of clarity in the decrees has left an immense amount of discretion in their enforcement. In addition, the information available, particularly in the media, was often contradictory and did not allow people to know with certainty the law in force.

In addition to the arbitrary enforcement of the Public Health Act in Quebec, it is also discriminatory. Providing police forces with new motives and tools of repression means broadening the scope of their racial and social profiling, in addition to strengthening their powers of arrest and prosecution. It should be noted that arrests and the issuance of statements of facts are a gateway to numerous police abuses (threats to obtain information, criminalization, abusive searches, etc.), specifically for groups that are generally profiled and discriminated against.

Despite the lack of data, particularly concerning racial identity and social condition around these statements of offence, which prevents us from assessing the extent of this profiling, we have many evocative examples that attest to the discriminatory application of the Public Health Act, reinforcing the judicialization of urban Indigenous people, young racialized men in Montréal-Nord[3] and young people in a situation of homelessness[4][5]. We have also received testimonies of police officers entering private homes without a warrant and using the Public Health Act as a surveillance tool and as a pretext to question sex workers, etc., sometimes posing as clients.

It is imperative that police forces systematically - and publicly - collect the data necessary for an intersectional analysis of the grounds of discrimination in order to measure their scope, as recommended by the Ligue des Droits et Libertés and the Commission des droits de la personne et des droits de la jeunesse since its consultation report on racial profiling published in 2011[6].

This repressive climate has been reinforced by public calls for denunciation, sometimes supported by the implementation of telephone lines or online denunciation forms by the various police services (Sûreté du Québec, SPVM, Laval Police Department) and, in some cases, with the support of the municipalities themselves. Since the communities we work with are already the target of complaints and reports that are normally tainted by discriminatory bias, these systems only serve to aggravate their stigmatization.

### **A counterproductive, harmful and non-deterrent approach that is detrimental to public health**

Repression and judicialization as a response to a public health issue are at once counter-productive, harmful and non-deterrent. This has notably been demonstrated and documented in the context of the fight against HIV/AIDS by UNAIDS[7], the Global Commission on HIV and the Law[8], and the United Nations Human Rights Council[9].

The punitive and coercive measures applied in Quebec against marginalized people, and exacerbated during the pandemic, reinforce the climate of police repression. The increase in arrests, profiling and abuse creates additional barriers and risks for marginalized and criminalized

people, so that they must adopt survival strategies that may hinder the protection of their health and safety. This has the effect of hindering their access to care, driving them away from services and their communities, and reinforcing stigma against them. For example, marginalized and criminalized people may prefer to avoid accessing health and social services rather than risk interaction with the police.

Finally, although Quebec has adopted the most repressive approach in Canada, the province continues to report the highest number of COVID cases. While the deterrent effect of the measures put in place has not been proven, the deterrent effect has been significantly negative. The communities most at risk in the context of the pandemic find themselves the most targeted by police repression, reinforcing their mistrust of the state.

As Amnesty International[10] and UNAIDS point out in its report Human Rights in the Time of COVID-19 - Lessons from HIV for an Effective, Community Led Response[11], effective responses to an epidemic are those that do not oppose public health interests to human rights, but rather those that adhere to human rights principles. As the Canadian HIV/AIDS Legal Network writes in its Statement on Human Rights in the Age of COVID-19 :

“those making and enforcing any laws or policies limiting rights must reflect carefully on the reality that hasty and broad resort to such punitive measures may perversely undermine public health objectives while also violating human rights — doing more harm than good on both fronts. “[12]

For all the reasons mentioned above, including the highly arbitrary, counter-productive, disproportionate and non-dissuasive enforcement of Quebec's Public Health Act, we are today calling for a complete amnesty for all persons who have received a statement of offence under the Act since the beginning of the state of emergency, as well as for a collective reflection on the use of repressive methods in a public health context.

While awaiting your prompt reply, we hope that you will respond favourably to our request and remain available for any questions you may have.

Yours sincerely,

### **Signatory organisations**

Action Jeunesse de l'Ouest-de-l'Île (AJOI)  
 ADDS-MM (Association pour la défense des droits sociaux du Montréal métropolitain)  
 AGIR  
 AlterHéros  
 Association canadienne des libertés civiles (CCLA)  
 Association québécoise des centres d'intervention en dépendance (AQCID)  
 Association Québécoise pour la promotion de la santé des personnes utilisatrices de drogues (AQPSUD)  
 Action Santé Travesti(e)s et Transsexuel(le)s du Québec (ASTT(e)Q)  
 Auberge communautaire du Sud-Ouest  
 BRAS Outaouais

Bureau de lutte aux infections transmises sexuellement et par le sang  
Cactus Montréal  
Café-Jeunesse Multiculturel  
Centre associatif polyvalent d'aide Hépatite C (CAPAHC)  
Centre d'Action Sida Montréal  
Centre d'amitié autochtone de Lanaudière  
Centre d'Amitié Autochtone de Val D'Or  
Centre Sida Amitié  
Clinique Droit de cité  
Clinique Droits Devant  
Coalition des organismes communautaires québécois de lutte contre le sida (COCQ-SIDA)  
Comité Régional pour l'Autisme et la Déficience Intellectuelle (CRADI)  
Conseil québécois LGBT  
Coop Les Valoristes  
Desmarais Desvignes Crespo sencl  
Dîners St-Louis  
Dopamine  
École de travail social, Université de Montréal  
Enfants transgenres Canada  
First Peoples Justice Center of Montreal  
GAP-VIES  
GEIPSI  
Groupe communautaire l'Itinéraire  
Hébergement Jeunesse le Tournant  
Hoodstock  
IWC CTI  
Jeunesse Lambda  
La Maison Tangente  
La Porte Ouverte Montréal  
La rue des Femmes  
L'anonyme  
L'Avenue hébergement communautaire  
Le PlaMP  
Le réseau de Solidarité sans frontières  
Le Sac à dos  
Les Maisons de l'Ancre  
Les œuvres St Jacques  
Maison Benoit Labre  
Maison Passages  
Maison Plein Cœur  
Maniwaki Native Friendship Centre  
Médecins du Monde  
Méta d'Âme  
MIELS Québec  
Montréal Autochtone  
Native Women's Shelter  
Plein Milieu  
Portail VIH/sida du Québec  
Projets Autochtones du Québec  
RACOR en santé mentale  
Réseau d'aide aux personnes seules et itinérantes de Montréal (RAPSIM)

Réseau de la Santé Sexuelle des Sourds du Québec  
Réseau des Organismes et Intervenants en Itinérance de Laval (ROIL)  
Sidalys  
Spectre de rue  
Stella, l'amie de Maimie  
Table des organismes communautaires montréalais de lutte contre le sida (TOMS)  
Travail de rue action communautaire (TRAC)

<sup>[1]</sup><https://ccla.org/cclanewsites/wp-content/uploads/2020/06/2020-06-24-Stay-Off-the-Grass-COVID19-and-Law-Enforcement-in-Canada.pdf?fbclid=IwAR0HshMUBXWXmJEpl2VkFn1IO179gd57HcJiyyYsxICzD6yZ7mpEZgu2x6M>

<sup>[2]</sup><https://www.journaldemontreal.com/2020/06/12/de-moins-en-moins-de-contraventions-chaque-semaine-1>

<sup>[3]</sup><https://ici.radio-canada.ca/premiere/emissions/le-15-18/segments/reportage/183643/distanciation-contraventions-noirs-profilage-racial-police>

<sup>[4]</sup><https://www.lapresse.ca/covid-19/2020-04-11/des-contraventions-donnees-aux-jeunes-sans-abris>

<sup>[5]</sup> Pratique contraire à l'article 233 du *Code de procédure pénale* qui dit que “Lorsque le défendeur a moins de 18 ans, aucune amende dont il est passible ne peut, malgré toute disposition contraire, excéder 500 \$ ou, si celui-ci a contrevenu au Code de la sécurité routière (chap. C-24.2) ou à la Loi sur les véhicules hors route (chap. V-1.2), 750 \$.”

<sup>[6]</sup>[http://www.cdpcj.qc.ca/Publications/Profilage\\_rapport\\_FR.pdf](http://www.cdpcj.qc.ca/Publications/Profilage_rapport_FR.pdf)

<sup>[7]</sup>[https://www.unaids.org/sites/default/files/sub\\_landing/JC2306\\_UNAIDS-guidance-note-HIV-sex-work\\_en.pdf](https://www.unaids.org/sites/default/files/sub_landing/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf)

<sup>[8]</sup><http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/hiv-and-the-law-risks-rights-health.html>

<sup>[9]</sup><https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf>

<sup>[10]</sup><https://www.amnesty.org/fr/latest/news/2020/03/coronavirus-how-human-rights-help-protect-us/>

<sup>[11]</sup><https://www.unaids.org/fr/resources/documents/2020/human-rights-and-covid-19>

<sup>[12]</sup><http://www.aidslaw.ca/site/flatten-inequality-human-rights-in-the-age-of-covid-19/?lang=fr>