



**Missing and Murdered Indigenous Women and Girls
in Tiohtiá:ke/Montreal:
Towards a Meaningful Collaboration
between the SPVM and Indigenous Communities**

by

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In collaboration with **Quebec Native Women (QNW)**

Cover image

As a visual representation of *Looking Out For Each Other*, we commissioned Wolastoq artist **Susan Sacobie** to create a piece of art to represent the project. She says: *“This painting is for the missing and murdered Maliseet & Mi’kmaq women that were almost forgotten. The five women in this piece represent knowledge, faith, wisdom, justice and peace. They are wearing our traditional peaked hats decorated with the double curve motifs. The wampum belt on the bottom is our promise to each woman that their lives will be remembered, celebrated, honoured. The wampum belt is also a promise to each Native woman that we have to rebuild our matriarchal standing within each of our families & communities. We must humble ourselves and learn and teach one another about who we are, where we come from and to not be silent and share our individual stories so we can empower our sisters, stay connected and strong and in turn we keep our families and communities strong. Their connecting shields are protecting us and reminding each of us that it is an obligation and a privilege to guard one another because we are all connected. As mothers and daughters, the living as well as the women who crossed the rainbow bridge we have to tell ourselves and each other our lives matter, we are important and we have to love and respect each other unconditionally and stand together.”* These words and the voices of Indigenous women will continue to guide the project.

Title

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Niá :wen!

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Abstract

This research report has been prepared in the context of mobilisation around the public issue that is missing and murdered Indigenous women and girls (MMIWG) in Canada. This work examines this “social crisis” within the specific context of Tiohtiá:ke/Montreal, given that urban Aboriginal communities are an important phenomenon in Quebec, that the majority of cases of disappearances and murders of Indigenous women and girls occur within urban spaces, and that there is an inherent lack of data pertaining specifically to Tiohtiá:ke/Montreal.

The goal of this research is to better understand the response of the Service de police de la ville de Montréal (SPVM) to MMIWG. Our research shows that there is a consensus as to the necessity of a collaboration between the SPVM, and community as well as Indigenous organisations in order to establish efficient means of addressing the issue. It is noted that many difficulties encumber the relationship and therefore the collaboration between the SPVM and persons affected by MMIWG. Interviews were conducted both with members of the SPVM and with community workers, and a discourse analysis of these has allowed us to shed light on the various dimensions of difficulty that have affected collaboration.

We believe that not only does the phenomenon of MMIWG need to be addressed within the legal framework of human rights, but so should the authorities’ response to this situation. It is also within this framework that we have made eight recommendations to the attention of the SPVM and public authorities.

Preliminary Notes

Our research is grounded in the principles of participatory action research. Our goal is to report as faithfully as possible on the state of affairs that revealed itself throughout the project, and to humbly support the work, the action, and the social and political transformations that have already been set in motion by Aboriginal groups and non-governmental organizations in Tiohtiá:ke/Montreal.

Although the lines of inquiry and results of the research presented in this report confirm an untenable situation, our goal is not to add to an already tangible sense of threat, but rather to uphold the work of Aboriginal groups that is already under way.

Further, this report reveals the anomalies and obstacles to collaboration between the SPVM and Indigenous organisations in Tiohtiá:ke/Montreal. However, the objective of this report is not ‘to critique for the sake of being critical’. Rather, we hope that the analysis of the situation presented below will serve a constructive purpose in improving the basis of collaboration.

PART 1 - Research Context

1. A Partnership-based Research Framework

This report was prepared within the framework of the project *Looking Out for Each Other - Assisting Aboriginal Families and Communities when an Aboriginal Woman Goes Missing* (LOFEO), an action research initiative developed under the leadership of the *New Brunswick Aboriginal Peoples Council* (NBAPC) and Professor Julia Hughes of the Faculty of Law of the University of New Brunswick. The goal at the very heart of this initiative is to improve our collective capacity to provide services that are efficient, appropriate and culturally adapted to the needs of the loved ones of missing or murdered Indigenous persons.

The LOFEO project was created in response to a dualistic context in which, on the one hand, the issue of MMIWG is attracting more and more attention on a national level, and on the other hand, knowledge and understanding of the cases of MMIWG in Eastern Canada continues to be limited. The project is reliant on a collaborative and participatory effort that seeks to empower communities based on their knowledge and expertise on the ground.¹

An interdisciplinary network of university researchers, Aboriginal organisations, governmental partners and professional service providers representing the five Eastern Canadian provinces (Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador) was established through a Partnership Development grant from the Social Sciences and Humanities Research Council of Canada (SSHRC) in order to develop strategies, tools and services addressing the needs of the Indigenous communities of the region.

The Quebecois component of the project was created and developed through the partnership of Quebec Native Women (QNW) and professors Dominique Bernier, Doris Farget and Mirja Trilsch of the Faculty of Political Science and Law of the Université du Québec à Montréal (UQAM), with the support of the Clinique internationale de défense des droits humains de l'UQAM (CIDDHU). After having examined the existing literature on the subject of MMIWG in Quebec, the research partners co-defined the project's main orientations as follows: documentation and prevention of murders and disappearances of Aboriginal women and girls within the urban context of Tiohtiá:ke/Montreal, as well as the response of police services, and available community resources in the city. Our presence on the ground guided this report towards the specific issues of the relationship between Aboriginal people and law enforcement, as outlined below.

The LOFEO project has received ethical approval from the NBAPC Ethics Committee as well as ethical certification from the Research Ethics Board of the University of New Brunswick. With close attention paid to Chapter 9 of the Tri-Council Policy Statement: Ethical Conduct for Research Involving

¹ Marie Battiste, "Research Ethics for Protecting Indigenous Knowledge and Heritage", in Norman K. Denzin, Yvonna S. Lincoln and Linda Tuhiwai Smith, dir., *Handbook of Critical and Indigenous Methodologies*, Los Angeles, SAGE Publications, 2008, page 508.

Humans², the Guidelines for Research with Aboriginal Women³ and with the knowledge that QNW had already undertaken research on the subject of MMIWG in Quebec⁴, the team at UQAM made contact with QNW in September 2017, in hopes of developing a partnership. The research question was subsequently limited to Tiohtiá:ke/Montreal. This city, which finds itself at the heart of many Aboriginal women's journeys, has never been the subject of a specific analysis despite its contextual particularities.

An agreement between QNW and the research team was signed in July 2018⁵. This agreement defines the terms of collaboration, the respective engagements of each signatory, and the principle of co-ownership of data. QNW participated in the research process by way of several meetings with the team. Aside from the research question, QNW co-defined the research objectives, the methodology, and validated the results presented herein on several occasions. QNW shared their expertise through every step of this research. A certificate from the Comité institutionnel d'éthique de la recherche de l'UQAM was obtained shortly after the agreement was signed.

2. Research Framework

a. Mobilising around MMIWG: Acknowledging a Public Problem

The disappearances and murders of Aboriginal women have long been absent from political and institutional discourse. It has been through the arduous mobilisation of families, loved ones and Indigenous women's organisations like QNW that this topic has recently received attention from governments across Canada. For example, in 2004, when the Native Women's Association of Canada (NWAC) created its *Sisters in Spirit* campaign to better understand and to "address the disturbing numbers of missing and murdered Aboriginal women and girls in Canada",⁶ Amnesty International published the report "Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada".⁷ These reports highlighted "serious concerns about the police

² Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, and Social Sciences and Humanities Research Council, "Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans", online (PDF): <http://publications.gc.ca/collections/collection_2019/irsc-cihr/RR4-2-2019-eng.pdf>.

³ Quebec Native Women, "Guidelines for Research with Aboriginal Women" (2012), online (PDF): <https://www.faq-qnw.org/wp-content/uploads/2016/11/QNW-2012-Guidelines_for_Research.pdf>.

⁴ Quebec Native Women, "Nānīawig Māmawe Nīnawind. Stand With Us. Missing and Murdered Indigenous Women in Quebec" (2015), online (PDF) <<https://www.faq-qnw.org/wp-content/uploads/2016/11/Naniawig-Mamawe-Ninawind-Stand-with-us-Oct-2016-engl-FINAL.pdf>>.

⁵ Partnership Agreement, Looking out for each other (LOFEO) – Quebec, July 5th 2018.

⁶ Native Women's Association of Canada, "Voices of Our Sisters in Spirit: Report to Families and Communities" (2009), page 3, online (PDF): <https://www.nwac.ca/wp-content/uploads/2015/05/NWAC_Voices-of-Our-Sisters-In-Spirit_2nd-Edition_March-2009.pdf>.

⁷ Amnesty International, "Stolen sisters" (2004), online (PDF): <<https://www.amnesty.ca/sites/amnesty/files/amr200032004enstolensisters.pdf>>. The interim report of the National Inquiry into Missing and Murdered Indigenous Women and Girls also presented several non/governmental reports that were otherwise adopted, see online: The National Inquiry into Missing and Murdered Indigenous Women and Girls, "Interim Report, The National Inquiry into Missing and Murdered Indigenous Women and Girls: Our Women and Girls are Sacred", page 35, online (PDF): <<https://www.mmiwg-ffada.ca/wp-content/uploads/2018/03/ni-mmiwg-interim-report.pdf>>.

response to the disappearance or murder”⁸ of Indigenous women and to the number of cases that had yet to be filed.

In 2014, an RCMP document reported that 164 disappearances and 1017 homicides (a term employed by the RCMP) of Indigenous women and girls had yet to be resolved.⁹ Official data also demonstrates that Indigenous women are statistically overrepresented with regards to disappearances and homicides. To that effect, the homicide rate is six times higher for Indigenous women than for non-Indigenous women¹⁰ and Indigenous women currently represent one quarter of homicides committed against women in Canada.¹¹ Likewise, Indigenous women are more likely to be reported missing prior to the incident being concluded as a homicide, with 16% of Aboriginal female homicide victims being first reported as missing according to data from 2017, compared to only 7% of non-Aboriginal female victims.¹²

This data points to a ‘public problem’ on a national level. The situation is also unfolding on a provincial level in Quebec. In 2009, NWAC identified 17 cases of MMIWG in Quebec and this number increased to 22 in 2010.¹³ In 2014, the RCMP report stated that “in Quebec, Indigenous women are 2.6 times more likely to be victims of homicide than non-Indigenous women”.¹⁴

This situation has been created and exacerbated by colonial politics that sought the assimilation or destruction of Indigenous peoples. Since the 19th century, these policies are reflected in domestic law, as illustrated in the following points: from 1920 onwards, the *Indian Act* required Indigenous children to attend Residential School. Across Canada, intergenerational trauma stemming from this legal requirement has manifested itself in other forms of violence.¹⁵ Two other examples are found in the *Act to Amend and Consolidate the Laws Respecting Indians* (1876), which synthesizes several other previous laws. Apart from the fact that it confirms the creation of reservations and thus the resulting sedentarisation, it defines the status of Indigenous women as dependent on a partner, and confers community governance to men aged 21 and over, excluding women from an important social sphere where they had historically played a crucial role. Furthermore, from the mid-19th century onward, a woman who was recognised as ‘Indian’ by law, who married a ‘non-Indian’ man, lost her status and was unable to pass that status on to her children. Meanwhile, ‘Indian’ men who married ‘non-Indian’ women maintained their status and were able to pass this status on to their wives and children. These stipulations regarding status were reproduced by the *Indian Act*. Despite the efforts of Indigenous

⁸ Native Women’s Association of Canada, *supra* note 6, page 9.

⁹ Canada, Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, 2014, online (PDF): <<http://www.rcmp-grc.gc.ca/wam/media/460/original/0cbd8968a049aa0b44d343e76b4a9478.pdf>>.

¹⁰ Statistics Canada, *Homicide in Canada, 2017*, by Sara Beattie, Jean-Denis David and Joel Roy, Catalogue No 85-002-X, Ottawa, Statistics Canada, February 15th 2020, online (PDF): <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54980-eng.htm>>.

¹¹ Statistics Canada, *Women in Canada: A Gender-Based Statistical Report: Women in the Criminal Justice System* by Tina Hotton, Joanna Jacob and Heather Hobson, Catalogue No 89-503-X, Ottawa, Statistics Canada, February 15, 2020, online (PDF): <<https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14785-eng.htm>>.

¹² Statistics Canada, *Homicide in Canada, 2017*, *supra* note 10.

¹³ Native Women’s Association of Canada, “What Their Stories Tell Us: Research Findings from the Sisters in Spirit Initiative”, page 28, online (PDF): <<https://www.nwac.ca/wp-content/uploads/2015/07/2010-What-Their-Stories-Tell-Us-Research-Findings-SIS-Initiative.pdf>>.

¹⁴ Canada, Royal Canadian Mounted Police, *supra* note 9.

¹⁵ Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4, page 16.

women to denounce this discrimination, the institutional requirements impacted their lives significantly through isolation, loss of position and marginalisation. The law was reformed in 1985 to progressively eliminate gender-based discrimination regarding status.

These points are just a few examples of colonial violence perpetuated by the law, and by federal and provincial policies. This violence “reveals itself as structural in the philosophico-political sense of the term, which is to say the order of conditions which serve to establish and perpetuate the ways of being of a society.”¹⁶ This gendered violence is perceived as a “tool of State colonialism”.¹⁷

The inheritance of this form of colonial violence within Indigenous communities, families and couples threatens Indigenous women who are already part of a marginalised group. This threat is then reinforced by negative representations of Indigenous girls and women,¹⁸ which can result in the isolation of certain women from their communities and ultimately their departure towards the city.¹⁹

This colonial violence continues to this day. It is characterised by the lack of services adapted to the realities of Indigenous lives, especially those of Indigenous women across the province of Quebec and particularly in an urban context.²⁰

After years of countless demands from multiple Aboriginal women’s groups, non-governmental and multinational organizations, the Canadian government launched the National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG) on December 8th, 2015. The final report is an elaborate and detailed account based on an in-depth inquiry into the ongoing situation across Canada²¹. The report states that Indigenous women continue to be victims of genocide and makes 231 recommendations that seek to improve conditions, addressing issues such as the recognition of Indigenous languages, ending the systemic removal of Indigenous children from their families, the establishment of Indigenous civilian oversight bodies to observe the work of police officers and prosecutors, legislated paid leave and disability benefits for victims of crime or traumatic events, etc.

One of the report’s most important conclusions, which relates specifically to Quebec, is the noted failure of the judicial system to track cases pertaining to MMIWG. The report also recommends specific protocols in cases of missing children and special access to their files for families, as well as the development of an action plan to eradicate violence.

¹⁶ Perreault, Julie, “La violence intersectionnelle dans la pensée féministe autochtone contemporaine” *Recherches féministes*, volume 28, number 2, 2015, pages 33–52, online: <<https://doi.org/10.7202/1034174ar>> [Free Translation].

¹⁷ *Ibid.*

¹⁸ Kim Anderson, *The Construction of a Negative Identity Dans A Recognition of Being: Reconstructing Native Womanhood*, Toronto, Canadian Scholars’ Press, 2016, as cited in Carol-Anne Vallée, *Femmes autochtones et violence - représentations médiatiques : à l'intersection de la race et du genre*, Masters Thesis in Social Work, UQAM, 2017, online (PDF): <<https://archipel.uqam.ca/10773/1/M15249.pdf>>.

¹⁹ Rauna Kuokkanen (2015) Gendered Violence and Politics in Indigenous Communities, *International Feminist Journal of Politics*, 17:2, 271-288, DOI: 10.1080/14616742.2014.901816; Laura Parisi & Jeff Cornthassel (2007) In pursuit of self-determination: Indigenous women's challenges to traditional diplomatic spaces, *Canadian Foreign Policy Journal*, 13:3, 81-98, DOI: 10.1080/11926422.2007.9673444.

²⁰ Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4.

²¹ The National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, 2019, online : <<https://www.mmiwg-ffada.ca/fr/>>.

Another report made several statements that added to the recommendations made by the report from the NIMMIWG shortly after its release. Following the events in Val-d'Or,²² the government of Quebec created the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec: Listening, Reconciliation and Progress (the Viens Commission). Filed in September 2019,²³ the report makes 142 recommendations. Here is a summary of the recommendations provided by the Viens Commission:

The adoption of a motion to recognize and implement the United Nations Declaration on the Rights of Indigenous Peoples in Quebec by the National Assembly is one of these recommendations; as is the adoption of legislation guaranteeing that the provisions of the United Nations Declaration on the Rights of Indigenous Peoples will be taken into account in the body of legislation relevant to Quebec.

These two calls to action pave the way to the other proposed transversal measures, from prioritizing Indigenous peoples as the subject of populational research to the improvement of living conditions, the removal of barriers to access based on language, the support and accompaniment of First Nations and Inuit in their relationships with public services as well as training and information for citizens and professionals.

Specific recommendations were also made to each public service that has been the subject of inquiry by the Commission. This is notably the case for:

- Recognizing Indigenous police forces as being similar to those of other police organizations in Quebec, and modifying the process for allocating budget resources to police forces to reflect the needs identified by Indigenous authorities.
- Encouraging the introduction of community justice programs and the implementation of alternative measures programs for Indigenous adults in all cities where the Indigenous presence requires it.
- Modifying the Act respecting the Quebec correctional system to include different processes and evaluation criteria for Indigenous offenders who address the Commission québécoise des libérations conditionnelles.
- Issuing a directive to urban health and social service institutions to establish clear service corridors and communication protocols with Indigenous authorities in the communities.

And finally,

²² “Quand la police est une menace pour les femmes autochtones de Val-d'Or”, *Radio-Canada*, online: <<https://ici.radio-canada.ca/nouvelles/special/2015/10/femmes-autochtones-val-dor/>>.

²³ Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec: Listening, Reconciliation and Progress, “Filing of the Report” (February 16, 2020), online: <<https://www.cerp.gouv.qc.ca/index.php?id=53&L=1>>.

- Providing communities that want to take over youth protection services under s. 37.5 of the Youth Protection Act with financial support and immediate and unrestricted guidance.²⁴

This research report proposes a considerably different and smaller scale approach than these two commissions, and it reflects a distinct analysis that is anchored in the action and organising around the public issue that is MMIWG. The decision to examine ‘the social crisis’ of MMIWG in an urban context was championed given the needs outlined by our research partners in the report *Nānīawig Māmawe Nīnawind: Stand With Us: Missing and Murdered Indigenous Women in Quebec*,²⁵ with the knowledge that, historically and in modernity, urban indigeneity is an important phenomenon in Quebec, and that there is a startling lack of data pertaining to Tiohtiá:ke/Montreal. This decision is even more significant when we consider that “the evidence collected indicates that the majority of cases [of MMIWG] occur in urban areas”²⁶ and that the urban context may prove to be particularly challenging.

b. The Specific Context of Tiohtiá:ke/Montreal

Across Canada, the Aboriginal population increases rapidly, as does migration towards urban areas. Of the province of Quebec’s major cities, Tiohtiá:ke/Montreal nowadays has the greatest Indigenous population. In Quebec, 7.4% of the Aboriginal population lives in Tiohtiá:ke/Montreal²⁷ and this has increased by 177% between 2001 and 2011.²⁸ At the time of the 2016 census, 34,745 residents of the Greater Metropolitan Area of Tiohtiá:ke/Montreal identified as Aboriginal. Outside of Inuit Nunangat, Tiohtiá:ke/Montreal has the third highest Inuit population, after Ottawa-Gatineau and Edmonton. Likewise, more than 90% of Indigenous people living in Tiohtiá:ke/Montreal were born or grew up outside of the city. Indigenous women themselves often have diverse journeys and varied experiences. *Hypermobility* is a useful term to describe the complexity of Indigenous identities, looking beyond the restrictive categories of ‘urban milieu’ and ‘rural community’. “The urban presence of Indigenous people “can be characterised by four types of personal trajectories:

- Occasional or transitory migration, which is practiced by a large percentage of Indigenous people for medical reasons, for work, in the pursuit of education or training, to shop, to access public services, etc.
- Restrictive movements that are often related to difficult living conditions which communities may experience, such as conjugal violence, lack of adequate services, loss of autonomy, overcrowded housing, unemployment, addiction, etc.

²⁴ *Ibid.* [Partly free Translation].

²⁵ Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4.

²⁶ *Supra* note 13, page 26. According to NWAC, “Of the cases where this information is known, almost 60% of women and girls were murdered in an urban area; 28% of cases occurred in rural areas; and, 13% of women and girls were murdered on reserve. This distribution is even more striking in terms of missing cases. Taking a broad look at the different locations where women and girls have disappeared, it was found that over 70% of women and girls went missing from an urban area, 22% were last seen in a rural area and 7% disappeared from a reserve.”

²⁷ Montreal Youth Council, “Avis sur la réalité montréalaise des jeunes Autochtones” (2016) page 8, online (pdf): <http://ville.montreal.qc.ca/pls/portal/docs/page/cons_jeunesse_fr/media/documents/CJM_Avis_Autochtone_final_simpl e.pdf>.

²⁸ *Ibid.*

- Involuntary displacement dictated by legal decisions, such as the placement of children in foster homes, persons who have recently been released from carceral institutions outside the community, First Nations women who lost their status before 1985 etc.
- Temporary or permanent voluntary migration based on personal choices such as for a relationship, interest in pursuing post-secondary studies, access to a diverse job market or any other ‘advantages’ that are not reflected in life in the community.”²⁹

This migration to urban centres can be partly attributed to the determination of young Indigenous people to pursue education (60.4%), but also to seek out a healthier environment (39.5%), to escape isolation in their communities (38%) or to escape violence (34.5%).³⁰

However, recent data suggests that stereotypes of Indigenous people and racism are prevalent amongst the non-Indigenous population of Tiohtiá:ke/Montreal. These attitudes, notably amongst landlords or property owners, are partly responsible for the challenges faced by Indigenous people with respect to finding secure lodging in the city.

Additionally, even if municipal government is an important stakeholder with regard to decision-making which, in collaboration with its provincial and federal counterparts, has a duty to its Indigenous citizens, evidence of this remains to be seen. In this way, Aboriginal organizations still find themselves responsible for denouncing the lack of formal engagement from different levels of government.³¹

Added to this is a feeling of a lack of security experienced by Indigenous people in Tiohtiá:ke/Montreal, on top of profiling and criminalisation, over-arrestation, overrepresentation in the justice system, and multiple cases of discrimination against Indigenous people on behalf of the police. A research team recently published an in-depth analysis of data concerning police interaction with persons of racialized identities. According to their detailed report, Indigenous people had witnessed the number of interactions with police increase by 7 times between 2014-2017. This is the largest increase in the apprehension of a specific group in recent years. Indigenous women were also 11 times more likely to be apprehended than white women (term used in the report) and Indigenous people were disproportionately subject to arrest compared to other groups.³²

²⁹ Regroupement des centres d’amitié autochtones du Québec, *Mémoire présenté à la Commission d’enquête sur les relations entre les Autochtones et certains services publics au Québec*, Wendake, 2018, page 9. [Free Translation] The data collected within the framework of this project reveals similar trajectories. On the concept of hypermobility, see the work of David Newhouse and Evelyn Peters, dir., “Not Strangers in These Parts. Urban Aboriginal Peoples” 2003, page 25, online (PDF): <http://www.urbancentre.utoronto.ca/pdfs/elibrary/Canada_Urban-Aboriginal-Peo.pdf> and of Carlos Yescas Angeles Trujano, “Indigenous Routes: A Framework for Understanding Indigenous Migration”, Geneva, International Organization for Migration, 2008.

³⁰ Regroupement des centres d’amitié autochtones du Québec, “Évaluation des besoins en matière de services psychosociaux du Mouvement des centres d’amitié autochtones du Québec”, (2009), page 25, online (PDF): <https://www.rcaa.qc.ca/wp-content/uploads/2017/11/Evaluation_besoins_psychosociaux_2009.pdf>.

³¹ Ghislain Picard, “Préface” in Josée Mensales and Diane Veillette, *Mon ami... Mon agresseur. Regards et témoignages sur l’exploitation sexuelle des Premières Nations et des Inuits en milieu urbain*, Wendake, Éditions Hannenorak, 2019, page 10.

³² Victor Armony, Miriam Hassaoui and Massimiliano Mulone, “Les interpellations policières à la lumière des identités racisées des personnes interpellées. Analyse des données du Service de Police de la Ville de Montréal (SPVM) et élaboration d’indicateurs de suivi en matière de profilage racial” (2019), page 11, online (PDF): <https://spvm.qc.ca/upload/Rapport_Armony-Hassaoui-Mulone.pdf>.

It is important to highlight that, in Tiohtiá:ke/Montreal, Indigenous people make up 10% of the homeless population, according to census data on homelessness from 2015. Of this, between 40 and 45% are Inuit.³³ Add to this the fact that women facing homelessness are extremely vulnerable to different types of violence, including that experienced at the hands of authorities. This marginalised lifestyle makes women susceptible to different forms of sexual exploitation, making them 160 times more at risk of becoming victims of homicide.³⁴

Furthermore, between 2017-2018, multiple testimonies provided during the Viens Commission corroborated instances of violence and/or discriminatory treatment doled out by certain public services in Quebec, such as the SPVM.³⁵ These testimonies align with the findings of the report on racial profiling and systemic discrimination of racialised youth prepared by the Commission des droits de la personne et de la jeunesse (CDPDJ). Made back in 2011, the findings detail how, in large cities in the province of Quebec, young Aboriginal people were subject to disproportionate police surveillance, racial profiling and systemic discrimination resulting from racial stereotypes. Likewise, the report upholds that Indigenous people living in urban areas are the targets of social exclusion and indifference.³⁶

Given that all the aforementioned forms of violence impact access to justice, and that the Montreal Urban Aboriginal Community Strategy NETWORK³⁷ (hereafter the NETWORK) and the SPVM signed an agreement wherein Goal 4 seeks to incorporate the NETWORK into intervention strategies where MMIWG in Tiohtiá:ke/Montreal are concerned³⁸, it is essential to question the response of the SPVM in these cases of disappearance or homicide. To better understand how this response is carried out, the next sections are dedicated to the general role of the SPVM and their interactions with Indigenous people living in Tiohtiá:ke/Montreal.

³³ MMFIM, “Introduction : Autochtones en situation d’itinérance à Montréal” (2016), online: <<https://www.mmfim.ca/introduction-autochtones-en-situation-ditinerance-a-montreal>>. “In addition to the Inuit who live in Montreal, hundreds also pass through the city to access medical services (psychiatry, obstetrics, pediatry). The significant housing crisis in Nunavik, combined with the elevated cost of living and a dramatic increase in the need for mental health and specialised readaptation services, engenders a progressive growth in the number of Inuit in Montreal.” [Free Translation]

³⁴ Cherry Kingsley and Melanie Mark, *Sacred lives: Canadian Aboriginal children and youth speak out about sexual exploitation*, Vancouver, Human Resources Development Canada, 2000.

³⁵ Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec. “Archived Hearings”, online (Video): <https://www.cerp.gouv.qc.ca/index.php?id=56&no_cache=1&L=1>. For specific examples, see the hearings of February 14th and 20th, 2018.

³⁶ Commission des droits de la personne et des droits de la jeunesse, *Racial Profiling and Systemic Discrimination of Racialized Youth: Report of the Consultation on Racial Profiling and its Consequences*, Montreal, 2011, page 11.

³⁷ “The Montreal Indigenous community NETWORK supports the ecosystem of individuals and groups committed to improving the quality of life of First Nations, Inuit, and Métis communities living in the greater Montreal area. Our members include community & volunteers, nonprofit organizations, governments and institutions, and some businesses.” By way of working committees, this organisation works in the following sectors: the arts, culture, communications, employability, education, health, social services, and with youth. Further information can be found on the NETWORK’s website: <<https://reseaumtlnetwork.com/about-us/>>.

³⁸ Collaborative Agreement between the SPVM and the Montreal Urban Aboriginal Community Strategy NETWORK, June 2015, online (PDF): <<http://reseaumtlnetwork.com/wp-content/uploads/2019/02/Collaborative-Agreement-SPVM-NETWORK.pdf>>.

c. The Role and Organisation of Police Services

In order to facilitate a close examination of the situation regarding MMIWG in Tiohtiá:ke/Montreal, we must first understand the structure of law enforcement that is responsible for investigating, or less so, that is implicated in the intervention therein. The goal of this introductory section is to highlight key elements of the framework of police services, allowing us to establish several bases of analysis.

In Quebec there are several police forces in operation and one must refer to the *Police Act*³⁹ to understand the nuances of the roles of each corps. In the city of Montreal, the SPVM serves as the municipal policing services. In the case of MMIWG in the region, it is the SPVM that is responsible for executing all necessary interventions. This would entail taking statements, investigating and ensuring the safety and protection of all parties involved if necessary. In Quebec, the *Police Act* details the responsibilities and the extent of powers that members of each police force undertake. The SPVM lists the main functions of its police officers on its website:

- **Protect** the lives and property of citizens
- **Maintain** peace and public safety
- **Prevent** and combat crime
- **Enforce** the laws and regulations in effect⁴⁰

Additionally, in Canadian law, the principles of Common Law also have an influence on defining the limits of police work. Without going into the many complex nuances and legal considerations, at this point we wish to reiterate the importance of the discretionary powers of police officers. Each individual officer must be able “to use one’s judgment to adapt the process of law enforcement to individual circumstances and to the real-life demands of justice.”⁴¹ The aim is to avoid applying the legal rules too harshly. The effect of this discretionary power on investigations is that police officers can eventually decide not to investigate, to intervene, or conversely, to trigger the response deemed necessary. An investigation does not always follow when police officers are implicated in a case. Their discretionary power is engaged at every juncture. These powers are strictly framed by the ethics rules dictated by the *Police Act* and notably include neutrality and impartiality, exercising power without abuse of authority, and performing police duties without discrimination.

There is always a possibility that multiple police forces can be involved in an investigation concerning a missing or murdered Indigenous woman or girl in Quebec, if the incident is connected to people or places outside of Tiohtiá:ke/Montreal. Thus an investigation can be led by the RCMP on a federal level, by the Sureté du Québec on a provincial level, or by another municipal police force. It is also important to note that many Aboriginal communities have their own police forces that have jurisdiction on their own lands. There are therefore, in this way, several potential avenues for interaction and collaboration with the SPVM (s. 90 of the *Police Act*).

The SPVM is divided into 31 neighbourhood police stations, each of which falls under one of the four main divisions (North, South, East, West). The four divisions are fully autonomous and responsible for

³⁹ *Police Act*, RLRQ c P-13.1.

⁴⁰ SPVM, “Discover SPVM: Organization”, online: <<https://spvm.qc.ca/en/Pages/Discover-SPVM/Organization>>.

⁴¹ *R v Beaudry*, 2007 SCC 5, paragraph 37.

their areas. Each division has a management centre that plays an administrative role and provides a framework for the policies and directives that guide the logistics and personnel of the SPVM.

**d. Relations between the SPVM and the Indigenous community of
Tiohtiá:ke/Montreal - a description of the Collaborative Agreement of 2015**

This subsection utilises the findings of a research report prepared by a group of students of the Clinique internationale de défense des droits humains de l'UQAM⁴² who agreed to collaborate with us on this aspect of our research. Though they did not participate in the empirical research process, nor did they have access to empirical data, they were involved in the process of documenting the role of the SPVM. We would like to thank them for their work and we wish to acknowledge their important contribution.

Aside from the general guidelines informing the work of police officers that we have already outlined, it is important to contextualise the politico-juridical framework of SPVM interaction with the urban Indigenous community of Tiohtiá:ke/Montreal and its members. In 2015, in light of the increase of the Indigenous population of Tiohtiá:ke/Montreal and of the varied difficulties they face, the NETWORK and the SPVM signed a collaborative agreement (hereafter the 2015 Agreement, or the Agreement). This established a partnership ensuring collaboration seeking to improve the relations and interactions between the police force and Indigenous people who find themselves within the limits of the SPVM's jurisdiction. The Agreement's four main objectives are as follows:

i. *Implementation of an Indigenous vigilance committee and the creation of an Aboriginal Liaison Officer position*

In order to achieve the first objective of the Agreement, an Indigenous vigilance committee was created immediately following its signature. The committee aims to make sure that the diverse perspectives and challenges of Indigenous people are known within the SPVM, as well as to ensure best practices with regard to interventions. This committee seeks to promote better consultation regarding subjects such as intervention methods adapted to the Indigenous community and the implementation of structures and infrastructures that reflect the realities experienced by Indigenous people living in Tiohtiá:ke/Montreal.

The committee's membership is composed of those who work within Aboriginal and/or community-based environments, and SPVM officers. While the composition and the functioning of this committee have been the subject of criticism (we will come back to this point), the basic objective was to assure the representation of key actors within the Aboriginal community and of the SPVM. Non-Aboriginal members must have a connection to community and Aboriginal groups. Me Marie-Eve Bordeleau, Commissioner of Indigenous Affairs for the city of Montreal, has presided over the committee since 2018.

⁴² Clinique internationale de défense des droits humains de l'UQAM (CIDDHU), Comprehensive Report "Relation entre les femmes autochtones et le Service de police de la Ville de Montréal", prepared by Philippe Fleury, Olivia Malenfant and Juliette Vanasse, directed by Virginie Dufresne-Lemire and Madeleine Gourier, May 2019, unpublished.

The Agreement's first objective has also been attained through the creation of an Aboriginal Liaison Officer position, which is currently held by officer Carlo DeAngelis. The Liaison Officer's main tasks are to create partnerships with community organisations, to develop and deliver cultural awareness workshops for officers and investigators, to assure the fluidity of information between different police forces and the Indigenous organisations working in Tiohtiá:ke/Montreal, to promote best practices and to demystify the role of the police officer.⁴³ The presence of this officer is essential to effective operation and to the relationship between the SPVM and those who work in the field.

ii. Expanding the knowledge and skills of SPVM personnel regarding Aboriginal realities

This objective was to be attained through the following:

- Ongoing workshops and information sessions for officers on the subject of Indigenous realities and experiences
- Information sessions addressing the urban Aboriginal community on the roles of police officers.

The document “Réalisations du SPVM en matière autochtone” reports on a series of pedagogical activities that were made available to SPVM personnel. Members of the police force must also receive relevant induction training. According to documents supplied to the Viens Commission by the SPVM, 90 cultural sensitivity workshops took place with over 2000 police officers having attended.⁴⁴

iii. Implement a prevention program based on the recommendations of the Indigenous vigilance Committee

The third objective aims to create a centre for Aboriginal people, or a prevention program adapted to their needs and cultures.

One component of this objective appears to have been attained through the creation of a sexual exploitation awareness video produced in collaboration with the Ullivik centre. Ullivik greets and houses Inuit arriving in Tiohtiá:ke/Montreal (by way of the airport, among other means) to access health services.

A document provided by the SPVM to the Viens Commission also mentions that a committee examining sexual exploitation was created in 2016 and that members meet three times annually.⁴⁵

⁴³ SPVM, “Réalisations du SPVM en matière autochtone” (2017), online (PDF): https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_depotes_a_la_Commission/P-218.pdf.

⁴⁴ At page 3, online (pdf):

https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_depotes_a_la_Commission/P-871-31.pdf.

⁴⁵ *Ibid*, page 3.

iv. The development of a specific protocol to be engaged when an Aboriginal woman or girl is reported missing in the city of Tiohtiá:ke/Montreal

Following the signature of the Agreement, an intervention procedure specific to cases of MMIWG was created by the SPVM and Aboriginal community members. The procedural steps are as follows (accurate at the time when research was conducted):

4. Ideally the persons reporting the disappearance should be served according to their linguistic preference, either in French or in English. In the case of communication difficulties, the officer will contact the police force's interpreter. (If none is available, they will request assistance from an external firm).
5. Persons reporting a disappearance must be a close family member or friend of the missing person. However, the coordinator of the Iskweu project at the Native Women's Shelter of Montreal can file a report in the place of family or friends as soon as information becomes available and if these persons are unable or do not wish to present themselves at a neighbourhood police station.
6. The recorder of the incident report must clearly indicate the Indigenous ethnicity in the description of the person reported missing.
7. The officer must take a report of a missing Indigenous **woman** even if she was last seen outside the SPVM's jurisdiction. In this case, he or she will take the report under codification [...] "Assistance to another police force" and transfer the report to the relevant police force immediately.
8. The contact information of the officer who has taken a report of a missing **woman**, as well as the case number, are provided to the persons who have reported the disappearance, informing them that if they wish, information can be received by the coordinator of the Iskweu project so that the family may be accompanied throughout the process.

3. Methodology and Research Limitations

a. Research Objectives

The goal of this research project was to understand the response of the SPVM to the disappearances and murders of Indigenous women and girls in Tiohtiá:ke/Montreal.

At first, we sought to better understand the legal structure and the community structure built around the SPVM's response. Our goal was to better understand the Agreement of 2015 and to eventually offer lines of inquiry delineating its strengths and weaknesses. However, over the course of the research and the analyses undertaken, we understood that the roots of the problem stretched far beyond these questions.

As a result, this report examines the difficulties that encumber relations and collaboration between the SPVM and those who are most affected by MMIWG, even if the Agreement is presented as "the result of a shared desire which aims to promote preventative approaches, open communication and understanding between the Service de police de la Ville de Montréal and the Montreal Aboriginal community."⁴⁶

⁴⁶ 2015 Agreement, *supra* note 38, page 2.

This report takes into consideration the fact that practices, structures and methods are constantly evolving. For example, at the time when the interviews for this report were conducted, there was much discussion of a new shelter for Indigenous people. Since then, the city of Montreal has announced its opening.⁴⁷ **However, regardless of what happens on the ground, the problems at hand appear to be more profound, stemming from the bases and foundations of the establishment of this collaboration.**

We have thus decided not to linger on the technical aspects, but rather to focus this report on the deeper issues that persist. We acknowledge recent initiatives and we hope, above all, that this research will allow for a better understanding of how to recognize Indigenous expertise and how to establish partnerships that meet the needs and expectations of all parties involved.

b. Production and Co-construction of empirical evidence

The production of empirical material was conducted on two levels: through semi-directed interviews and through Access to Information requests made to the SPVM.

i. Semi-directed interviews with key sources

It was agreed that semi-directed interviews lasting approximately one hour would be conducted with Aboriginal and non-Aboriginal actors working in the field of social intervention, in Tiohtiá:ke/Montreal, with Aboriginal and community organisations, as well as with members of the SPVM.

From the outset of this research project we decided not to meet with families of MMIWG. This joint decision of QNW and the research team was justified in that, when the project was in its early stages, two inquiries, the Viens Commission⁴⁸ and the NIMMIWG⁴⁹, were underway in Quebec and the families of MMIWG were already under enormous pressure to offer testimonies. While it became clear during the data collection process that the categories of ‘support workers’ and ‘family members’ were quite porous terms, we did not intend to reopen wounds as this had already been done by different levels of government.

The empirical evidence was prepared in collaboration with QNW in such a way that a great diversity of perspectives would be represented throughout. The first sample was collected in the summer of 2018. It was continued during the research process after taking into consideration recommendations made by participants. In total, we met with 21 persons, 17 women and 4 men. Of these, 17 presented as community/support workers and 4 as members of the SPVM. 9 participants declared themselves to be members of the Indigenous community. The semi-directed interviews, which were held in English

⁴⁷ “Montreal will open its first wet shelter for city’s homeless this spring”, *CBC* (October 25 2019), online: <<https://www.cbc.ca/news/canada/montreal/montreal-wet-shelter-homeless-1.5336405>>.

⁴⁸ Final Report of the Viens Commission, *supra* note 23.

⁴⁹ National Inquiry into Missing and Murdered Indigenous Women and Girls, online: <<https://www.mmiwg-ffada.ca>>.

or French, consisted of a series of open questions.⁵⁰ All participants were met in Tiohtiá:ke/Montreal or in Kahnawà:ke. Two interviews were conducted via teleconference at the request of the participants.

ii. Access to Information requests made to the SPVM

Six Access to Information requests were prepared by a team of CIDDHU students and were sent to the SPVM in December 2018. As indicated in the table below, the SPVM responded to all of these requests. In the case of 3 requests, no traceable documents were found. Documents were provided in response to the 3 other requests.

Requested documents	Documents obtained
1 All procedures, policies and/or directives related to the steps to be taken concerning disappearances of Indigenous women and girls, as well as all procedures, policies and directives related to the steps to be taken concerning disappearances of non-Indigenous persons.	<i>No documents found</i>
2 Report templates (including any forms, procedures, policies and/or directives) used in the case of the disappearance of an Indigenous woman as well as any report templates (including any forms, procedures, policies and/or directives) used in the case of the disappearance of a non-Indigenous person.	<i>No documents found</i>
3 All procedures, policies and/or directives regarding the implementation of the steps to be taken concerning disappearances of Indigenous women and girls and the follow-up process relative to disappearances of Indigenous women and girls.	Note de service and Marche à suivre relative aux disparitions de femmes autochtones
4 All documents pertaining to a database (including statistics) referring to reports of missing and/or murdered Indigenous women and any resulting investigations from the last 5 years.	Disparitions de personnes autochtones 2018/01/01-2019/01/01 (7 pages)
5 Any document pertaining to a database (including statistics) regarding police actions taken with Indigenous persons (statistics concerning infractions, custody, arrestations of Indigenous persons, as well as interventions with Indigenous women and statistics concerning infractions, custody, arrestations of Indigenous women) for the last 5 years.	Rapport statistique. Contraventions aux règlements municipaux émises aux personnes autochtones 2015/01/01-2017-01-01 (31 pages)
6 All procedures, policies, directives and/or operational methods regarding the interaction between the SPVM and an Indigenous person who does not speak English or French.	<i>No documents found</i>

⁵⁰ See the interview guide annexed to this report.

c. Selected Methodology for Qualitative Analysis

The methodology chosen for the analysis of interviews is a participant discourse analysis.⁵¹ This analysis was performed through thematic coding identifying important themes present throughout the interviews.⁵² The method was chosen for its revealing nature, as it unearths the latent meanings and power relations of the discourses under analysis.

This thematic analysis has allowed us to better define the objectives of this research report. The issues plaguing relations between Indigenous people, community groups and the SPVM proved themselves to take up an important space during our interviews. Our analysis shines a light on the multi-dimensional difficulties that characterise this relationship.

Our research is based primarily on the lived experiences, perspectives and meanings that are associated with these by social actors and support workers that are involved in Aboriginal and community milieux. In doing this, we hope to valorise Aboriginal and community perspectives as is encouraged by the human rights-based approach which is defined at the end of this report.

d. Research Limitations

This research project has a number of inherent limitations. These relate to the positioning of the researchers, to the duration of the project, and to the terms used within the framework of the research problem.

From the outset, despite the implementation of a successful research partnership, we are three non-Indigenous researchers from the Département des sciences juridiques of UQAM, and we examine the research problem from a privileged external perspective. Neither of us has ever experienced any violence in relation to disappearances or murders. We acknowledge that our positioning presents certain challenges in relation to the interview process and certain limitations at the stage of the analysis. For example, among several objectives, this research project initially sought to identify the determining factors of cases of MMIWG in Tiohtiá:ke/Montreal. Our positioning instead guided us to raise questions that should be expanded upon in future research conducted, ideally, by Aboriginal research teams or organisations. This choice justified itself as we feel more legitimate in developing a critical reflection on the response of the SPVM as a public institution.

Further, this project was developed over two years according to the funding structure of SSHRC, a time limit that is quite restrictive for a participatory research project.

With respect to the terms engaged with, this project has encountered two limitations. First, we acknowledge that the term ‘MMIWG’ reproduces a culturally-oriented concept of gender, which in itself can lead to the erasure of other identities, other forms of gendered violence or to the reduction of lived experiences, as the term neglects to consider those who do not identify with it, such as non-binary persons, or queer or two-spirited persons, to whom the rigidity of this catch-all term may or may not

⁵¹ Stéphanie Gaudet and Dominique Robert, *L'aventure de la recherche qualitative*, Ottawa, Presses de l'Université d'Ottawa, chapters 6, 7 and 8, 2018

⁵² Stéphanie Abrial and Séverine Louvel, “Analyser les entretiens”, in Pierre Bréchon, dir., *Enquêtes qualitatives, enquêtes quantitatives*, Grenoble, Presses universitaires de Grenoble, 2011, page 72.

apply.⁵³ By using the category of ‘women and girls’ our intention was not to diminish the complexity of lived experiences of other groups or to delegitimize others. It was more so to engage a formula that permitted us to limit the scope of our research and to specifically target community resources within a context wherein the term is already in use by others.⁵⁴ Second, although the category ‘missing Indigenous women’ is already in use in reports by non-governmental and governmental organizations⁵⁵, ‘missing’ Indigenous women is not clearly defined throughout this phenomenon. Additionally, ‘disappearance’ does not necessarily mean removal,⁵⁶ which has proven to create stigma⁵⁷, and which our project ultimately confirms.

Finally, the data collected within the framework of this project does not permit a precise evaluation of the reception and treatment by the SPVM of reports filed by the families or loved ones of MMIWG, through an examination of police reports. On one hand, and as indicated above, the request for access to information made to the SPVM regarding blank police reports did not produce any documents. On the other hand, it is impossible to know exactly how many cases of MMIWG were investigated by the SPVM as this police service does not collect data on an ethnocultural basis, and has yet to collaborate with Indigenous community organisations in order to develop an appropriate framework in which to do so.

In keeping with the spirit of the goals of this research project, as well as with the limitations we have discussed, the analysis of empirical material that we have gathered has permitted us to come to a series of conclusions concerning the response of the SPVM to MMIWG, and these will be presented in the chapter that follows.

PART 2 - Analysing the collaboration between the SPVM and organisations and persons affected by disappearances and murders

Before we present our detailed analysis of the collaboration between the SPVM and the organisations and persons affected by the disappearances and murders of Indigenous women and girls in Tiohtiá:ke/Montreal, it is essential to validate the existence of a social crisis in the city, and to offer a lens through which to better understand its determinants. The latter is all the more important considering the fact that an exploration of the determinants of these disappearances and murders shows

⁵³ Isabelle Picard, “Conférence d’ouverture”, CIERA conference 2019, online:

<<https://www.youtube.com/watch?v=GjfFRKNde9o>>; Leanne Betasamosake Simpson, “Not Missing, Not Murdered: Rebellious Against Colonial Gender Violence” (2019), online: <<https://www.leannesimpson.ca/writings/not-murdered-not-missing-rebellious-against-colonial-gender-violence>>.

⁵⁴ Notably, Amnesty International, “No More Stolen Sisters: The Need for a Comprehensive Response to Discrimination and Violence Against Indigenous Women and Girls” 2008, online, (PDF):

<<https://www.amnesty.org/download/Documents/44000/amr200122009en.pdf>>; Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women in British Columbia*, Canada, OEA/Ser.L/V/II. Doc. 30/14, Washington, 2014, online (PDF): <<https://www.oas.org/en/iachr/reports/pdfs/Indigenous-Women-BC-Canada-en.pdf>>; National Inquiry into Missing and Murdered Indigenous Women and Girls, “Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019), online: <<https://www.mmiwg-ffada.ca/final-report>>.

⁵⁵ *Ibid.*

⁵⁶ Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4, page 10.

⁵⁷ Interview 4.

that the existing crisis is exacerbated by the pitfalls that characterise the services provided by various public entities, such as the SPVM, and reveals gaps with regard to the collaboration plan.

1. Departure points for reflection regarding MMIWG and their determinants in Tiohtiá:ke/Montreal

As MMIWG was previously considered a crisis strictly affecting Western Canada, this first subsection emphasises the need to develop an adequate response to a very current public problem that also concerns Tiohtiá:ke/Montreal. As indicated by the research limitations presented below, these data should however become the subject of additional research conducted by Indigenous researchers.

a. The unanimity of participants concerning MMIWG

Within the framework of this project, the discourse of SPVM police officers and community and Aboriginal resource workers on the island of Tiohtiá:ke/Montreal is unanimous and confirms that disappearances and murders of Indigenous women and girls are occurring therein. For one participant, “This is an ongoing social crisis” (Interview 7, p. 10); “It’s definitely something that happens in Montreal and in Quebec. It’s something that [...] there’s not a lot of social awareness about [...]. So definitely it’s something that happens here in Quebec and there seems to be like a lack of um—there’s an idea that it doesn’t happen here in Quebec” (Interview 7, p. 1). The data collected reveals that this is not a new phenomenon, “[i]l y a eu beaucoup, quand même un bon nombre de disparitions depuis... [pause] je dirais, à ma connaissance, là, depuis une vingtaine d’années, mais c’est certain que le phénomène dure depuis beaucoup plus longtemps que ça” (Interview 7, p. 1). Some neighbourhoods appear to be more dangerous and volatile for Indigenous women and girls than others. The Dorval and Atwater areas are two examples of this, confirming a context in which Tiohtiá:ke/Montreal is understood by some to be ‘unwelcoming’, and associated with a lack of security, with racism, violence, and with the exploitation of Indigenous people (Interview 1, p. 3-4, Interviews 2 and 6, p. 4). These stances confirm the well-documented inhospitable character of the city.⁵⁸

b. All Indigenous women are at risk, and some more than others

In view of the data collected, all Indigenous women, regardless of social status, are at risk of going missing or being murdered (Interviews 1, 2, 11, and 15), some being more at risk than others.⁵⁹ Prejudice against Indigenous people on behalf of the greater population plays an important role. For example, “there is an assumption that Inuit in this area are all sex workers” (Interview 13, p. 3).

⁵⁸ Montreal Indigenous Community NETWORK, “Guide de sensibilisation à la culture autochtone à l’intention du SPVM” (2016), page 18, online (PDF): <<http://reseauimtnetwork.com/wp-content/uploads/2019/02/CulturalTrainingManualforSPVMPoliceOfficers-FR.pdf>>; see also Nathalie Boucher and Joanna Borrero Luz, “Les enjeux de la sécurité pour les Autochtones en milieu urbain: une revue de la littérature internationale” (2012), Cahier ODENA no. 2012-01.

⁵⁹ Interview discourse reveals that this concept is more frankly expressed by Indigenous participants. Non-Indigenous participants were more likely to make associations related to social status.

Specific factors and or/proximity to parallel networks at work in the city appear to increase the risk of disappearance or of being murdered for Indigenous women and girls. These factors include: precarious living situations (Interview 1, p. 7), poverty (Interview 6), traumatic experiences (Interviews 15 and 4), the objectification of women (Interview 11), isolation/distance from their communities (Interview 15), youth protection placement (Interviews 1, 8 and 12), and experiences of violence (Interviews 4 and 11), such as conjugal violence (Interviews 6 and 11). Some Indigenous women who attempt to ‘survive’ or who find themselves in the city are also targeted by parallel networks within the context of homelessness (Interviews 6, 10 and 11), sex work (Interviews 10 and 11), sexual exploitation (Interviews 4, 6, 11, 12 and 13),⁶⁰ and/or drug or alcohol abuse (Interviews 6 and 15). Proximity to these networks appears to act as a determinant of murders and disappearances (Interview 11).

c. The action and inaction of state and public services, and perpetuated colonialism

It is essential to reiterate that these risk factors are directly exacerbated by the political status of Indigenous peoples in Quebec and in Canada, by the ‘non-perennial’ actions of the state, and that these risk factors are historical and political constructs. For some individual participants, lack of visibility is a central issue (Interviews 4 and 12).⁶¹

According to the community workers who participated in the interview process, although some disappearances result from personal choices related to violent living situations, familial problems, traumatic experiences, breakdown of parental rights or related to mental health issues (Interviews 4, 7 and 13),⁶² it appears that Indigenous women and girls are more often seen to be the target of predators. This position is shared by many participants (Interviews 2, 7, 10, 12, 15 and 17). The ‘work’ of these predators is especially facilitated by the ways in which laws and policies, at different levels of government, including at the municipal level and through their application by police, place Indigenous women and girls in Tiohtiá:ke/Montreal in positions of vulnerability (Interview 5, pp. 5-9).

In this context, the State’s under-funding of prevention resources designed for urban Indigenous populations (Interview 7), the under-funding of Aboriginal organisations (Interview 14), inadequate or culturally inept interventions of certain public services (Interview 6) – such as the Department for Youth Protection, health services or the current interventions by the SPVM⁶³ –, the inconsistent availability of services in English and the lack of services available in Indigenous languages, especially in Inuktitut (Interview 6), contribute to the inaccessibility and the inefficacy of the provision of services

⁶⁰ Josée Mensales and Diane Veillette examine this phenomenon in the urban context of Tiohtiá:ke/Montreal and confirm the existence of networks that target Indigenous women, *supra* note 31.

⁶¹ This position is supported by, for example, Julie Perreault, Anne-Marie Turcotte, Carole Lévesque and Edith Cloutier, “La condition itinérante parmi la population autochtone au Québec : pistes de réflexion et d’analyse” (2010) 3 Cahiers ODENA, page 7. See also the report of the Viens Commission, *supra* note 23, pages 223-226.

⁶² This was identified by QNW outside of urban centres, in Quebec; see Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4.

⁶³ We use these specific examples to illustrate our point as these are mentioned most often by community workers who participated in the interview process. Additionally, the inadequate and notably racist or discriminatory practice by these services and its impact on access to public services has already been noted by others. See the report from the CDPDJ, *supra* note 36, and the final report of the Viens Commission, *supra* note 23.

at work in an Aboriginal context (Interview 12).⁶⁴ Further, these dynamics and political and institutional choices encourage the use of parallel systems that, in turn, fuel the murders and disappearances of Indigenous women and girls. It goes without saying that systemic racism and prejudice are just as prevalent among the clientele of public services as they are among civil servants themselves (Interviews 14 and 15).⁶⁵

Although the testimonies of participants who are members of or work for Aboriginal communities suggest that police response and therefore service delivery is in some cases helpful, in other cases this response is instrumental in placing Indigenous women at greater risk: “It can put people’s lives at risk when police get involved, [...] they need to have like a better sense of doing it” (Interview 7, p. 11).

We can conclude from these testimonies that the response of the SPVM in cases of disappearances or murders is a contributing factor to an already urgent situation, despite the fact that a collaborative agreement, with the sole purpose of ‘normalising partnership’ and ‘ensuring good relations with families’ exists since 2015. This paradox urges us to examine the state of the collaboration between the SPVM and the Aboriginal/community organisations engaged with MMIWG in closer detail. We will return to the role of and relations with the SPVM in the section that follows.

2. The challenges of collaboration

Our data demonstrates that there is a consensus regarding the necessity of collaboration between the SPVM and Aboriginal/community organisations in order to effectively combat the disappearances and murders of Indigenous women and girls in Tiohtiá:ke/Montreal:

With missing/murdered, we need the police because they can check very quickly (Interview 7, p. 6).

[C]’est primordial si la communauté sont avec nous pour les recherches (Interview 9, p. 1).

The 2015 Agreement attests to a closer relationship of these two milieux. That said, it becomes clear from the interviews that there are wildly different visions of the shape this collaboration should take, as well as with regard to the efficiency of the means of collaboration that are already in place.

This raises the question, then, of what this collaboration should look like from the points of view of the community workers and of the police officers interviewed, the question becoming even more crucial as several important challenges in the dynamics of collaboration with the SPVM were pointed out by community workers themselves. These challenges are highlighted in a context where, according to some police officers, the collaboration is going well aside from some ‘minor hang-ups’, that it is ‘a good example for the rest of Canada’, that it is the standard to be achieved and that trust with the community has been established. During our meetings, few officers were able to describe or elaborate on any challenges encountered during collaboration or intervention. On one occasion, the challenge of

⁶⁴ The shortcomings in the provision of services and the under-funding of children’s services in Aboriginal communities has resulted in condemnation of the State for discriminatory practice. See *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2.

⁶⁵ This confirms existing data, see Cahiers ODENA, *supra* note 58 on page 12.

assisting in a situation one is not familiar with was noted. Otherwise, the assertion of police expertise was along the lines of this response obtained: “on sait c’est quoi les besoins” (Interview 9, pp. 18-19).

According to the discourse of community workers, collaboration should be associated with concrete practices such as attentiveness, document sharing, circulation of information, dialogue, mutual engagement to better understand key issues, manifested interest in sensible intervention, understanding and knowledge of the other, the sense of being supported, the stability of persons implicated in the collaboration, but also with vigilance and surveillance regarding the SPVM’s mission to protect, and with the assurance that engagement will be upheld. It is equally associated with values and principles such as efficiency, transparency, humility, reflexivity, inclusion, the recognition of community and Indigenous expertise, and the co-construction of decision-making and policy. According to one participant, collaboration also entails an end to working in silos (Interview 15, p. 15).

Some interviews with police officers reveal a correlation between collaboration and notions of humility, reflexivity, introspection, attentiveness, inclusion, partnership, complementarity and efficiency. In this case, the vision of collaboration converges with that of community workers. In other interviews, though collaboration is associated with trust, exchange, the importance of knowing one another, and with creating links, it is also associated with the sharing of information, with helping one another, with the preparation of coming months, with the confidentiality of discussions in collaborative spaces, and with the knowledge of what is happening on the ground.

Although the interest in dialogue is present amongst the police officers we met with, it is less associated with the recognition of the incomplete character of police expertise, or with the essential nature of Indigenous expertise. Thus, differing visions and expectations concerning the nature and methods of collaboration co-exist. If trust, sensitivity, institutional engagement, accountability, valuing of Indigenous expertise and the principles of substantive equality and openness constitute the essential elements of a successful collaboration, then the following pages demonstrate that this has yet to be achieved.

a. A collaboration based on trust?

It became clear that one requirement to establish an efficient and appropriate mode of collaboration is sorely lacking: a relationship of trust between the interested parties. The Viens Commission recently highlighted “the deep feeling of mistrust that Indigenous peoples have towards police services”.⁶⁶ The final report reminds us how and why police officers embody repression and mistrust.⁶⁷ For example, law enforcement played a key role in the construction of colonial and assimilationist policies, and in the application of several of the provisions of the *Indian Act*. Within this context, the Royal Canadian Mounted Police (RCMP) was called to intervene or wielded as a threat, to be deployed in the Indigenous communities to remove children from their families. RCMP officers acted as security guards in Residential Schools and had the capacity to intervene in cases of runaways. The RCMP was also implicated in the application of *Indian Act* provisions that prohibited traditional dances and

⁶⁶ Final Report of the Viens Commission, *supra* note 23, page 255.

⁶⁷ *Ibid*, page 258.

chiefdoms.⁶⁸ Further to this, many participants in this research project spoke of the historic role of law enforcement as a contributing factor to the mistrust and lack of confidence in the work currently under way in Tiohtiá:ke/Montreal (Interviews 1, 5, 7, 8, 11, 12, 13). One participant even stated that “we don’t believe a lot of the information we’re being fed because of everything that’s already happened, we carry that history, we carry those past experiences” (Interview 13, p. 6).

A feeling of mistrust, or even of a lack of safety with regard to the SPVM and law enforcement in general is expressed quite explicitly by several interviewees (Interviews 6, 12 and 13). It is reinforced by allegations of less rigorous investigations⁶⁹ and discriminatory practices⁷⁰ where Indigenous people are concerned. Several testimonies given at NIMMIW denounce the physical, psychological and sexual violence, judicialized or otherwise, committed by police officers in Quebec.⁷¹ These contemporary experiences hinder trust-building and remain an important obstacle to effective collaboration.

Despite this situation, the SPVM appears to continue working as if trust has indeed been established: “[L]a relation avec la communauté, le monde qui commence à avoir plus confiance aux services de police, qui rapportent plus... [...] Mais on voit que aussi, la relation, euh, la confiance... d’aller dans un poste de police pour tout de suite rapporter, ben, elle... on voit que ça fonctionne, là” (Interview 9, p. 16). However, the data presented below demonstrates that this has not been achieved.

b. An institutional commitment based on awareness?

As explained in previous sections, there has been no doubt that some progress has been made since the Agreement was signed in 2015. When asked to discuss the strengths and weaknesses of the SPVM’s response to the disappearances and murders of Indigenous women and girls in Tiohtiá:ke/Montreal, many interviewees pointed to the creation of an Aboriginal Liaison Officer position in the SPVM as a positive step. Despite criticism that the person who currently holds the position, Mr Carlo DeAngelis, is not Indigenous, it has often been said that communication between community workers and Mr DeAngelis has been good and that his personal engagement is exemplary, as illustrated by the following quote:

Carlo fait du 24/7 depuis qu’il a ce poste-là, là. Tsé, il prend pas de vacances, il a deux cellulaires, un personnel, pis un pour la job, ils sont tout le temps ouverts. Tu l’appelles de jour, de soir, tu le textes, il va toujours te répondre. Il a donné son numéro à presque toute la communauté autochtone de Montréal pis Inuit qu’il a rencontrée, tsé? “Hésitez pas”, pis il

⁶⁸ Canada, Royal Canadian Mounted Police, *The Role of the Royal Canadian Mounted Police during the Indian Residential School System*, 2011, online (PDF): <<https://www.publicsafety.gc.ca/lbrr/archives/cn000040051899-eng.pdf>>.

⁶⁹ For example, Amnesty International, *supra* note 7; Office of the Independent Police Review Director, “Broken Trust: Indigenous People and the Thunder Bay Police Service” (2018), online (PDF): <<http://oiprd.on.ca/wp-content/uploads/OIPRD-BrokenTrust-Final-Accessible-E.pdf>>.

⁷⁰ Josiane Loiselle-Boudreault, “Les femmes autochtones et la police : violence et discrimination” (February 19th 2019), Ligue des droits et libertés, online: <<https://liguedesdroits.ca/femmes-autochtones-police-violence-discrimination/>>. See also the final report of the Viens Commission, *supra* note 22; Victor Armony, Miriam Hassaoui and Massimiliano Mulone, *supra* note 32.

⁷¹ *Radio Canada*, *supra* note 22; Canada, NIMMIWG, *Reclaiming power and place. A supplementary report: Kepek Quebec*, 2019, pages 100 and 101, online (PDF): <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_2_Quebec_Report-1.pdf>.

dit tout le temps ça, “hésitez pas, les filles, s’il y a de quoi, appelez-moi.” Pour toutes les questions (Interview 2, pp. 21-22).

This comment is echoed in many interviews and it is understandable that the SPVM considers the creation of Mr DeAngelis’ position as a ‘success’ that the institution is very proud of. This pride appears to manifest itself for some as the feeling of having ‘solved the problem’:

Mais là, pour les disparitions pour les femmes autochtones, c’est parce que la communauté avait des traumatismes dans le passé avec le rôle que les policiers ont joué. Ça prenait une façon qu’ils se sentaient plus à l’aise pour signaler une disparition tout de suite, parce qu’on veut pas qu’ils... que ça prend six mois. Si ça arrive aujourd’hui pis tu penses qu’il y a quelque chose qui fonctionne pas, appelle-nous. Pis, qu’est-ce qu’on voit? Que ça fonctionne. Alors c’est parfait. Pour les homicides, quand ça arrive, on déploie tous les outils possibles. Alors, c’est... bien à l’aise, le SPVM va faire le travail. Y’a personne au SPVM qui va dire « ben là, parce que c’est une telle », non. Tout le monde va être traité de la même façon. Ça, c’est certain. Pis je suis fier de le dire (Interview 9, p. 20).

This feeling is clearly not shared outside of the SPVM, as illustrated by the following quote:

Je l’ai croisé [Carlo DeAngelis] récemment, pis il m’a encore dit “oui, on a eu tel nombre de signalements, pis on les a toutes retrouvées, pis ça va bien”, pis na, na, na... Comme si y’en n’avait pas, de problème. Pis j’ai pas de doute que lui, il fait tout en sa capacité pour... pour aider, pis si tous les signalements finissent par des... des femmes que l’on retrouve, c’est fantastique, sauf qu’on continue à avoir plein de signalements. Tsé? (Interview 19, p. 8).

We were also told that the Aboriginal Liaison Officer has an enormous workload, but that it is impossible for one person to take care of all the issues falling within this mandate: “Ça nous prend plus de Carlo, OK? On a vraiment besoin d’une grosse équipe de liaison autochtone, et pas juste une personne” (Interview 2, page 21). The summary report of the NIMMIWG’s findings in Quebec reflects this issue as well:

However, while appointing people in various government departments or public services to act as “liaison officers” with Indigenous people can be a useful transitional measure, it does not solve the problem of discrimination experienced by Indigenous people. They should be able to communicate with any member of the public service or elected government representative, in the knowledge that those organizations are able and equipped to interact effectively with them. One of the major limitations of the government liaison officer concept is the fact that there is often only one person who is given all the responsibility as the designated resource for all of the Indigenous communities, including those whose specific characteristics they know nothing about. Such an officer can serve as an intermediary, but that does not satisfy the state’s responsibility to provide public services.⁷²

We have, on numerous occasions, been made aware of many within the SPVM who demonstrate openness, awareness and attentiveness towards Indigenous communities, and particularly to the issue

⁷² NIMMIWG, *supra* note 71, page 126.

of MMIWG. In some cases our attention was drawn to positive behavioural changes following the cultural sensitivity training provided to officers (Interview 1, p. 18; Interview 17, pp. 7-8): “[W]e think we’re seeing better responses than we used to have, but it doesn’t change the fact that the police are... it’s a system, it has delays... there’s inherently problems within the system and the way that things are done” (Interview 13, pp. 10-11). Some stations were determined to be more aware and sensitive to Indigenous issues (Centre Sud, Downtown) or more open to collaboration with community organisations that serve Indigenous populations (Westmount).

However, the goodwill of certain individuals, especially Mr DeAngelis, works in stark contrast to the lack of awareness or attention of many other SPVM officers. Many participants shared with us that their experiences with the SPVM varied dramatically according to the officer involved in the intervention.

Further, the application of the procedure to be followed in the case of a reported disappearance of an Indigenous woman or girl (hereafter, the Protocol) does not appear to be uniform, and some SPVM officers appear to ignore that one even exists: “[S]ome of them don’t know the protocol. Like, they try to inform them, but it’s just such a big machine. When they do use it, it goes well. We’re just hoping that it becomes, like, just automatic” (Interview 7, p. 5). The application of a key measure to improve the SPVM’s response and to act appropriately and with sensitivity to such a situation therefore remains incomplete at this time.

Add to this the fact that the intervention methods employed by the SPVM are often inadequate with regards to helping a person who wishes to report the disappearance of an Indigenous woman or girl to feel at ease. First, in order to report a disappearance, it is compulsory to present oneself at a police station (Interview 4, p. 5), wherein the confidentiality of information shared in that space is not always guaranteed and many find these spaces to be especially unwelcoming: “They didn’t even want to have a private - they couldn’t even do a private room, so she had to explain her whole, her daughter’s history in front of everybody” (Interview 7, p. 11). Second, there is always potential for a linguistic barrier to communication with officers. If it is practically impossible to be served in Inuktitut, it can also not be taken for granted that an officer has the will or the ability to communicate in English:

[W]e give them bare minimum cooperation because they are just so judgmental, they will... like if the person says they only speak English, they will outwardly speak French in front of them so they... you know? And I think that they’re just, they don’t realize that the person feels very unsafe with that, that they feel like they’re saying something secretive behind their back. You know? (Interview 12, p. 11).⁷³

Therefore, individual goodwill and sensitivity are currently the cornerstones of a successful intervention. If the officer is sensitive to Indigenous realities, an intervention can go well, but not all officers have that same state of mind. A person who wishes to report the disappearance of an Indigenous woman or girl has no guarantee that their report will be received in a respectful or non-discriminatory

⁷³ In this sense also, interviews 2, 4, 7, 10 and 11. This point echoes that of the Conseil interculturel de Montréal’s recent recommendation that the “Ville de Montréal ensure that documents and services are available in languages other than French”, Conseil interculturel de Montréal, Systemic Racism. Acting to Transform Institutional Culture, Change Attitudes and Empower Citizens, 2020, online (PDF): <http://ville.montreal.qc.ca/pls/portal/docs/PAGE/CONSEIL_INTERC_FR/MEDIA/DOCUMENTS/CIM-AVIS_RACISME_SYSTEMIQUE-EN.PDF>, page ix.

manner: “It depends maybe on the police officer that you fall on, which is that... in itself is a really big issue, it should be consistent, like... there shouldn’t be any discrepancy between how one police officer treats a file and how another one does, but that definitely happens all the time” (Interview 4, p. 14). Simply put, the response of the SPVM to MMIWG in Tiohtiá:ke/Montreal lacks cohesiveness: “we talk about them like they’re a cohesive unit, and they’re not” (Interview 13, p. 7).

Explored below are two elements that appear to be symptomatic of a lack of common vision and institutional engagement on behalf of the SPVM with regard to the fight against the issue of MMIWG in Tiohtiá:ke/Montreal. The following excerpt, taken from an interview with a community worker, illustrates why the signing of the 2015 Agreement is often characterised as being “plus symbolique que concret” (Interview 19, page 9):

[I]n 2015 it seemed like, you know, everyone was on board, but really it’s just all very political, and, you know, the guy who signed this, Marc Perron, is like long gone. He basically like, you know, retired two weeks later. Someone else gets the file and they’re like, I don’t know what you’re talking about, why do we need to work with you? And working with the police has been very trying, because originally the group of [...] designated people, there was maybe four or five of them. All of them are gone except for Carlo. So it’s really hard to get anything done when they’re constantly changing and this happened with every aspect of the agreement (Interview 14, p. 3).

Finally, it is necessary to point out that several interviewees have attributed the incapacity of the SPVM to offer an appropriate and coherent response to all cases of MMIWG to its own institutional dynamic. In several instances the SPVM has been described as a “grosse machine” (Interview 7, p. 5) within which progress occurs slowly and very rarely:

[L]e SPVM a une difficulté à changer le processus. C’est une grosse machine, hein, la police, pis, tsé, changer une petite affaire, comme avoir des enquêteurs spécifiques pour les Autochtones, c’est vraiment compliqué (Interview 2, p. 10).

So I would say that the police definitely has a lot of weakness in, like, how they have relations with indigenous people. They are showing strides that they want to do better, but they are so incredibly slow. Like, this is like, like, the MMIWG2S is a crisis (Interview 12, p. 5).

It was also brought to our attention that the implementation of certain measures outlined by the 2015 Agreement has only occurred as the result of pressure of community organisations (Interview 14, p. 4).

c. The SPVM: an accountable institution?

The assertion that the response of Quebec’s police services, including the SPVM, does not always adhere to the principles of diligence and non-discrimination, and in some cases functions in direct

violation of these principles, is not a new one. It has, amongst other instances, given rise to the implementation of the Viens Commission⁷⁴ and is also clearly outlined in QNW's 2015 report.⁷⁵

However, the numerous allegations of this nature do not, as of yet, appear to have resulted in any major institutional consequences for police services. This suggests that the failings of the system are seldom recognised and/or corrected, as illustrated by the following excerpts:

We need to have the police be more accountable. [...] Having seen the justice system fail in Val d'Or, I think was big for the... was huge for the whole community, you know, when we saw such a high volume of accusations, and knowing that, you know, there was more to it, this was a systematic thing across police departments, and knowing that the same stuff happens here in Montreal, and knowing that justice wasn't served for those indigenous women who came forward to tell their story, I think it sort of moved us back in our relationship with the SPVM, because how do you move forward when you have something so blatant not have any sort of outcome, any sort of justice served. So, I think we need that accountability when we do have a bad situation, so ensuring that... that police are held at a standard that, um, is normal (Interview 1, pp. 18-19).

[T]hey are never accountable to their behavior. They never, you know, what they did last year with that poor, you know, the woman that they dropped in the middle of nowhere and she had a catheter in her arm and they lost her and like... they didn't apologize, they didn't say anything publicly. The mayor apologized, who cares? It's the police that need to apologize, right? Didn't happen (Interview 14, p. 5).

Several issues that emerged during the interview process for this project provided links to the reasons for this lack of consciousness and accountability. As previously mentioned, SPVM officers made us aware of their feeling that "tout est parfait". This assertion can have a double meaning: first, that it is possible that in the eyes of some, there is no longer an institutional failure and therefore no improvement is necessary. This idea is particularly problematic in light of not only what has been shared with us within the framework of this project, but also the numerous testimonies before the Viens Commission and the NIMMIWG, which clearly demonstrate that there are persistent problems. If the SPVM was able to count some gains in the fight against cases of MMIWG, there is nothing to suggest or justify the belief that this fight has been won. Second, it is entirely possible that, from the point of view of the SPVM, everything that could have been done to respond to the situation has been effectively undertaken, as has been suggested by an interviewee:

On sait qu'il faut faire quelque chose, sauf que... sauf que... Sauf que « les policiers, ils travaillent déjà très, très fort, pis leur travail est difficile, pis... » Là, je dis ça d'un point de vue sarcastique, tsé, « y'a pas grande chose qu'on pourrait faire de mieux. » C'est ça mon... mon impression (Interview 19, p. 9).

Meanwhile, the interviews have clearly demonstrated that the response to MMIWG remains deficient, notably with regard to the application of the Protocol. It is at the very least possible to do better by applying this protocol in such a way that is systematic and respectful. This report has documented that

⁷⁴ Final Report of the Viens Commission, *supra* note 23.

⁷⁵ Quebec Native Women, *Nānīawig Māmawe Nīnawind*, *supra* note 4.

the SPVM continues to treat these failures as isolated incidents rather than as the systemic and institutional negligence that we have asserted them to be. In doing this, has the SPVM not effectively denied the lived experiences of families as well as Indigenous expertise?

d. A collaboration that relies on the recognition of Indigenous expertise?

The SPVM is certainly capable of excellent practices in terms of collaboration. In 2016 an Indigenous vigilance committee was created, the SPVM is involved in the Iskweu project, and some of its officers do value Indigenous expertise.⁷⁶ However, some interviewees made us aware of several factors that tend to counter the consideration and recognition of Indigenous expertise within its institutional framework, leading to a random mobilisation of Indigenous resources during intervention. Among these factors are the propensity to work in silos (Interview 15), the conviction of being knowledgeable (lamented in Interviews 15, 17, 18) – itself sustained by the definition of the function of police work as ‘helping’⁷⁷ –, the belief that work has been done well – with respect to the execution of the procedure in cases of disappearance, the establishment of trust and the efficacy of training (Interview 9) –, as well as the philosophy of intervention based on certainty, performance, arrestation and confrontation as opposed to an approach that reduces mistrust⁷⁸.

The SPVM is described in the discourses of many interviewees as a “milieu hermétique”, cold and rigid (Interview 10, p. 14, and Interview 17). According to one interviewee, “bluntly, I would just say that the SPVM could really learn some humility. Uhm... it’s exhausting in collaborating with them when they... when they’re always situating themselves as the expert... [pause] because they’re far from it” (Interview 17, p. 10). In this context, Indigenous expertise are not sought out and retained, even if these organisations are in possession of relevant information:

Le SPVM pis la ville, parfois en collaboration, ou parfois séparés, vont chercher à faire des portraits des milieux dans lesquels ils travaillent, des portraits qui ont déjà été faits par certains organismes, et ces portraits-là ne sont pas tenus en compte... Ce qui est problématique, parce que, euh... les portraits faits, qui ne sont pas nécessairement représentatifs de la réalité de ce que vivent les organismes [...]. [L]es portraits sont faits, encore une fois, d’une manière qui n’est pas approuvée par tous les organismes, parce que ça ne met pas en lumière, concrètement et réellement, les portraits et les populations dans la rue, les réalités... Et là, les financements sont reçus différemment, et eux vivent une réalité autre que ces portraits-là. Donc ça, entre autres, c’est une problématique de lien entre les organismes pis la SPVM, ou de manque de confiance face aux... à l’expertise même des organismes qui travaillent auprès de ces populations-là (Interview 10, pp. 11-12).

⁷⁶ An approach, for example, that is explicitly supported by officers Josée Mensales and Diane Veillette, *supra* note 31, pages 52-58.

⁷⁷ Evidenced by the discourse of police officers. Here are two examples: “on est allées là-bas pour aider”, Interview 18, page 12. “Parce que, ça, c’est certain, là, y’a pas une police qui part de chez eux, n’importe, les patrouilleurs, enquêteurs, *whatever*, il dit ‘bon, aujourd’hui, je vais en faire moins’, ou ‘ça me tente pas, je vais...’ Non. Regarde, quand tu pars, là, tu fais le travail qu’on fait parce que t’aimes qu’est-ce que tu fais, pis tu veux aider du monde”, Interview 9, page 20.

⁷⁸ This philosophy is deplored in Interviews 7, 12, 17 and 18, given that alternative solutions do exist. See also the proposals made by Josée Mensales and Diane Veillette, *supra* note 31, pages 52-58.

The absence of effective recognition of Indigenous expertise results in a lack of comprehension of the issues at hand, leading in some cases to a poor assessment of a given situation by the SPVM (Interviews 7, 11, 12, 13, 15, 17), which then produces a disconnect between the institution and the needs that present themselves on the ground (Interview 12), and is counterintuitive to the collaborative principle that is founded upon approaches that are culturally relevant and safe.

This situation is unsatisfactory from the perspective of decisional procedure, but it has a negative impact on police intervention, manifesting itself in a lack of knowledge or understanding of resources:

[Il] y a eu beaucoup de problèmes... de... d'interventions bâclées... Des fois, des, des, des policiers qui font juste amener la femme autochtone sans... sans bien faire le travail, sans contextualiser, sans avoir compris, ou sans avoir... sans être intervenu si la femme avait justement vécu de la violence, ou... bon... des [pause] des femmes, tsé des femmes intoxiquées qu'on amène un peu n'importe où finalement parce que... on sait pas trop quoi faire avec (Interview 11, p. 16)⁷⁹.

This situation occurs in a context in which only 0.5% of SPVM officers of any rank identify as Indigenous⁸⁰. Although the Indigenous population of Tiohtiá:ke/Montreal itself only counts for 0.5% of the total population of the city, the Indigenous representation within the police corps is low considering that in Tiohtiá:ke/Montreal, as in other major cities in Canada, Indigenous people are overrepresented among those who are frequently judicialized and engaged by law enforcement⁸¹. Further, an examination of annual reports published between 2000 and 2018 demonstrates that Indigenous representation within the SPVM has stagnated⁸². Many interviewees have critiqued this lack of representation amongst officers and amongst those who are responsible for adopting broad guidelines for police work (notably Interviews 1, 14 and 17).

e. A collaboration that respects non-discrimination and substantive equality?

Prejudice and racism towards Indigenous people from the greater population of Montreal and the discriminatory treatment of Indigenous people by public services in Quebec and in Tiohtiá:ke/Montreal have already been documented by various other research projects⁸³. The data that we have collected

⁷⁹ The ignorance of resources on behalf of some police officers is also discussed in Interview 7, page 8.

⁸⁰ SPVM, "Demographic statistics about SPVM personnel" (2018), page 3, online (PDF): <https://rapportspvm2018.ca/rapport/01342%20SPVM%20Stats%202018%20ANG_V7.pdf>.

⁸¹ Montreal Urban Aboriginal Community Strategy NETWORK, "Report: The Aboriginal Justice Research Project" (2012), online (PDF): <<http://reseaumtlnetwork.com/wp-content/uploads/2019/02/Report-on-the-Aboriginal-Justice-Research-Project.pdf>>.

⁸² The SPVM's annual reports indicate that the level of Indigenous representation amongst police officers has stalled. For example: 0.4% in 2010 (see SPVM, "2010 Annual Review: Statistics" (2010), online (PDF):

<https://spvm.qc.ca/upload/documentations/statistiques_2010_EN.pdf>); 0.4% in 2009 (see SPVM, "Annual Report 2009" (2009), online (PDF): <https://spvm.qc.ca/upload/documentations/SPVM_Bilan2009_A.pdf>); 0.5% in 2008 (see SPVM, "Additional Informations and 2008 Statistics Tables" (2008), online (PDF):

<https://spvm.qc.ca/upload/documentations/Bilan_SPVM_chiffres_A.pdf>. In recommendation 10, the Conseil interculturel de Montréal implores the city to "establish a staff development program for visible minority and Indigenous employees in order to promote their access to senior management positions", Conseil interculturel de Montréal, *supra* note 73, page x.

⁸³ "55 % des Autochtones ont déclaré avoir été victimes de discrimination à Montréal (ODENA 2015)", Native Montreal, "Mino Madji8in : en action pour le mieux-être des autochtones dans les villes" (2017), page 10, online (pdf):

demonstrates that these prejudices and discriminatory practices are present within the framework of SPVM intervention with Indigenous people and particularly with Indigenous women.

In several instances, community workers shared their experiences with us regarding cases of MMIWG and how these were not taken seriously:

Well, often, I mean, you got the first reaction is that, oh, you know... they just go with stereotypical, like “oh, well, she’ll show up, she’s on a bender, or whatever, right, she’ll just show up.” It doesn’t get taken seriously (Interview 17, p. 5).

When you look at sort of like the police who won’t even take a case seriously ‘cause they’re, “ah, she’s off drinking or she’s off on a binge. She’s gonna be back. I’m not even gonna bother with filing a case” (Interview 15, p. 2).

In the same vein, many interviewees made us aware of a general bias towards Indigenous people who file complaints with police:

[S]ouvent quand la personne appelle, c’est assez rapide, à ma connaissance. La réception, quand ils arrivent et découvrent que c’est des autochtones, ça c’est autre chose. Autant quand on vient à domicile que quand la personne se pointe pour poser une plainte. Dès qu’on appelle, on dit “je viens, nanananan...”, c’est parfait. On arrive, visiblement... minorités visibles sont reçues différemment (Interview 8, p. 7).

I still hear we have the same problem, that women go into the police station and they won’t take reports. Well, so, you know, what does that say? It says you don’t care about us. You’re supposed to take a report when we present one (Interview 14, p. 4).

J’ai vu beaucoup de fermeture, beaucoup d’idées préconçues de certains policiers... [pause] un désir de, tsé une fermeture à vraiment vouloir s’ouvrir, à mieux comprendre, mieux pouvoir intervenir... avec la population autochtone (Interview 11, p. 7).⁸⁴

It is important to reiterate that the SPVM response is understood to be different if the victim of the disappearance or murder is non-Aboriginal (Interviews 8, 1, 15, and 17), as well as it is dependent on the victim’s social position (Interviews 7 and 17).

Several interviewees attested to the over-judicialization and racial profiling that homeless Indigenous women are subject to (Interviews 7, 13 and 14). It appears that MMIWG are also perceived as being responsible for or deserving of such a fate based on their social status: “I don’t agree with how they,

<http://www.nativemontreal.com/media/Publications/Memoire_Mino_Madji8in_Montreal_Autochtone.pdf>. This occurs within a context wherein “une proportion significative de la population québécoise (25 %) entretient encore une perception négative (4,5 %) ou plus ou moins positive (21 %) des Autochtones”, Pierre Noreau cites on page 14. Further, “Le racisme envers les peuples autochtones est patent à Montréal [...] les réalités autochtones sont souvent occultées dans l’espace public. Elles sont invisibles dans le système éducatif, absent de l’espace culturel francophone”, Office de consultation publique de Montréal, “Compte-rendu des échanges avec les intervenants autochtones” (2019), page 2, online (PDF):

<https://ocpm.qc.ca/sites/ocpm.qc.ca/files/pdf/P99/6.4_notes_echanges_avec_les_intervenants_autochtones.pdf>.

⁸⁴ In that same sense also, Interviews 1, 2, 6, 10 and 17.

their comments and their views. Because in the end, it's like this idea though that the women are deserving of going missing and being murdered because of their lifestyle, because they're in the sex trade, because they use drugs" (Interview 7).⁸⁵ This excerpt from an interview with a police officer illustrates this notion:

Plus grand défi, au risque de me répéter, l'intoxication, l'itinérance, des gens qui sont sans-abri, qui ont pas de domicile fixe, des gens qui vivent au jour le jour, ça c'est le... le plus gros défi pour nous. Euh... comme je l'ai dit encore, c'est des gens que, exceptionnellement, on va rencontrer dans un état normal. C'est toujours des gens qui sont intoxiqués. C'est notre plus gros défi pour nous, avec ces gens-là. C'est certain le... le plus gros défi aussi, si on parle de disparition, ben ça va être le manque de... Tsé, c'est des gens qui, souvent, bon, ils ont... sont partis d'une région, du Grand Nord souvent, vont s'en venir ici et là ici n'ont pas de pied d'attache, n'ont pas rien, faque... c'est difficile de tracer un historique de ces gens-là, qui des fois peut nous... nous aider à les localiser. Euh... traiter adéquatement avec ces gens-là. Des fois c'est... c'est tout... d'autant les localiser s'ils sont disparus. S'ils sont témoins d'un événement, les prendre en charge, ça va être difficile. Faque c'est, c'est tout... l'aspect-là, l'aspect « on vit au jour le jour » qui est très difficile pour nous. C'est des gens qui... on peut pas tracer un historique ici, qu'ils ont vécu à un endroit X avec des personnes... C'est un milieu qui est très changeant. Faque là, une semaine sont avec un groupe X, l'autre semaine des fois, on va être avec un autre groupe parce que là, bon, ils ont changé d'endroit, ou ils ont changé de secteur ou... Bon, il y a... des raisons inexplicables des fois, la clientèle a changé, faque c'est souvent l'inconnu et le manque un petit peu de... de régularité qui va nous... peut-être, qui va peut-être être un enjeu pour nous [...]. Ça devient difficile parce que c'est difficile de travailler avec ces gens-là qui, souvent, sont intoxiqués, et là ben... c'est juste que ça... ça va complexifier notre travail. C'est juste ça que ça va faire (Interview 20, pp. 36-37).

In this quote, 'day by day living', 'lack of normalcy' and the state of being 'intoxicated' (free translations) are presented as obstacles to a police intervention. These circumstances are associated with life choices that justify the content and conclusions of investigations. Thus, the individual victim of a disappearance or murder becomes responsible for the content and conclusion of an investigation. Similarly, aside from the fact that it perpetuates serious prejudices, it also points to the search for the 'perfect' victim, a search that is criticized by many of the community workers who participated in this research project (Interviews 4, 5 and 13). The effects of violence and of colonialism are thus brushed aside and the disappearances and murders of Indigenous women and girls are perceived to be the consequences of their life choices.

These behaviours and comments that are based on stereotypes have concrete impacts on access to services, on the treatment of cases, but also on police and eventual judicial processes. Take for example the confirmation of a cause of death, as this is a recurring subject:

[W]hen it comes to deaths, it's—it's ruled very quickly a suicide when there's other in..., there's other information that's presented. And the police, I've had conversations with police where there have been very outward racist comments that, you know, this is what

⁸⁵ In a similar vein, Interviews 12 and 15.

happens to the Inuit community, they kill themselves because they have a lot of problems. That's one example (Interview 7, pages 2-3).⁸⁶

Further to this, it appears that prejudice and discrimination lead to calls to police not being taken seriously, exclusive of the fact that the SPVM resists the adjustment of its intervention practices and opposes the idea of positive discrimination (Interviews 7, 11 and 13). In this context, several community workers attest that many Indigenous women who have experienced violence or who are at risk of being criminalised for minor infractions do not wish to report to the SPVM (Interviews 5, 7, 8, 9, 12, 14 and 18). Taking these statements into consideration, is it possible that there have been families who have elected not to report a situation of MMIWG to the SPVM?

Apart from the illegal nature of discrimination and the unacceptable character of interventions that are grounded in prejudice on behalf of public services, the sheer number of accounts that describe cases of prejudice and discrimination reinforce the feeling of mistrust that already exists, making a healthy collaboration between the signing parties of the 2015 Agreement difficult to achieve. Prejudice and discrimination in police intervention are obstacles to healthy collaboration.

How, then, to defuse prejudice if, as it has been stated by some interviewees, these prejudices explain the resistance of the SPVM regarding training exercises that explore racism and prejudice from an experiential perspective? According to one interviewee:

Il y a beaucoup de préjugés [...] [pause] donc, de là l'importance de comprendre, de comprendre l'histoire, pis même, même l'histoire récente, mais le présent, le colonialisme, comment il est ancré partout puis, l'importance de, de comprendre le trauma, le trauma intergénérationnel, ça les aiderait là. J'imagine que... [...] ces aspects-là [sont abordés dans les formations], mais... mais quand c'est trop épuré et quand c'est trop dans la tête, ben on arrive souvent moins à toucher les gens, pis à peut-être ébranler pour pouvoir créer une brèche d'ouverture... Puis, c'est justement ce que la première formation visait (Interview 11, p. 8).

Other interviewees lament a complete lack of understanding of the effects of colonial policies, including the refusal of many officers to experience the discomfort associated with Canadian colonial history as it has been known to be experienced through participation in a 'blanket exercise' (Interviews 2 and 5).

Here we touch upon the contentious issue of the content and frequency of training exercises. Despite the lack of consensus amongst interviewees on this topic, an important number of interviewees, on one hand, deplore that the content of training exercises is too theoretical and that these exercises were developed as a turnkey solution and, on the other hand, the ephemeral character of these training exercises over the course of a career in policing (Interviews 2, 5, 6, 8, 11 and 15). The training exercises offered to officers at present do not appear to be sufficient to defuse prejudices or to work towards re-establishing trust between the interested parties. It has been demonstrated that we must go beyond theoretical learning in order to eliminate prejudice and discrimination, to experience and develop an

⁸⁶ See also: Interviews 12 and 13.

expanded self-awareness.⁸⁷ Training must also be based on the realities lived by Indigenous women, to provide a dimension that recognizes their specific situations.

We assert that discrimination and prejudice has a domino effect: it feeds insufficient police intervention as well as the resistance to training, which constitutes a considerable obstacle to access to the services offered by the SPVM to families and loved ones of MMIWG.

To conclude this section, consider that the objective of the 2015 Agreement was “favoriser [...] une approche préventive, la compréhension et une communication ouverte” between parties, in order to assure the most respectful and highest quality of intervention for Indigenous citizens of the area. How then is it possible to value understanding and open communication in a context where prejudice and discrimination are inherent, where the personal engagement of some officers is sincere but that of the institution is uncertain, and where Indigenous expertise remains contested? In other words, how can the Agreement’s objectives be achieved, profoundly and effectively, in a climate of such defiance? The content of the Agreement is important. It functions as a catalyst for change. All parties, including the SPVM, should uphold and safeguard the spirit of the Agreement: that of collaboration. The complete and sincere respect of that spirit must become the subject of regular evaluation and re-evaluation on behalf of all parties in an effort to achieve these important objectives.

PART 3 - Recommendations

In this last section we wish to present the parameters through which positive change regarding a healthy and respectful collaboration between the urban Aboriginal communities of Tiohtiá:ke/Montreal and the SPVM can occur. These parameters are bound to inalienable human rights. Therefore, they are not optional, nor are they negotiable: these are binding legal obligations. We will also summarize what we can consider to be key elements for improving the response of the SPVM to MMIWG in Tiohtiá:ke/Montreal.

1. Indigenize the response in favor of a human rights-based approach

Universally recognised human rights, those that are espoused in many declarations and international treaties, including in the Canadian⁸⁸ and Quebecois⁸⁹ Charters of Rights, must be the frame of reference for an adequate response to the gaps identified in this report. In this sense, we assert that not only does the phenomenon of MMIWG need to be examined through this legal perspective, but that the response to this situation on behalf of authorities must also be subject to the same scrutiny.

⁸⁷ Özlem Sensoy and Robin DiAngelo, *Is Everyone Really Equal?*, New York, London, Teachers College Press, 2017, pages 56-57. See also Recommendation 2 from the Conseil interculturel de Montréal, which calls for the city to “implement an anti-racist intercultural policy”, Conseil interculturel de Montréal, *supra* note 73, page vi.

⁸⁸ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

⁸⁹ *Charter of Human Rights and Freedoms*, CQLR c C-12.

In this context, the United Nations Declaration on the Rights of Indigenous Peoples⁹⁰ (UNDRIP) of 2007 carries particular significance in that it reaffirms that Indigenous peoples must benefit, individually and collectively, from all human rights recognised under international law while acknowledging the specific rights of Indigenous communities and their members, as well as the right to self-determination.⁹¹

A human rights-based approach implies that public authorities, and by extension the SPVM and its officers, are responsible for respecting the rights of Indigenous people. It also implies that these authorities must base their response to the situation documented above on the principles of non-discrimination, inclusion, participation and the empowerment of Indigenous communities and their members. This entails that all interaction between the SPVM and Indigenous persons or their representatives respect individual dignity and are exempt from any form of discrimination.

This study has revealed that the phenomenon of MMIWG in Tiohtiá:ke/Montreal is symptomatic of a profound gap between the declared intentions of the directors of the SPVM to remedy the situation and the breadth and efficacy of the measures put in place to do so. To this extent, many Indigenous women and girls are placed or remain in vulnerable situations that defy their rights to life, liberty and safety. Public authorities are required by law to work towards preventing these situations from occurring as well as to respond adequately should such situations arise.

On many occasions throughout the course of our research, we were informed that the SPVM finds itself incapable of ‘doing more’, that is to say, incapable of making additional or greater effort to remedy the situation, without appearing to discriminate against other social groups:

Il y a comme cette espèce de... de croyance que la population autochtone est une population spéciale. On veut pas qu'ils... on veut pas leur donner de traitements spéciaux. Ça, je l'ai entendu quand même assez souvent de la part de policiers (Interview 11, p. 16).

For some, the measures put in place following the signature of the 2015 Agreement already go too far:

[T]here are Montreal police officers who are actively against the protocol to prioritize missing and murdered indigenous women and girls. I've been told that there's actually, they feel that it's unjust and it's favouritizing one population (Interview 7, p. 3).

If this belief persists amongst certain officers or staff of the SPVM, then it is essential to debunk this myth once and for all.

The right to equality does not equate to treating all people in an identical manner. Thirty years ago, Canadian courts of law rejected the notion of limiting this right to a formalistic⁹² understanding and instead required the achievement of substantive equality. Equality explicitly necessitates an analysis that is “contextual, not formalistic, grounded in the actual situation of the group”⁹³ and the undertaking

⁹⁰ Res A/RES/61/295, Doc off AG NU, 61^e sess, (2007), online:

<https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/61/295>.

⁹¹ Karine Gentelet, Doris Farget and Christopher Campbell-Durufilé, “Le Canada et la Déclaration des Nations Unies sur les droits des peuples autochtones - Valeur et pertinence” (2010) 23 *Nouvelles pratiques sociales* 130, page 132.

⁹² *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143, 1989 CanLII 2 (SCC).

⁹³ *Withler v. Canada (Attorney General)*, 2011 SCC 12, [2011] 1 S.C.R. 396 at para 37.

of measures that respond to those circumstances specifically. With regard to First Nations, the federal government formulates and integrates the requirement of substantive equality as follows:

Substantive equality is a legal principle that refers to the achievement of true equality in outcomes. It is achieved through equal access, equal opportunity and, most importantly, the provision of services and benefits in a manner and according to standards that meet any unique needs and circumstances, such as cultural, social, economic and historical disadvantage.

Substantive equality is both a process and an end goal relating to outcomes that seeks to acknowledge and overcome the barriers that have led to the inequality in the first place. When substantive equality in outcomes does not exist, inequality remains.

Achieving substantive equality for members of a specific group requires the implementation of measures that consider and are tailored to respond to the unique causes of their historical disadvantage as well as their historical, geographical and cultural needs and circumstances.⁹⁴

Consequently, the application of the Protocol, which offers a response that is adapted to a situation wherein the rights of Indigenous women and girls to life and safety are in peril, serves to defend the equality of all by countering a source of indirect discrimination that they are experiencing.

However, in Part 2 of this report we pointed out that on behalf of the officers and directors of the SPVM, understanding of the true context and situation in which the disappearances and murders of Indigenous women and girls in Tiohtiá:ke/Montreal occur continues to be deficient. It is important to understand that as long as the response of the SPVM does not, or not sufficiently, take into consideration the diversity of Indigenous realities and does not adequately respond to the needs expressed by the urban Aboriginal community of Tiohtiá:ke/Montreal, the SPVM will continue to leave its obligation to protect human rights unfulfilled.

Applying a human rights-based approach

A series of concrete recommendations have been made in section 2 of Part 3 of the present report. These either implicitly or explicitly promote a human rights-based approach, but the recurring common denominator is the necessity to indigenize⁹⁵ the response of the SPVM to MMIWG in Tiohtiá:ke/Montreal. Minimally, this translates to (1) valorising the expertise and recognising the needs of Indigenous communities and organisations in Tiohtiá:ke/Montreal, and (2) understanding Aboriginal contexts in Tiohtiá:ke/Montreal and taking them into consideration in any and all interactions with members of Indigenous communities.

⁹⁴ Government of Canada, Jordan's Principle: substantive equality principles, online : <<https://www.sac-isc.gc.ca/eng/1583698429175/1583698455266>>, in accordance with the decision rendered 26th January 2016, *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2.

⁹⁵ According to Joyce Green, "Autodétermination, citoyenneté et fédéralisme : pour une relecture autochtone du palimpseste canadien" (2004) 23 *Politique et sociétés* 9, page 32, "L'autochtonisation de l'État" means "une injection de valeurs, de priorités et d'imaginaires autochtones dans la fibre même de l'État" and "exige de procéder à la transformation des structures institutionnelles existantes, des processus économiques et politiques dominants", page 28.

a. Valorising expertise and recognising the needs of Indigenous communities and organisations in Tiohtiá:ke/Montreal

Article 18 of the UNDRIP states that “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights”. This is a clear expression of the principles of inclusion and participation found at the core of a human rights-based approach which recognises the individual’s agency in their own development, as opposed to being reduced to the role of beneficiary of government services.⁹⁶

As previously explained, the 2015 Agreement was meant to trigger the implementation of the principles of inclusion and participation of Indigenous communities in the fight against MMIWG in Tiohtiá:ke/Montreal. Unfortunately, several elements of the Agreement never came to fruition, or if they did, remain deficient. One example of this is the Indigenous vigilance committee, which invited representatives of Indigenous organisations to sit at the same table as representatives of the SPVM. While useful in theory, the actual impact of this measure on the accountability and institutional decision-making processes of the SPVM remains marginal.

A human-rights based approach requires actual participation as opposed to formal participation, meaning that the contribution of representatives from Aboriginal community organisations must be taken seriously, and that any decision made that affects the rights of these communities must be taken into account. Simply put, members of the urban Aboriginal community and their organisations must be heard and above all, their knowledge must be valued.

Many interviewees have demanded a shift in attitude to this effect:

[B]luntly, I would just say that the SPVM could really learn some humility. Uhm... it’s exhausting in collaborating with them when they... when they’re always situating themselves as the expert... [pause] because they’re far from it (Interview 17, p. 10).

You know, I think in every level there needs to be space for indigenous, especially indigenous women and girls, to have a say, to be a part of the decision making process, to be part of the solutions that we have for indigenous women and girls. I mean, it almost seems redundant to say that but we don’t see that happening a lot. A lot of times I think we keep that decision making, you know, to people who may not have had those experiences or those barriers and they often wonder why it’s not connecting with the people we’re serving, because I don’t think we allow for space for, um, that resilience and expertise that our population has and provides when you listen (Interview 1, p. 14).

Valorising and taking the knowledge that Indigenous communities and organisations possess into account would not only ensure their participation but it would contribute in equal measure to the strengthening of the SPVM’s skillset and would ultimately improve their response to MMIWG.

Aside from participation and inclusion, a human rights-based approach also encourages the understanding that the SPVM’s obligation to protect the right to life and safety of Indigenous women

⁹⁶ United Nations Population Fund, “The Human Rights-Based Approach”, online: <<https://www.unfpa.org/human-rights-based-approach>>.

and girls is not limited to simply finding a missing woman, but also extends to prevention work.⁹⁷ Interviews with SPVM representatives as well as with community workers lead us to believe that the SPVM does not entirely fulfill the obligation to undertake prevention work, if at all, but rather that it relies on Indigenous organisations for such work.

On this point we wish to be very clear: Indigenous organisations in Tiohtiá:ke/Montreal have very, very few resources. Their work is described to us as “scarcity-based” (characterised by an excessive lack of resources, Interview 12, p. 2). Not only is it unrealistic to believe that these organisations can find the solution to this crisis alone, but under no circumstances can their services and actions alleviate the responsibility of the SPVM where prevention is concerned. In this way, it is clear that it is absolutely essential to establish a relationship of trust with Indigenous organisations, to learn and recognise the needs with regard to prevention, and to work in a complementary manner, in direct collaboration. This observation coincides with that which was made by the NETWORK in 2012, that cooperation and the development of a culture of partnership with public authorities requires the recognition of the needs and challenges relevant to the lives of Indigenous people and their communities.⁹⁸

b. Developing a common understanding of causation and of intervention methods

The changes necessary to implement a human rights-based approach must be undertaken on an individual level as much as on an institutional level regarding police intervention, as the two are intimately linked. It is difficult to imagine the ways in which the behaviours of SPVM officers during their interactions with members of the Aboriginal community are expected to improve without clear and firm commitment at the institutional level to recognise and correct the systemic injustices experienced by Indigenous people.

Conversely, such commitment can have no discernable impact if it does not translate to an understanding and inclusion of Indigenous contexts on behalf of every SPVM officer:

[T]hey first have to see and understand that indigenous people are worth like helping and that they are worth their time of day. [...] once it happens then it would be so easy for that to move forward, because then you would just know like what needs to be done to, you know, if you're actually listening to indigenous people and you're actually, you know, in relations with them (Interview 12, pp. 16-17).

One way to promote awareness of, on one hand, the history of Indigenous relations with the State and police services, and on the other, of the needs of Indigenous communities and their members, and finally, with regard to intervention in an Indigenous context, is training, notably cultural competence training, and the cultivation of knowledge acquired at all levels of police services. There are countless Indigenous resources that clearly and concisely detail what a culturally sensitive approach entails. Basing their work on that of the RCAAQ, Native Montreal defines this as the following:

The culturally sensitive approach begins with a sincere understanding, on behalf of authorities of the legal, political, social, economic and historical contexts within which

⁹⁷ Inter-American Commission on Human Rights, *supra* note 54, page 71.

⁹⁸ Montreal Urban Aboriginal Strategy NETWORK, *supra* note 81, page 77.

Indigenous people live. This understanding must then be used to comprehend the very specific effects that can be experienced by the individual as a result of these contexts. In sum, culturally safe strategies must account for the individual, for the contexts in which the individual functions, and the ways in which these contexts affect the individual who seeks support, assistance or advice.⁹⁹

As explained in Part 2 of this report, the SPVM proceeded with cultural awareness training sessions for officers following the signature of the 2015 Agreement. We were unable to establish a homogenous understanding within the framework of this project of the content of these training sessions offered to SPVM officers, due to the wide variety of descriptions provided to us by those who participated, and thus we were unable to evaluate their relevance. However, it is important to reiterate that a human rights-based approach, as it has been defined in this report, must also be applied to the shape and content of these training sessions. As such, SPVM officers must not only learn how to respect the rights of members of Indigenous communities, but they should do so by respecting the right to effective participation of Indigenous peoples in institutional decision-making.

We wish to note that a single training session of a few hours will not result in the development of sensitivity and attention to the challenges lived by Indigenous communities. This can only be acquired through continued training that integrates Indigenous realities into all levels of training. We also uphold that the SPVM must ensure that all of its officers possess the skills to communicate effectively with all victims of violence and with the families of missing and murdered persons. This necessitates the capacity to refer people to culturally safe resources as well as to be responsible for any follow up with them.

This is relevant not only to street interventions involving SPVM officers, but any communication with the public on behalf of the SPVM. For example, on the *Wanted/Missing Persons* tab of the SPVM website, the *What to do if a person goes missing*¹⁰⁰ page suggests that a missing person is a runaway child, and, to the exception of dialing 911, offers only the number for the Missing Children's Network. For a person seeking resources and assistance in the case of a disappearance of an Indigenous woman, these tools are simply not suitable.

2. Key elements of an improved response

Throughout the current structure of collaboration between the SPVM and Indigenous organisations, there exist the seeds of a willingness to work together that are growing through past experiences and that is important to highlight. That being said, what follows are certain conditions that must be met in order for the SPVM's response to MMIWG in Tiohtiá:ke/Montreal to improve. Based on the empirical evidence that we have gathered, we have identified 8 key elements that require concrete action. These elements have already been addressed throughout this report, either explicitly or implicitly. We will summarize these below.

⁹⁹ Native Montreal, *supra* note 83 on page 16 [Free translation].

¹⁰⁰ Online: <<https://spvm.qc.ca/en/Fiches/Details/Missing-Person>>. Although the French version (<<https://spvm.qc.ca/fr/Fiches/Details/Personne-disparue>>) also includes the disappearance of a "personne vulnérable", the English version only mentions the disappearance of children.

As outlined in the research limitations in Part 1, our research focused solely on the response of the public institution that is the SPVM and not on the factors and determinants that contribute to the crisis of MMIWG in Tiohtiá:ke/Montreal. We hope that additional research on these will be conducted by Indigenous researchers so that the response of not only the police corps but that of Montrealers in general will be the subject of critical reflection.

Elements of priority to be implemented by the SPVM:

1. The SPVM must put forth an approach that is clear, coherent, that recognizes the binding nature of the 2015 Agreement and denotes a sincere and systemic engagement on behalf of the institution. In the absence of such an approach, doubts as to the efficacy of the SPVM's response to MMIWG, as well as to the foundation of the collaboration will persist. As long as the SPVM fails to send a clear message regarding the kinds of behaviours that are necessary to ensure not only an adequate response to MMIWG, but also a healthy and respectful collaboration, the institution will continue to grapple with its institutional responsibility to protect Indigenous women and girls in an effective manner.

2. The recommendations made in the report entitled “Les interpellations policières à la lumière des identités racisées des personnes interpellées. Analyse des données du Service de Police de la Ville de Montréal (SPVM) et élaboration d’indicateurs de suivi en matière de profilage racial”,¹⁰¹ published by Victor Armony, Miriam Hassaoui and Massimiliano Mulone must be implemented by the SPVM without delay, notably those regarding the integration of the subject of racial profiling throughout their plans, programs and practices, in an effort to combat systemic profiling within the global function of the police organisation.

3. In continued collaboration with Indigenous women and Indigenous women’s organisations in Tiohtiá:ke/Montreal, the SPVM must develop a protocol specific to interventions with Indigenous women and girls. This protocol must be applicable not only to all cases of disappearances and murders, but also to any and all interventions with Indigenous women and girls.

4. In a context where mistrust is pervasive, culturally relevant and safe methods that aim to develop a culture of partnership, cooperation and to “build trust”¹⁰² must be explored by the SPVM in the establishment of its relations with Indigenous people. This requires a genuine and effective acknowledgment of the role of police services in Canadian colonial history and in the perpetuity of discrimination, and it requires the mobilisation of Indigenous expertise, as much in the adaptation of intervention practices as in decisional processes. A sincere and well-supported dialogue based on mutual understanding, between the SPVM and all the signing parties of the 2015 Agreement, regarding the content and frequency of the training sessions that are made available to SPVM officers throughout their careers must be encouraged and opened immediately.

5. Taking into account the centrality of the concept of substantive equality for the development of a human rights-based approach, it becomes clear that this concept, and the different shapes that it can take when applied within the context of police intervention, must be mastered by all members of the SPVM. A reflection on the right to substantive equality must be included in the

¹⁰¹ *Supra* note 32.

¹⁰² Statistics Canada, *Women in Canada*, *supra* note 11.

training sessions offered to officers. Furthermore, complete and transparent respect of the principle of substantive equality requires the SPVM to publicise available remedies in the case of discrimination of an Indigenous person by SPVM officers in such a way that is clear and accessible, be they internal or external procedures (for example, the possibility to address oneself to the Bureau des enquêtes indépendantes (BEI) in a case of criminal allegation¹⁰³).

6. The SPVM must develop an Indigenous liaison team, with adequate Aboriginal representation amongst its members, to effectively distribute the responsibilities and workload amongst several persons. Such a team would not alleviate the institutional and collective responsibility of the SPVM to supply an adequate response to MMIWG, but rather it would ensure the accessibility of services (especially in a linguistic context), representation and the legitimacy of measures taken by the SPVM.

7. A working task force that implicates the SPVM as well as Indigenous organisations based in Tiohtiá:ke/Montreal, such as Quebec Native Women, must be created without delay to analyse incident reports about the disappearance or murder of an Indigenous woman or girl.

Elements of priority to be addressed by public authorities

8. Continued financial support for Indigenous organisations in Tiohtiá:ke/Montreal must be committed and ensured. As the SPVM relies on Indigenous organisations to assume the responsibility of preventative work regarding MMIWG, as well as for communication with victims of violence and with families of those who are missing or murdered, it is essential to ensure the sustainability of the services offered. Suffering from general under-funding, Indigenous organisations are vital to Indigenous community life in Tiohtiá:ke/Montreal and offer numerous services that should otherwise be undertaken by public authorities. Financial resources should be mobilised to support these services and we wish to reiterate that public authorities are required to offer adequate funding to all public services without discrimination.¹⁰⁴

¹⁰³ Gouvernement du Québec, press release, “Allégations criminelles contre des policiers : nouveau processus de traitement des plaintes formulées par des membres des Premières nations et des Inuits” (August 9th, 2018), online: <<http://www.fil-information.gouv.qc.ca/Pages/Article.aspx?idArticle=2608094824>>. Although the BEI produced a brochure detailing this procedure, and the possibility to file a complaint via email at bei_allégations@bei.gouv.qc.ca or by telephone at 1-844-615-3118, neither the SPVM’s website nor that of the BEI is currently publicising this information.

¹⁰⁴ In the case of *Eldridge v. British Columbia (Attorney General)*, 1997 CanLII 327 (SCC), [1997] 3 SCR 624, the Supreme Court of Canada notably states that “the government will be required to take special measures to ensure that disadvantaged groups are able to benefit equally from government services” (para 77) and that “The principle that discrimination can accrue from a failure to take positive steps to ensure that disadvantaged groups benefit equally from services offered to the general public is widely accepted in the human rights field” (para 78).

Annex

Structure - Individual Interviews **Intended for community-based frontline workers**

Part I - Indigenous women and girls in Montreal and the phenomena of disappearances and murders

Question 1: Can you tell me about the phenomena of disappearances and/or of murders of Indigenous women and girls in Montreal?

Part II - Police Services

Question 2: Can you describe the response of the SPVM to cases of disappearances or murders of Indigenous women or girls?

Part III - The relationship between the SPVM and community services

Question 3: Can you tell me about the community resources that are available in Montreal to respond to the needs of

- Indigenous women and girls living in Montreal?
- the loved ones and family members of missing or murdered Indigenous women or girls?

Question 4: What does the collaboration between community services and the SPVM look like?

Question 5: How can the situation for missing and murdered Indigenous women and girls in Montreal be improved?

Part IV - Varia

Question 6: Is there anything else that you would like to share with us that we have not yet discussed in this interview?

Question 7: Who else do you think would be essential to interview for this research project?

Question 8: The consent form for this interview states that you will be contacted for a follow-up by the researcher who conducted this interview in the days following your participation. Do you consent to this process and if yes, can you please provide your contact details?

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