

December 18, 2024

Mayor Valérie Plante
Mathieu Vick, Chief of Staff
Demetrios Zoubris, Advisor to Valérie Plante
275 Notre Dame E
Montréal, Québec H2Y 1C6

Dear Valérie, Mathieu, and Demetrios,

We are writing to follow up on our meeting with you that took place on October 15, 2024, and the meeting we held with the Montreal Police ("SPVM") on November 29, 2024. We very much appreciated the meetings and the open dialogue and are now putting our concerns and requests in writing to ensure that there is appropriate follow up and action.

At both meetings, we expressed deep concern about how anti-Israel protests, and demonstrations have been policed by the SPVM most recently and more generally, in the aftermath of the events of October 7, 2023. While we recognize and support the right to peacefully demonstrate as protected by our Charter of Rights, over the last 15 months we have seen continuous demonstrations on the streets of Montreal. This letter sets out how we believe the Agglomeration of Montreal can improve its approach to policing these demonstrations.

To be clear, we are appreciative of the time and effort taken by the SPVM to protect Jewish community institutions since October 7, 2023. Nothing in this letter diminishes that appreciation. Nor is this letter a commentary on the conduct of individual officers or the work they do. Instead, this letter reflects our frustration that the SPVM has failed to adequately utilize the criminal law measures and municipal bylaws available to it, in the public interest, to prevent or deter hate activities taking place in our city on a regular basis.

These hate activities are overwhelmingly directed against the Jewish community, students and faculty, and ordinary citizens on our streets. They are also being directed against people living in quiet residential neighbourhoods in Westmount and merchants around them. As a result, most within the Jewish community and many other residents of the Montreal Island are feeling unsafe in the Agglomeration of Montreal.

We cannot direct the day-to-day operations of the SPVM or how individual cases are handled. Nor can those involved in civilian oversight of the police. However, we can address deficiencies in policy and strategic guidance that have emboldened hate activists to regularly violate the law, without consequence. We are asking you, as the Mayor and chief of staff to ensure, through policy direction, that there is zero tolerance for antisemitic crime activity in our city, and that as a matter of policy and strategic guidance, the police robustly use the criminal law tools and municipal bylaws available to them to protect the public.

Very recently, we have seen (a) the damage caused outside of the Palais des congrès de Montréal, on Friday, November 22 as a result of violent activities by protestors, (b) the damage caused at the Hall Building at Concordia on Thursday, November 21 also as a result of violent activities by protestors, (c) the intimidation exhibited by demonstrators outside of the Shaar Hashamayim building on November 5 despite the existence of judicial injunctive relief, and (d) the activities outside of Westmount Square and 1 Wood involving clear violations of, among other things, municipal bylaws.

The approach taken by SPVM appeared to be rooted, at least in part, in the desire to de-escalate, and thereby reduce violence. Of course, the reduction of violence is a commendable goal, and de-escalation techniques figure prominently in assessing an appropriate police response. However, the current approach is flawed for at least four reasons.

First, the overreliance on non-enforcement as a form of de-escalation has emboldened protestors and demonstrators to engage in intimidating, violent acts and unequivocal hate speech, and thus, ultimately, has not successfully addressed the unsafe and toxic situation in our city.

Second, it fails to recognize that the hate speech taking place at these protests and demonstrations, and now riots, cause multiple types of harm. This hate speech promotes fear, emotional trauma and psychological harm on the targeted community members, affecting the community's perceived safety. It normalizes hatred, creating a culture that marginalizes those affected and makes future discrimination, hate crimes and general violence more likely. The Supreme Court of Canada recognizes the important societal value in criminalizing the wilful promotion of hatred, even when it does not immediately or inevitably lead to violence. The approach currently being taken by SPVM undervalues this societal value and undermines the rationale for the existing of this criminal legislation.

Third, the current approach shows a lack of understanding of the full range of tools available to the police to address hate activities, and the ways in which these tools may be employed (sometimes through deferred charges) to combat hate crimes.

Fourth, if the goal is to de-escalate and thereby reduce violence, the goal is not succeeding. Montreal, more than any other city in our country, is witnessing protests that are not peaceful, as hatemongers believe they can act with impunity, with few if any consequences.

Fifth, the approach taken by SPVM not only fails to enforce available criminal measures, but undermines the constitutional rights of those victimized. For example, it is totally unacceptable for Jews like Rabbi Scheier to be directed to depart the scene of hate activities, or be forced to modify his conduct, despite acting lawfully, in the misguided belief that intimidation is best addressed by capitulating to those who might hate a man wearing a kippah.

What do we mean when we say that the criminal law is being underutilized to address unlawful activity in this city? In addition to the most-often cited hate speech offence in the Criminal Code – wilful promotion of hatred – which requires the Attorney General's consent, the following criminal offences are relevant to how police respond to the activities on our streets.

Membership in an unlawful assembly pursuant to s. 66. There have been a number of instances in which a protest crosses the threshold of legality and has become an unlawful assembly. These have involved instances in which people assemble in a manner or conduct themselves when they are assembled as to cause persons in the neighborhood of the assembly to fear, on reasonable grounds, that they will disturb the peace tumultuously or by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously. Unlawful assembly does not require proof of an actual disturbance of the peace tumultuously, only a reasonably grounded fear that this will be the result. Ask those in the neighborhood where some of the protests and demonstrators have taken place about their profound fears, reasonably based, arising out of the conduct of protestors and demonstrators.

Of added significance, it is a separate criminal offence under s. 66 to participate as a member of an unlawful assembly while wearing a mask or other disguise to conceal their identity. The same holds true when an unlawful assembly escalates to a riot – as has happened in Montreal.

Incitement to hatred, leading to a likely breach of the peace. It is obvious that a number of protests and demonstrations in Montreal have easily crossed this threshold. Again, the anticipated breach of the breach need not be immediate.

Mischief. Mischief is not confined to activity involving the damage of property, but any obstruction, interruption or interference with any person's lawful use, enjoyment or operation of property. There have been multiple instances in which protests have deliberately prevented others from lawfully using and enjoying, free from intimidation, both public and private spaces.

Mischief relating to religious property etc. Subsection 430(1.1) criminalizes specific forms of mischief, including activity targeting places primarily used for religious worship

Disturbing Religious Worship or Certain Meetings. Subsection 176(2) addresses disturbances or interruptions to certain meetings, including an assemblage of persons who meet for religious worship. Steps taken to frighten or intimidate worshippers or inhibit those from entering places of worship are criminal.

Intimidation. Subsection 423(1) specifically addresses not only violence or threats of violence, but injury to property and most importantly, blocking or obstructing roads. It is unsettling that this provision is not being utilized to address hate activities in Montreal.

Counselling terrorist activity. Section 83.221 criminalizes counselling the commission of a terrorism offence, even without the accused identifying a specific terrorism offence. Pursuant to s. 22(3) of the Criminal Code, "counselling" includes "inciting."

One of the suggestions we made to the SPVM was that Mark Sandler be brought in to train the Montreal police. Mr. Sandler has trained hate crime units for many years, chaired or participated in multiple hate crime conferences, lectured and written about criminal law remedies to combat antisemitism and other forms of hate for many years, appeared in the Supreme Court of Canada to support the constitutionality of hate speech crimes in the Criminal Code, and given deputations before House of Commons and Senate committees on issues relating to hate activities. We would request that he be brought in to train the police as quickly as possible.

It is also important, in our view, that the police recognize that municipal bylaw enforcement and where applicable, province trespass legislation represent additional tools for their use.

In our view, it is also important that hate activities be viewed with the benefit of a full understanding of the significance of the language and symbols used by protestors. This sometimes requires expertise. As well, it is our expectation that conduct be viewed cumulatively, rather than in isolation, as is often the case. For example, we have seen in some protests an accumulation of activities that speak powerfully to wilful promotion of hatred and incitement to hatred, including glorification of terrorist activities, martyrdom given to Yahya Sinwar, the former leader of a designated terror group, symbols and slogans associated with terrorist activity etc.

In summary, we urge you to ensure that the policies and strategic guidance that informs the decision-making of the SPVM and its leadership reflect robust use of and application of all available legal measures to combat extremism and antisemitic hate. We also suggest that Montreal's plan purchase and deployment of body cameras for police be expedited and included in full in this year's budget.

Sincerely Yours,

Anthony Housefather, Member of Parliament for Mount Royal

Mitchell Brownstein, Mayor of Côte Saint-Luc

Christina Smith, Mayor of Westmount

cc Chief of Police Fady Dagher
cc Chief Inspector Mohamed Bouhdid
cc Daphny Colin, Chair Public Safety Commission
cc Members of the Public Safety Commission, Abdelhaq Sari; Younes Boukala; Lisa Christensen; Marc Doret; Benoit Gratton; Peter McQueen
cc Anna Gainey, Member of Parliament for Notre-Dame-de-Grâce—Westmount
cc Elisabeth Prass, Member of the National Assembly of Quebec for D’Arcy-McGee
cc Jennifer Maccarone, Member of the National Assembly of Quebec for Westmount–Saint-Louis
cc Deborah Lyons, Canada’s Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism