

## **The Judicialization of Homelessness in Val d'Or**

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### **Executive Summary – The Judicialization of Homelessness in Val d'Or**

1. In the last decade, the number of homeless persons in Val d'Or has increased. This was caused by multiple factors including an increase in poverty, a housing crisis as well as multiple health (both physical and mental) and social problems in the city of Val d'Or and in the Indigenous communities located in Northern Quebec. Homelessness is particularly important among Indigenous people as well as among women and youth.
2. During the same period, the question of the regulation of public spaces and of homelessness in downtown Val d'Or, in particular with respect to public intoxication, public drinking and public consumption of drugs in public spaces, has become an important issue for cities and governments. For instance, homelessness was a major issue in the last municipal election in Val d'Or in 2013.
3. In this respect, the Sûreté du Québec (SQ) received nearly 6000 calls from local residents and businesses with respect to public disorder and breaches of the peace between 2010 and 2013. This is an average of 1500 calls on a yearly basis or an average of four calls per day. In addition, the police received some calls from municipal councillors and the mayor's office during that period according to the minutes of neighbourhood councils in Val d'Or (« conseils de quartier »).
4. Generally speaking, social and health services are insufficient and not enough consolidated to respond to the high and complex psychosocial needs of the population of Val d'Or. Although the situation has improved since October 2015,

there is a lack of coordination and linkages between the different social services and intervention sectors. Social actors appear to be responding to the most urgent needs, repeatedly, running the risk of conditions and social problems becoming chronic. Moreover, there are very little resources in the streets themselves – there is a relative absence of street workers - on a regular basis, especially during the evening and over night.

5. As a result, the police are too often asked to be first (or only) responders to deal with the tensions and problems related to the presence of homeless people in Downtown Val d'Or. In most cases, police officers have not received any specific training on the history and realities of Quebec First Nations and Inuit prior to taking their position in Val d'Or. In certain cases, the police and homeless people entertain cordial relationships, but generally speaking, we observed misunderstanding and distrust on each side. There seems to be a profound lack of correspondence between the nature of the work performed by police officers, their means and methods of intervention, and the needs and problems of homeless people.
6. When asked to intervene, police officers rely on different tools of law enforcement. They go from simply challenging a person to arresting him or her. The police also rely on different preventive strategies including issuing warnings, providing information or time-outs, as well as punitive practices including issuing a statement of offence (ticket) according to by-laws or provincial statutes. In the last decade, we noticed that the police have increasingly resorted to regulatory criminal law instead of criminal law (for instance the Criminal Code) in the management of public spaces. In Val d'Or, the SQ police first enforce municipal by-laws, in particular le *Règlement concernant les nuisances, la paix, le bon ordre et les endroits publics* (2003-40).
7. Between January 1, 2012 and March 1, 2015, the SQ issues 3087 statements of offences (tickets) for the violation of the *Règlement concernant les nuisances, la paix, le bon ordre et les endroits publics* in Val d'Or to a total of 922 individuals. The number of tickets has increased steadily since 2012 (going from 828 in 2012 to 1168 in 2014).
8. The number of tickets is particularly high when considering the general population of the MRC Vallée de l'Or, that is 43 775 individuals according to the Institut de la statistique du Québec (2015). In comparison, the SQ de la Vallée-de-l'Or issued nearly half (44%) of the tickets issued by the police of the city of Gatineau (SPVG) in 2012 in relation to a similar by-law. The population of the MRC de la Vallée de l'Or is six times less than that of Gatineau (pop. = 278 780 in 2015).
9. The SQ issued tickets consistently throughout the year, with the exception of the months of February to April (that is the end of the winter season) when they issued more tickets. From 2012 to 2014, the end of February corresponded to the

closing of a temporary emergency shelter in Val d'Or. Such a shelter is now open permanently in the city.

10. The most important offences for which tickets are issued concern good order, public intoxication and public drinking of alcohol or drugs in public spaces. These constitute the first and third most important reasons for issuing tickets (50%: 1554 tickets). The offence of « uttering insults or threats » is the second most important reason for issuing tickets in Val d'Or (21%: 654 tickets). Val d'Or is the only city among those we studied where uttering insults or threats reaches that level of importance. Finally, we find that the overwhelming majority of offences refer to non-violent acts. Instead, they focus on the use of public spaces.
11. The vast majority of tickets are issued in downtown Val d'Or in electoral districts 1 and 2 (72% of all tickets). 14% of the tickets are also issued in electoral district 6 where the Indigenous community of Lac Simon is located.
12. The tickets were issued to 652 men and 204 women (66 individuals fall within an 'unknown' category). The percentage of women (22% in total or 24% among those for whom sex is 'known') is slightly higher than that in other Quebec cities.
13. Criminalized individuals are generally older than 25 year old. Two thirds of all tickets were issued to individuals between the age of 25 to 34 and 35 to 44. Public intoxication and public consumption of alcohol or drugs offences tend to increase as the individuals get older while offences of uttering insults or threats tend to decrease as the individuals get older.
14. 76,2% of all the tickets issued between 2012 and 2015 have been issued to Indigenous people. Moreover, among those « over criminalized » individuals who received more than 10 tickets during that period, 95% were Indigenous (63 individuals out of 67). Among those who received more than 15 tickets, 100% were Indigenous.
15. Statements of offence (tickets) are issued according to the Code of Penal Procedure of Quebec. Generally speaking, homeless people either plead guilty and are imposed the mandatory fine or they do not register any plea, are presumed non guilty and are condemned by default to the mandatory fine. The file is then transferred to the fine collector of the City. The fine collector may execute the fine pursuant to the Quebec Code of Civil Procedure by seizure or forfeiture. When an order to pay becomes enforceable, the collector may summon the individual to appear before the judge or the judge can issue a warrant ordering that the person be arrested and brought before the collector. Finally, where the defendant fails to honour his agreement to present himself to the collector, where it has not been possible to offer compensatory work or where the defendant refuses or neglects to carry out such work, and if the sums due have not been paid, the collector may apply to a judge for an order of imprisonment and a warrant of committal of the defendant for default payment of fine.

16. According to our analysis of the tickets in the database of the Municipal Court of Val d'Or conducted in December 2015, most tickets (60%) were still at the preliminary stages. 17% of the tickets were set for judgment while 43% of them were awaiting the issuance of a writ of seizure. We anticipate that a large number of tickets are now, one year later in December 2016, well advanced in the process: many individuals must now be under warrants (whether warrants to appear or warrants of committal for default payment of fine).
17. Criminalized individuals in the database owe \$479 330\$ to the City of Val d'Or. Moreover, in December 2015, 77% of the tickets were still unpaid.
18. The Quebec Commission des droits de la personne et des droits de la jeunesse du (CDPDJ) defines racial and social profiling as follows: « Any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin or religion (racial profiling) or based on social condition (social profiling). Taken without factual grounds or reasonable suspicion, these actions can result in the person or group being exposed to differential treatment ». The Commission issued a series of indicators to identify social and racial profiling, including the number of tickets issued. In 2009, the CDPDJ found that the judicialization of the homeless in Montreal was a case of social profiling. Homeless people had been issued approximately 30% of all the tickets issued in the City of Montreal.
19. Profiling is only one form of discrimination. In order to encompass all the measures that have a discriminatory impact on certain persons based on their race, ethnicity or social condition, we shall also refer to the concept of systemic discrimination.
20. Based on our previous findings, we conclude that there are several indicators of social and racial profiling and systemic discrimination in Val d'Or against homeless individuals and in particular indigenous individuals who are homeless. These include:
  - An absence or lack of social responses and support for homeless people, in particular Indigenous people;
  - Several challenges in terms of integration and access to services in the City for Indigenous people (including housing);
  - High incidence of violence and poverty among this population;
  - Absence or lack of social and health in Indigenous communities as well as important systemic barriers for communities to exercise governance and deal with their social problems;
  - High number of calls against homeless people including indigenous people;
  - The choice to resort to the police (SQ) as first or sole responder to social problems;

- Massive judicialization (or criminalization) of homeless people (high number of tickets) and in some cases, the use of the judicial system to obtain fundamental health and social services;
- Tickets are issued in disproportionate numbers against Indigenous people (75%). Moreover, 95% of those who are over criminalized (10 tickets and +) are Indigenous (100% among those who received more than 15 tickets). It seems clear that law enforcement has a disparate impact on Indigenous people who are homeless.
- Some indicators of police harassment: 343 people out of 922 received at least once more than one ticket on the same day. 96 individuals received more than two tickets on the same day;
- The use of incarceration for default payment of fines in cases where individuals are unable to pay (in at least one case, the length of incarceration went up to three years in a federal penitentiary).

21. The police justify law enforcement and resorting to the judicial system in at least four ways. First, they report using the justice system as mean to obtain health or social services for homeless people. Secondly, they use the criminal justice system to put an end to a temporary but recurring problem with one homeless person for whom there seems to be no other alternatives or social resources. Thirdly, they use the criminal justice system to justify their intervention in particular at the legal level when they must arrest someone or detain that person in the police station. Finally, they report using the criminal justice system to promote greater responsibility from homeless people. All of these justifications however seem to be pointing toward the necessity to increase social programs and resources instead of using punitive responses. Repressive responses should be limited to situations posing a real and immediate threat to the safety of the person or the public.

## 22. **Recommendations:**

- a. An intervention protocol should be adopted in order to prioritize social responses including by an increase presence of street workers in particular during evenings and over nights. In the case of Indigenous people, such a protocol should be developed with Indigenous communities.
- b. The SQ should issue clear guidelines to the officers to avoid using punitive responses and providing support to social interventions when it is deemed necessary. Such support should not lead to the issuance of a ticket.
- c. Community resources should be better coordinated both to respond to emergency situations as well long term social needs. Such resources must be adapted to Indigenous people in accordance with their culture and legal traditions. These services should include mental health services, harm reduction programs in the case of alcohol, as well as specific programs for vulnerable women.
- d. A moratorium should be imposed on incarceration for non-payment of fines in Val d'Or, fines should be cancelled and alternative measures should be put in

place. The Government of Quebec should modify the Code of Penal Procedure to eliminate the possibility of incarcerating people for default payment of fines in cases where individuals are unable to pay.

- e. The Quebec Human Rights Commission should monitor cases of social and racial profiling and systemic discrimination.
- f. Finally, research should be conducted to ensure the follow-up of these recommendations.