

RACIAL PROFILING AND SYSTEMIC DISCRIMINATION OF RACIALIZED YOUTH

**REPORT OF THE CONSULTATION ON RACIAL PROFILING
AND ITS CONSEQUENCES**

ONE YEAR LATER: TAKING STOCK

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INTRODUCTION

The mission of the Commission des droits de la personne et des droits de la jeunesse,¹ whose members are appointed by the National Assembly, is to “ensure, through all appropriate measures, the promotion and respect of the principles set out in the Charter of Human Rights and Freedoms²”, a quasi-constitutional law that was adopted in 1975. The Commission is specifically mandated to analyze laws, regulations, standards and institutional practices, both public and private, in order to ensure that they comply with the Charter. The Commission is also responsible for making the recommendations that it deems to be appropriate.³

Within the context of this mandate, the Commission conducted a public consultation on racial profiling in 2009. For a number of years, the Commission has dealt with numerous complaints of racial profiling individually, and it became apparent that any solution to the systemic discrimination experienced by racialized minorities⁴ would have to also be systemic in its approach. It was necessary to create a collective awareness of this problem and to identify potential solutions to be implemented by society as a whole, in order to counter both racial profiling and the systemic discrimination that target racialized groups. From the outset, the Commission’s approach was focused on seeking solutions. In fact, the consultation demonstrated that such solutions exist, and they simply needed to be applied.

In May 2011, the Commission published a consultation report entitled *Racial profiling and systemic discrimination of racialized youth, Report of the consultation on racial profiling and its consequences*.⁵ That report contained 93 recommendations for the Québec administration as a whole, but specifically targeted public security, the education sector and the youth protection

¹ The “Commission”.

² *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12, sec. 57 par.1 and 2, (the “Charter”).

³ *Ibid.*, sec. 71 par. 1 and 2 (6).

⁴ The Commission prefers to use the term “racialized” rather than “racial” in order to emphasize that, far from corresponding to an objective reality, “race” refers to an *essentializing or stigmatizing* category assigned by the majority group. See in particular: 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*, May 2011, p. 8, note 4.

⁵ *Ibid.*

system⁶. It also provided an opportunity for the Commission to make a number of commitments with a view to contributing to the fight against racial profiling and its consequences.⁷

Since that time, the Commission has been able to provide rigorous follow-up with respect to its commitments and the recommendations that were formulated in its report. In fact, even though there was no formal commitment to periodically measure their implementation, we are taking the opportunity today to take stock one year after the report was released. Do we have a better understanding of the problem of racial profiling and its consequences? Is there a greater awareness of the problem and the solutions that must be implemented? Have these solutions, as recommended by the Commission in its report, been put into practice? Are they about to be? Has there been any tangible progress since? What is the perception among the various stakeholders who participated in the Commission's consultation process in 2009-2010? These are questions that the Commission intends to answer in the following pages in this first exercise of taking stock.

We will begin by reviewing the context that led to the consultation by the Commission and presenting an overview of the process. The current state of affairs will then be presented in three sections: First, we will offer an analysis of the responses to date from various government departments, municipalities and police forces to the Commission's recommendations. Second, we will review comments from spokespersons from organizations that took part in the pre-consultation on racial profiling that was conducted in 2009. Finally, the Commission will examine what progress has been made with respect to its own commitments, which were included in the report on racial profiling and its consequences.

⁶ *Ibid.*, p. 113-120. See Appendix 1 to this report.

⁷ *Ibid.*, p. 121. See Appendix 2 to this report.

1 CONTEXT

1.1 Systemic discrimination and racial profiling

1.1.1 Racial profiling: Definition and foundations

With racial profiling as one of its organizational priorities, since 2005, the Commission has used a definition of this phenomenon that specifically focuses on discrimination resulting from the disproportionate application of measures to particular segments of the population.⁸ Therefore, the definition used by the Commission not only includes any action taken by a person in a situation of authority who invokes reasons of security, but also reflects the systemic nature of the problem. The definition of racial profiling reads as follows:

“Racial profiling is any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or scrutiny.

Racial profiling includes any action by a person in a situation of authority who applies a measure in a disproportionate way to certain segments of the population on the basis, in particular, of their racial, ethnic, national or religious background, whether actual or presumed.”⁹

On April 18, 2012, the Québec Human Rights Tribunal issued its first judgment finding that a person in a position of authority – in this case a police officer from the SPVM (Montréal Police Department) – had applied racial profiling. In doing so, the Tribunal pointed out that the Commission's definition [translation] “includes not only the factors of real membership in a defined group on the basis of a prohibited ground, but also those of presumed membership.”¹⁰

⁸ Michèle TURENNE, “Le profilage racial : une atteinte au droit à l'égalité – Mise en contexte, fondements et perspectives pour un recours,” in *Développements récents profilage racial*, vol. 309, Service de la formation permanente du Barreau du Québec, Cowansville, Éditions Yvon Blais, 2009, p. 41, 50.

⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Racial profiling: Context and Definition*, 2005, p. 18.

¹⁰ *Commission des droits de la personne et des droits de la jeunesse c. Ville de Montréal (Service de police de la Ville de Montréal) et Dominique Chartrand*, TDP Montréal, No. 500-53-000326-106, April 18, 2012, J. Paupé, par. 165-166. Police officer Dominic Chartrand has filed an *Application for leave to appeal* this judgment dated May 22, 2012. However, it is important to note that the application did not originate with the (...suite)

Therefore:

[Translation] “[...] the persons to whom one mistakenly attributes characteristics associated with a prohibited ground are as protected as those who really possess them, because of the prejudices and stereotypes on which discrimination is often based.”¹¹

Justice Pausé added that this “reflects in fact the extremely subjective dimension of discrimination,” a subjective component that is recognized in Quebec and Canadian law.

The concept of disproportionality is also an important dimension that characterizes racial profiling, because regardless of how it is expressed, it generally involves actions by a person in a situation of authority that are excessive, unusual, and distinguishable from normal practices.¹²

The Human Rights Tribunal also noted:

[Translation] “Therefore, the question is not to know whether the police intervention was adequate, but rather to establish whether it was carried out in an unusual way that was likely to infringe upon the right [of the complainant] to enjoy his rights to security and liberty of his person as well as his right to preserve his dignity without discrimination based on his ethnic origin.”¹³

This disproportionate, differentiated or unusual character can take the form of an abuse of power, the application of excessive force, the use of harassing, disrespectful or discriminatory language, or the carrying out of unreasonable inspections. In all of these cases, racism and stereotypes associated with an ethnic and racial background constitute the bases of racial profiling practices. In other words, prejudices trigger acts of racial profiling. Therefore, one prejudices – often unconsciously – that members of certain racialized groups are more likely to disturb public order or threaten security. The result is that we no longer target objectively threatening behaviours, but rather individuals belonging to groups that are believed to be more likely to adopt these behaviours.

Legal Department of the City of Montréal or the SPVM. The application will be returnable before the Québec Court of Appeal on August 22, 2012.

¹¹ *Ibid.*

¹² M. TURENNE, *op. cit.*, note 8, p. 90.

¹³ *Commission des droits de la personne et des droits de la jeunesse c. Ville de Montréal (Service de police de la Ville de Montréal) et Dominique Chartrand*, *op. cit.*, note 10, par. 250.

The experiences recounted during the Commission’s consultation were as numerous as they were troubling with respect to the existence of practices of this type, and even though the public security sector was especially targeted by allegations of racial profiling, the practice can also occur in other contexts.¹⁴ As we will see in the next section of this report, all of the stakeholders and institutions involved have an obligation to take steps to fight racial profiling and discrimination targeting racialized groups. Solutions do exist. They are based on the right to equality that is guaranteed to everyone, specifically by the Charter.

1.1.2 Right to equality and the prohibition of discrimination

As the Human Rights Tribunal confirmed recently once again, racial profiling, “by its very nature,” “constitutes a special form of discrimination.”¹⁵ This applies to its manifestations “exercised within a context of authority and having the effect of destroying or compromising the right to the recognition and exercise, in full equality, of human rights and freedoms, without distinction, exclusion or preference based on any of the grounds prohibited by the Charter.”¹⁶ However, numerous legal instruments guarantee the right to equality against various forms of discrimination, including racial profiling. Some examples include Article 7 of the Universal Declaration of Human Rights¹⁷ and Article 26 of the International Covenant on Civil and Political Rights.¹⁸

¹⁴ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Racial Profiling. Consultation Document on Racial Profiling*, March 2010, p. 3.

¹⁵ *Commission des droits de la personne et des droits de la jeunesse c. Ville de Montréal (Service de police de la Ville de Montréal) et Dominique Chartrand*, op. cit., note 11, par. 173.

¹⁶ *Ibid.*

¹⁷ *Universal Declaration of Human Rights*, General Assembly resolution 217 A (III), 3rd Sess. Suppl. No. 13, UN Doc. A/810 (1948), Art. 7: “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

¹⁸ *International Covenant on Civil and Political Rights*, December 16, 1966, 999 R.T.U.N 171, R.T. Can. 1976 No. 47 (entry into force March 23, 1976, accession by Canada on May 19, 1976), Art. 26: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The Canadian Charter of Rights and Freedoms likewise provides for constitutional protection against discrimination, guaranteeing the right to equality in Section 15.¹⁹ Finally, Section 10 of the Québec Charter also pronounces such a guarantee in the following terms:

“Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.”²⁰

Put simply, there is discrimination in the enjoyment of a right guaranteed by the Charter when the three elements stipulated in Section 10 of the Charter are met, namely:

- a distinction, exclusion or preference,
- based on one of the grounds of discrimination,
- and having the effect of nullifying or impairing the right to full and equal recognition and the exercise of one of the human rights or freedoms.²¹

With respect to the first of these three elements, it is important to remember that the discrimination may be direct or indirect. Discrimination is described as direct when the distinction, exclusion or preference based on a prohibited ground of discrimination is open or avowed. However, discrimination can also be indirect, for example, when [translation] “a person adopts conduct, a practice or a rule that is neutral at first sight and applies equally to everyone, but which has a discriminatory effect for a prohibited ground for an individual or a group of

¹⁹ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982* [Schedule B of the *Canada Act 1982*, (1982, U.K., c. 11)], sec. 15 (1): Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”

²⁰ *Op. cit.*, note 2, art. 10.

²¹ See in particular: *Commission scolaire régionale de Chambly c. Bergevin*, [1994] 2 R.C.S. 525; *Forget c. Québec (Procureur général)*, [1988] 2 R.C.S. 90; *Johnson c. Commission des affaires sociales*, [1984] C.A. 61.

individuals in that it imposes on them constraints not imposed on others.”²² Therefore, a measure that is apparently neutral may have a discriminatory effect for a person or group of persons, for example, when it imposes on them “penalties or restrictive conditions that are not imposed on others”²³ because of their “race”²⁴, colour, ethnic or national origin or religious convictions.

Whether direct or indirect, discrimination can be systemic. In *Gaz métropolitain inc. c. Commission des droits de la personne et des droits de la jeunesse*, the Court of Appeal confirmed that systemic discrimination must be understood as being [translation] “the total of disproportionate exclusion effects that result from the combined effect of attitudes marked by prejudices and stereotypes, often unconscious, and policies and practices generally adopted without taking into account characteristics of the members of groups targeted by the prohibition of discrimination.”²⁵

More specifically, with respect to the grounds of discrimination that are prohibited pursuant to Section 10, it is worth noting that, in the case of racial profiling, it is mainly “race”, colour, religion or ethnic or national background that is referred to. As Michèle Turenne explained, [translation] “we know that racial profiling is practiced mainly on the basis of generally apparent grounds of the persons who are its victims [...]. It is the subjective perception of the person in authority involved that is decisive.”²⁶ It is important to remember that, throughout our

²² Christian BRUNELLE, « Les droits et libertés dans le contexte civil », in Collection de droit du Barreau du Québec, vol. 7, *Droit public et administratif*, Cowansville, Éditions Yvon Blais, 2010, p. 57.

²³ *Ibid.*

²⁴ Although the term “race” appears in the Québec Charter and in most of the anti-discrimination provisions of international instruments and other national legislation, the Commission insists on repeating a warning with respect to the use of this word in this report. Although the idea of biological races has no meaningful value in science, [translation] “one cannot say the same of ‘social race,’ i.e.: race as a social construct. Moreover, prejudice and discrimination based on race, as well as the resulting inequalities, remind us that race, while originally an ideological fiction, nevertheless has had very real social effects that cannot not be neglected.” Daniel DUCHARME and Paul EID, “La notion de race dans les sciences et l’imaginaire raciste: la rupture est-elle consommée?” in *L’Observatoire de la génétique*, No. 24 – September-November, 2005, [on line]. http://www.omics-ethics.org/observatoire/cadrages/cadr2005/c_no24_05/c_no24_05_02.html (Page consulted on March 23, 2012)

²⁵ *Gaz métropolitain inc. c. Commission des droits de la personne et des droits de la jeunesse*, 2011 QCCA 1201, par. 47; confirming *Commission des droits de la personne et des droits de la jeunesse c. Gaz métropolitain inc.*, 2008 QCTDP 24. See also: COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 14.

²⁶ M. TURENNE, op. cit., note 8, p. 66.

consultation, the majority of the participants insisted on the fact that prejudices and stereotypes constitute the background of discrimination and racial profiling.²⁷

That being said, a number of prohibited grounds can constitute aggravating factors in situations of racial profiling. For example, this is the case with age, sex and even social class. In this respect, referring to the intersectional approach makes it possible to take into account the accumulation and intersection of all of these grounds,²⁸ because they can mutually feed on each other²⁹ and thus express specific realities.

In order to complete the analysis of a discriminatory situation within the meaning of Section 10 of the Charter, it is also important to mention that, among the rights that are often at risk in a situation of racial profiling, the ones that are most often cited are the right to life, personal security, inviolability and freedom;³⁰ the right to the safeguard of dignity, honour and reputation;³¹ the right to respect for private life;³² and the right to access public transportation or a public place.³³ Numerous judicial rights were also mentioned, specifically including the right, in full equality, to a public and fair hearing of a case by an independent and impartial tribunal;³⁴ the right to not be deprived of liberty or of rights except on grounds provided by law;³⁵ the right to not be subjected to unreasonable search or seizure;³⁶ the right of any person who is arrested to be treated with humanity and with the respect due to the human person³⁷ and the right to the presumption of innocence.³⁸

²⁷ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 15.

²⁸ M. TURENNE, op. cit., note 8, p. 66-67.

²⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 14, p. 6.

³⁰ Charter, sec. 1.

³¹ *Ibid.*, sec. 4.

³² *Ibid.*, sec. 5.

³³ *Ibid.*, sec. 15.

³⁴ *Ibid.*, sec. 23.

³⁵ *Ibid.*, sec. 24.

³⁶ *Ibid.*, sec. 24.1.

³⁷ *Ibid.*, sec. 25.

³⁸ *Ibid.*, sec. 33.

This was the basis for the conclusion that the Commission reached in its report on racial profiling to the effect that the three sectors targeted by the consultation should be analyzed from the perspective of systemic discrimination.³⁹ As we will see in the following paragraphs, this conclusion also arises from two years of consultation and work by the Commission.

1.2 The procedure used by the Commission

Since 2003, the Commission has received and dealt with numerous complaints of racial profiling, most of them involving police forces, but also other institutions and organizations, both public and private.

1.2.1 The need for a systemic approach

As the Commission pointed out in its report, racial profiling generally takes on subtle and insidious forms. The fact of having to deal with many complaints of this kind compelled the Commission to not only examine the concept of racial profiling itself, but to also review some of its own practices. In doing so, it found that proving that a police intervention was not based on real grounds or reasonable suspicion, but rather on the colour, “race” or ethnic origin or religion of the person targeted, was not a simple matter, not in the least because a person may be stopped or ticketed in response to an offence that was actually committed. However, pursuant to the second paragraph of the definition adopted by the Commission, when police tend to punish or scrutinize racialized persons disproportionately in the face of the same offence or behaviour, it is a form of systemic racial profiling that reflects a clear double standard.⁴⁰ In fact, in March 2011, the Court of Appeal confirmed that an admission of guilt or the conviction of a person “in no way affects the admissibility of recourse” for the person affected by racial profiling.⁴¹

The Commission also noted that, although it is necessary, its system of handling individual complaints can prove to be limited with respect to the phenomenon of racial profiling. Given its

³⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 14.

⁴⁰ *Ibid.*, p. 10.

⁴¹ *Ville de Montréal c. Commission des droits de la personne et des droits de la jeunesse*, 2011 QCCA 519, par. 4.

systemic dimension, the Commission concluded that it was indispensable to incite the institutions concerned to make the structural corrections that are required in order to counter these manifestations of discrimination that are experienced by racialized groups in our society.

1.2.2 A broad popular consultation

Acknowledging the specific nature and the scope of the problem of racial profiling, the Commission deemed it necessary to undertake a consultation on the issue of racial profiling and systemic discrimination with respect to racialized minorities in Québec. The consultation was launched in September 2009. The primary objective was to give a voice to victims of racial profiling, to generate collective awareness of the problem and its consequences, and then to identify approaches for resolving the problems of both racial profiling and systemic discrimination that target racialized groups.

Moreover, it is worthwhile to point out that the Commission chose to focus this consultation on profiling and discrimination as experienced by racialized youth aged between 14 and 25. This choice was motivated by several reasons, and in particular by the fact that young people are most likely to be the target of racial profiling, partly because they are major users of public spaces, and partly because stereotypes and prejudices that attribute a greater propensity for anti-social behaviour to them.⁴² It is also important to emphasize the fact that the impact of profiling on young people can be greater with respect to their life choices and social integration.

Furthermore, although discrimination targets racialized young people in a number of aspects of their life, the Commission limited its consultation to racial profiling and systemic discrimination in three key institutional sectors in terms of their activities: public security, the education sector and the youth protection system.

Before launching this consultation, the Commission conducted a preliminary consultation during the summer of 2009, which took the form of a series of meetings with representatives from approximately 100 organizations, with a view to ensuring the appropriateness of the procedure and their participation in it. Then, within the context of the consultation that was held in

⁴² COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *op. cit.*, note 4, p. 11.

September of 2009, the Commission collected close to 150 accounts from youth, their parents, experts and representatives from community groups. Based on that consultation and the results of research and an analysis of profiling, the Commission published a consultation document in March of 2010. This document was intended to help guide the written presentations and discussions in public hearings to be held in Montréal and Québec City in May and June of the same year. The Commission received 54 written briefs and heard from 75 individuals, citizens or members of the research community, as well as community organizations and institutions.

1.2.3 The Commission's conclusions and recommendations

Based on the studies, briefs and the testimony provided during the consultation, the Commission was able to present the issues and problems associated with racial profiling and systemic discrimination, as well as their consequences. Accordingly, in the report that followed this consultation, the Commission wrote:

“If there is one conclusion that the Commission can legitimately draw from this consultation, it is that the problems of racial profiling and systemic discrimination as perceived by youth of racialized minorities within the targeted institutions are sufficiently important for society as a whole to feel concerned by them. Québec cannot allow some of its citizens to lose their trust in its public institutions, or even worse, to feel like foreigners in their own society.”⁴³

We will not repeat here the full analysis presented in the report. However, it is worth repeating that the approach used by the Commission was fundamental, because it allowed for the identification of possible concrete solutions, which the Commission expressed through its 93 recommendations. Of these, six are general in nature, while 44 target the public security sector, 33 target the education sector and 10 target the youth protection system.⁴⁴

The main recommendations call for the government to adopt a policy aimed at fighting racism and discrimination that specifically includes a plan of action for the purpose of preventing and eliminating racial profiling. The Commission also recommends that a prohibition of racial profiling be formally stated in the Charter, and that laws and regulations be reviewed in order to ensure that they do not have a discriminatory effect on racialized minorities. Equally important is

⁴³ *Ibid.*, p. 103.

⁴⁴ *Op. cit.*, note 6.

a revision of organizational policies, practices and standards in order to prevent discrimination and racial profiling, especially with respect to the policies and practices used to combat criminality and street gangs, discourage incivility, verify payment of fares and the free movement of public transit users; organizational practices and standards in the education sector; and the mission statements and codes of ethics of youth centres.

In addition, the Commission's recommendations that target the following issues are equally important:

- Implementation of rigorous data collection and publication procedures related to the presumed racial identity of individuals either being served by government departments and institutions, targeted by police action or involved in the judicial system or youth criminal justice system;
- Adoption of measures aimed at combating poverty that specifically target groups at greatest risk of living below the poverty level, which include recent immigrants, Aboriginals, racialized groups and single mothers;
- Integration of antiracism and intercultural training into the programs of the ministère de l'Éducation, du Loisir et du Sport (MELS), and in training to be given to all social workers;
- Application of measures by government departments and the institutions concerned with a view to countering racial discrimination in hiring practices, so that their personnel reflect the ethnocultural diversity of Québec;
- The creation by public institutions of monitoring and accounting procedures that allow for the detection and control of instances of racial profiling at all levels;
- The establishment by the departments and institutions concerned of sustainable partnerships with community organizations that interact with racialized minorities and the use of their expertise.

The report also represented an opportunity for the Commission to make 11 specific commitments that would enable it to join the fight against racial profiling and its consequences.⁴⁵ One of these commitments is to conduct rigorous follow-up with respect to the implementation

⁴⁵ Op. cit., note 7.

of the recommendations that were contained in the report. In light of this, Section 4 of this report will deal more specifically with the Commission's commitments, and the changes that they have produced in the past year.

1.2.4 What's next?

The recommendations made by the Commission in the May 2011 report resulted from a process of consultation and serious reflection, but the work is not done. The government departments and institutions involved still have to implement these recommendations, and the Commission must meet its own commitments.

A year later, the Commission is well aware that a very short period of time has elapsed in which to accomplish all of the changes that were requested. Still, what is the first conclusion that can be reported with respect to the progress that has been achieved and actions that have been planned? There is a growing understanding and recognition of the problem of racial profiling. The term "racial profiling" is being used today in areas where it had never been heard before, and the discourse is beginning to change. Awareness of the problem is real, but what about the concrete changes sought by the Commission? That is what we will look at in greater detail in the next chapter.

2 INITIAL GOVERNMENT RESPONSE

In May 2011, the Commission asked the Québec government, along with elected officials and decision-makers, to make the necessary legislative and organizational changes to eliminate racial profiling:

"During our consultation, we discovered that interesting initiatives and promising projects and partnerships already exist, but these are generally the result of isolated acts rather than institutionalized practices. Declarations of principle condemning racism and discrimination must be accompanied by real political commitment, leading to the implementation of preventive measures and effective remedies for the victims."⁴⁶

⁴⁶

COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 4.

More specifically, the Commission's recommendations targeted the ministère de l'Éducation (MELS), the ministère de l'Emploi et la Solidarité sociale [MESS], the ministère de l'Immigration et les Communautés culturelles [MICC], the ministère de la Justice [MJ], the ministère de la Santé et les Services sociaux [MSSS] and the ministère de la Sécurité publique [MSP]. In so doing, the report noted in particular that, "although it is true that [prejudices and stereotyping] are likely to be found in all layers of society, representatives of the State... have an obligation to neutralize them."⁴⁷

Since then, the Commission has met with representatives of these departments on various occasions, both in bilateral meetings and through an inter-ministerial panel created for the purpose. During one meeting of this panel, which was held on January 12, 2012, the Commission informed the ministerial spokespersons who were present that it intended to publish a taking stock exercise to mark the first anniversary of the publication of its racial profiling consultation report. The Commission asked each of the departments present to designate a contact person with whom it could communicate as part of this process. It then formalized the approach in a letter sent to the members of the inter-ministerial panel on January 19, 2012. They were invited to submit a status report on actions taken so far with respect to implementing the recommendations that concerned them specifically.

2.1 An initial collaborative government response

The departments involved chose to provide a concerted response, coordinated by the ministère de la Justice. They sent the Commission a list of actions that had already been implemented in order to counter racial profiling as of May 4, 2012. The following table presents all of the actions that they reported:

⁴⁷ *Ibid.*, 5, p. 103.

Racial profiling – Actions taken by the various government departments	
May 4, 2012	
<p>Ministère de l'Immigration et des Communautés culturelles (MICC)</p>	<ul style="list-style-type: none"> • Coordination of the action plan entitled <i>Diversity: An Added Value: Government policy to promote participation of all in Quebec's Development 2008-2013</i>, which includes various measures designed to counter racial profiling, under the responsibility of the ministère de la Sécurité publique (MSP), the Commission des droits de la personne et des droits de la jeunesse (CDPDJ) and the Commissaire à la déontologie policière (CDP). • Contribution of its knowledge of the cultural communities, racism and discrimination to the City of Montréal Police Department (SPVM), the leader among police forces with respect to these issues. • Since 2006, the presence of an expert advisor on racism and discrimination from the ministère on the SPVM's expert committee on racial and social profiling, which worked on the 2007-2009 three-year plan to develop intercultural competencies and training tools; the master plan on citizens relations, which was published in 2010; and the <i>Policy on Racial and Social Profiling</i> as well as the <i>Strategic Plan on Racial and Social Profiling for 2012-2014</i>. Its plan of action on racial profiling, <i>Des valeurs partagées, un intérêt mutuel</i> was released on January 17, 2012.
<p>Ministère de la Santé et des Services sociaux (MSSS)</p>	<ul style="list-style-type: none"> • Awareness of the importance of offering quality services to children and families from cultural communities and treatment in the provision of <i>Troubled Youth</i> services to be offered to cultural communities and of the necessity of adapting services to their realities. • Mention of the principle that cultural communities should be taken into account in the youth protection system in the <i>Manuel de référence sur la protection de la jeunesse</i>. • Presence of a cultural communities' respondent in each agency. For this purpose, Section 349 of the Act respecting health services and social services provides that each agency, in concert with the bodies representing the cultural communities and the institutions of its region, must facilitate accessibility to health and social services in a manner that is respectful of the characteristics of those cultural communities. • In 2003-2004, creation by the MSSS of an advisory committee to provide its views in order to ensure that the organization of services reflects various cultural realities. For this purpose, Section 433.1 of the Act respecting health services and social services expresses the importance of persons from ethnocultural communities and the necessity of adapting services to better meet their needs and expectations. • Mandate given by the department to a committee to develop a physical and psychosocial check-up for refugees and asylum-seekers in order to be better equipped to respond to their needs upon arrival and ensure appropriate referrals based on their condition. The committee has concluded its work, and will be submitting a final report to MSSS officials shortly. • Collaboration with the MICC as part of the MSSS-MICC Agreement to promote the integration and francization of immigrants and as part of various committees,

	<p>including the one working on the government policy entitled <i>Diversity: An Added Value: Government policy to promote participation of all in Quebec's Development 2008-2013</i>. As part of this action plan, the MSSS has specific responsibility for the following measures:</p> <ul style="list-style-type: none"> a) Promoting vocational integration for youth from cultural communities through the “<i>Qualification des jeunes</i>” program; b) Enriching the intercultural training programs provided to staff and managers of the network (a survey is currently underway to find what already exists and to improve the offering); c) Documenting the status of racism and discrimination within the network. Since April 1, 2009, the network complaint system has included complaints of racism and discrimination. Follow-up is provided by the complaints commissioners; d) Boosting research efforts on the influence of racism and discrimination on health.
<p>Ministère de l'Éducation, du Loisir et du Sport (MELS)</p>	<ul style="list-style-type: none"> • With respect to welcome classes, there has been: <ul style="list-style-type: none"> a) development of a standard language competence evaluation instrument to determine which students are entitled to special integration and French learning support services, expected to be distributed in 2012-2013; b) publication of a document pertaining to educational and social linguistic integration for the education sector and an administrative guide, expected to be distributed in 2012; c) changes to the financing and the declaration of welcome and French learning support services for the 2012-2013 budget rules; d) proposal of new procedures for supporting intercultural activities. • With respect to special needs students: <ul style="list-style-type: none"> a) analysis of the presence of students from certain racialized immigrant communities among the handicapped or those with adaptation or learning difficulties (preliminary version released in December 2011). • Finally, with respect to the educational path: <ul style="list-style-type: none"> a) support for studies demonstrating the necessity of providing services adapted to immigrant late-entrants to secondary school, especially in order to ensure better transition to adult education. Possible formation of a ministerial committee to propose solutions.
<p>Ministère de la Sécurité publique (MSP)</p>	<ul style="list-style-type: none"> • In 2005, formation of the Police Force Sectorial Committee on Racial Profiling with the main interveners concerned, tasked to develop guidelines and policies on this subject, discuss best practices, develop expertise, etc. • In 2007, organization of an awareness-raising seminar on understanding and preventing racial and illegal profiling, intended for managers of police organizations, and distribution of a guide on police intervention in a changing society and understanding and preventing racial profiling in police organizations.

- Improvement of the initial and ongoing education of police officers in this area, specifically by:
 - a) MELS integration of the concept of racial profiling in the law enforcement diploma curriculum in the fall of 2005;
 - b) presence of an expert at the École nationale de police du Québec (ENPQ) since 2009, with a view to improving the competencies of police departments in terms of managing cultural diversity;
 - c) administration of a new psychometric test to candidates by the ENPQ, referring to 18 types of misconduct, including racist tendencies.
- Active participation in the action plan entitled *Diversity: An Added Value: Government policy to promote participation of all in Quebec's Development*.
- In 2006, introduction by the Police Ethics Commissioner in his annual report of a section on complaints linked to racial profiling, and increased and ongoing distribution of information pertaining to the duties of police officers and the recourse of citizens in connection with inappropriate police interventions.
- Investment of \$2.7 million over three years (2009-2012) from the Police Officers Recruitment Fund to reinforce trust and promote understanding between the police department and the residents of Montréal, in particular by promoting discussion, consultation and understanding in eight Montréal boroughs, including certain sectors with a higher poverty and social exclusion index. This project also received an additional \$600,000 in funding from the MICC over the same period.
- Publication of the SPVM Strategic Plan for Racial and Social Profiling (2012-2014).
- Tabling of Bill 46 – Act respecting independent police investigations, which seeks to confer a clear legal foundation to the process, structure it to a greater extent and establish a civilian oversight bureau (*Bureau civil de surveillance des enquêtes indépendantes*).
- Continue the leadership assumed and support provided to police organizations with respect to profiling, in particular by planning to:
 - a) entrust follow-up of a number of recommendations specifically involving police forces and the harmonizing of the action plans of various organizations to the police Sectoral Committee on Racial Profiling;
 - b) develop and distribute a management guide for police forces that is designed to prevent discrimination and racial profiling;
 - c) revise the police practices guide to include a statement on fighting racism and discrimination;
 - d) list and circulate best practices for avoiding discriminatory biases in the policies and intervention plans of police organizations;

	<p>e) continue to increase awareness of the phenomenon (message to police forces, etc.);</p> <p>f) monitor the situation (number of ethics complaints, number of complaints in corrections institutions, etc.).</p>
<p>Ministère de la Justice (MJQ) and the Director of Criminal and Penal Prosecutions (DPCP)</p>	<ul style="list-style-type: none"> • In 2006, sending by the DPCP to all prosecutors of a detailed message intended to raise their awareness of racial profiling, to enable them to raise certain concerns, especially when authorizing prosecution, or to enable concerns to be raised by the defence in a Canadian Charter motion. This message dealt with the context in which an allegation of racial profiling is most likely to be raised and the likely consequences of its proof, namely the exclusion of evidence pursuant to paragraph 24(2) of the Charter. • Specific basic training offered on an annual basis to all new criminal and penal prosecutors to enable them to detect judicial errors and cases of racial profiling.
<p>Ministère de l'Emploi et de la Solidarité sociale (MESS)</p>	<ul style="list-style-type: none"> • Efforts devoted to achieving the target of 25% as set by the government for hiring and representation of members of cultural communities, with a hiring rate in 2010-2011 of 21.5% with respect to members of cultural communities for all job statuses (regular, casual, student and trainee). • Efforts devoted to achieving a representation rate of 9% of cultural community members within the regular workforce as set by the <i>Programme d'accès à l'égalité pour les personnes membres des communautés culturelles</i> from 4.9% in 2010-2011. • Gathering of data on the ethnic or national origin and membership in a visible minority group of persons applying for services from Emploi-Québec using the "<i>Demande de services – Renseignements généraux</i>" form (Form 3003). The data collected enables the employment assistance agent to consider potential job integration problems, to respond to the needs of these individuals more effectively, and to provide them with access to specific programs and measures, where necessary. • Poverty fighting measures specifically targeting those groups that are more at risk of living below the poverty level, namely: <ul style="list-style-type: none"> a) Anti-poverty plan (2010-2015): <ul style="list-style-type: none"> — Providing for the creation of <i>Alliances pour la solidarité</i> in each region to foster mobilization and collaboration between those involved in implementing of solutions (action plan) aimed at supporting the social and economic inclusion of all citizens; — Alliances that, in developing their action plan, must prepare a portrait of the regional situation, specifically identifying the presence of groups of individuals in a situation of poverty or social exclusion or at greater risk of being so, in order to ensure that their needs are taken into account. b) Child support measure: <ul style="list-style-type: none"> — A refundable tax credit, in effect since January 1, 2005, paid to parents to cover the essential needs of dependent children under the age of 18.

	<p>c) Employment Integration Program for Immigrants and Visible Minorities (PRIIME):</p> <ul style="list-style-type: none">– Incentive program for employers aimed at supporting the integration of immigrants or members of visible minorities into the workforce for their first work experience in their area of competence through a salary subsidy, in order to allow for the acquisition of initial work experience in Québec. <p>d) <i>Québec pluriel</i>:</p> <ul style="list-style-type: none">– Mentoring program that allows young people from cultural communities and visible minorities to be coached by a mentor and to receive advice aimed at facilitating their integration in the workforce; program offered in six regions: Gatineau, Laval, Longueuil, Montréal, Québec City and Sherbrooke. <p>e) The integrated services for new arrivals:</p> <ul style="list-style-type: none">– Since July 2010, joint effort by the MESS and MICC to create an offering parallel to programs offered specifically to immigrants;– Seeking to revise the offering of government services in order to better coordinate the interventions made with newly arrived immigrants and to increase their consistency and effectiveness;– With the objective of accelerating their socio-occupational integration and increase their rate of employment.– These efforts have made it possible to better define the roles and responsibilities of each (ministry and partners) in supporting the socio-occupational integration of immigrants; simplify the route toward employment for immigrants by uniting the whole coaching approach toward employment at Emploi-Québec and its external resources; creating a path for business clientele between the MESS and the MICC. <p>f) The <i>Ma place au soleil</i> program:</p> <ul style="list-style-type: none">– Program initially implemented in order to complete the secondary school education of young mothers under the age of 25 who are heads of single-parent families, and expanded to parents in 2011, helping them to resume their studies and obtain a vocational training or technical education diploma while promoting their integration into the workforce and improving their economic, professional and family situation. <p>g) The Pregnant Minor Financial Support Program:</p> <ul style="list-style-type: none">– Monthly financial assistance granted temporarily to pregnant minors who have no financial resources from the 20th week of pregnancy until the birth of the baby, as a complement to other forms of support provided by the MSSS, in order to promote the health of young women and their unborn baby.
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Without commenting in detail on each of the actions listed by the government departments, it is worth noting that most of them were planned before the Commission's consultation report was issued. Therefore, it is unlikely that they were implemented as a result of the report's recommendations. Some of these initiatives were singled by the Commission's report as problematic. That is the case, for example, of *Diversity: An Added Value: Government policy to promote participation of all in Quebec's Development*, about which the Commission wrote the following:

“This policy included a number of anti-discrimination measures, most of which had already been implemented, by the Commission in particular. It generally stressed measures aimed at promoting the integration of citizens, especially through access to employment. Although praiseworthy, these measures are likely to remain ineffective, because they do not attack the main source of the exclusion of racialized minorities: racism and discrimination in all its forms. That is why, as it has already recommended, the Commission would like the government to adopt a policy that provides for a comprehensive action strategy aimed at fighting racism and discrimination.”⁴⁸

That being said, we know that required changes can take time. Therefore, actions and initiatives that were undertaken several years ago may have had a particular impact during the past year, and may have contributed to fighting racial profiling and systemic discrimination since the release of the Commission's consultation report.

Moreover, a number of the elements listed by the departments are actually part of the current situation that can be described in connection with government action in the past year with respect to racial profiling. Among such elements, we cite specifically:

- Measures implemented by the MELS with respect to welcome classes, special needs students and the educational path;
- The tabling by the ministère de la Sécurité publique of Bill 46 – An Act Respecting Independent Police Investigations;
- The publication by the SPVM of its Strategic Plan on Racial and Social Profiling (2012-2014) entitled *Shared Values, Common Interests*.

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COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 16.

This is good start, but it must be stated that the Commission is still waiting for targeted commitments that are in line with its recommendations. The Commission therefore reiterates that each recommendation is of great importance and relevance.

In fact, it was on the basis of these recommendations that the Commission commented on a number of these measures when they were made public. That is the case, for example, with Bill 46, which was tabled in the National Assembly on December 2, 2011. Within the context of the study of this Bill by the Commission des institutions, the Commission pointed out that the Bill did not meet the recommendations in its report.⁴⁹ It was also on the basis of its recommendations that the Commission greeted the January 17, 2012 public announcement of the Strategic Plan on Racial and Social Profiling (2012-2014) by the City of Montréal and its police department. This strategic plan represents no doubt a step in the right direction. We will return to this matter later.

2.2 Upcoming strategy

Within the context of the response provided by the departments involved, we note that the ministère de la Justice is considering a concerted approach with of view of a developing a global government strategy to address racial profiling and systemic discrimination.

The Commission welcomes this opening, hoping that that it will be an opportunity to truly bring to light the collective responsibility that we all bear with respect to fighting racial profiling and systemic discrimination. We also hope that the initiative is implemented quickly in the form of actions and tangible measures that will make it possible to address this important social problem effectively.

⁴⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Commentaires sur le projet de loi n° 46, Loi concernant les enquêtes indépendantes*, M^e Evelyne Pedneault, (Cat. 2.412.116), February 2012.

3 STRATEGIC PLANNING BY THE CITY OF MONTRÉAL AND ITS POLICE DEPARTMENT

Given that the public security sector was singled-out during the consultation held by the Commission, it became rapidly apparent that the province’s municipalities and police departments have an important role to play in implementing recommendations arising from the consultation. In fact, several recommendations relate directly to them.⁵⁰

However, only the City of Montréal, the SPVM and the Société de transport de Montréal (STM) seem to have followed up on these recommendations during the past year. On January 17, 2012, Montréal mayor Gérald Tremblay, SPVM director Marc Parent, and STM president Michel Labrecque announced the steps that the city and its departments intended to take in the “fight against racial and social profiling.”⁵¹

The City of Montréal declared its intention to create a Committee to integrate profiling counter-measures, whose mandate would be to examine six issues: “public security, equal access to employment, management and sharing of public spaces, human resources training, social development, and the fight against poverty.”⁵²

The STM announced that it would “pursue the series of measures it has implemented over the years to counter racism and discrimination.”⁵³

The SPVM then took the opportunity to launch its *Plan stratégique en matière de profilage racial et social (2012-2014)* [Racial and Social Profiling Strategic Plan (2012-2014)] entitled *Des valeurs partagées, un intérêt mutuel* [Shared Values, Mutual Interest].⁵⁴ Adopting the

⁵⁰ Regarding municipalities, see note 6, recommendations 2, 7 to 11, 16, 23 to 25, 27 and 28. Regarding police departments, see note 6, recommendations 2, 7 to 11, 17, 21, 22, 28 and 31. Finally, regarding public transit companies, see note 6, recommendations 16 and 17.

⁵¹ CITY OF MONTRÉAL, SPVM, STM, *Concrete steps in the fight against racial and social profiling*, News release, Montréal, 17 January 2012, p. 1.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ SPVM, *Des valeurs partagées, un intérêt mutuel. Plan stratégique en matière de profilage racial et social (2012-2014)*, Montréal, 2012.

Commission’s definition of racial profiling,⁵⁵ the SPVM announced that it was making the fight against racial and social profiling an institutional priority (“une priorité organisationnelle”).⁵⁶ Within the framework of the strategic plan released by the SPVM, this translates into three new challenges the SPVM must meet, namely, 1. Promote ethical and non-discriminatory behaviours; 2. Maintain the trust and respect of the community; and 3. Take action against inappropriate behaviours.⁵⁷ These challenges can be met using the following three approaches 1.1. Prevention, mobilization and supervision; 2.1. Communication, outreach and demystification; and 3.1. Identification, research and follow-up.⁵⁸ The SPVM’s strategic plan also includes three main areas of intervention: 1.1.1. Inform, train, equip and innovate; 2.1.1 Build bridges with the public and strengthen partnerships with the community; and 3.1.1. Strengthen vigilance.⁵⁹ The following table, taken from the strategic plan itself,⁶⁰ provides a synthesis of the different elements.

⁵⁵ *Ibid.*, p. 14.

⁵⁶ *Ibid.*, p. 18.

⁵⁷ *Ibid.*, p. 18.

⁵⁸ *Ibid.*, p. 19.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, p. 40 and 41.

Challenges:	1. Promote ethical and non-discriminatory behaviours	Comments by the SPVM on progress made in 2012 on the Strategic Plan
Approaches:	1.1. Prevention, mobilization and supervision	
Areas of intervention:	1.1.1. Inform, train, equip and innovate	
Measures and selected means:	<p>A. Improve staff’s intercultural skills</p> <ul style="list-style-type: none"> ▪ Help the neighbourhood police stations organize an annual day of dialogue on police/citizen relations in the neighbourhood ▪ Develop a language handbook to help police officers ▪ Implement a continuing education program that will combine theoretical and practical teaching methods ▪ Improve the program for aspiring commanding officers, recently-promoted officers (sergeants, sergeant-detectives and lieutenant-detectives) and new recruits by including an intercultural and ethical component 	<ul style="list-style-type: none"> ▪ A round of meetings is being organized with commanding officers, lieutenants, supervisors, union representatives, social and community officers, sergeant-detectives and road safety officers in all 33 neighbourhood police stations to explain and discuss both the policy and the Strategic Plan on Racial and Social Profiling. Approximate completion to date: 45%. ▪ On the issue of training adapted to local realities to foster interaction and discussion on police/citizen relations at the neighbourhood level, we have identified six neighbourhood police stations and have met with unit leaders. Approximate completion to date: 20%. ▪ The language directory is at the graphic design stage. Approximate completion to date: 70%. ▪ A team of representatives from the Training Division, Human Resources and Relations with the Public has begun an exploratory process, seeking ways to improve the program for aspiring commanding officers, recently-promoted officers and new recruits through inclusion of intercultural and ethical components. Approximate completion to date: 20%. ▪ An interactive video produced for police officers and aimed at preventing racial and social profiling is at the final review stage. Approximate completion to date: 80%.

Challenges:	1. Promote ethical and non-discriminatory behaviours	Comments by the SPVM on progress made in 2012 on the Strategic Plan
Approaches:	1.1. Prevention, mobilization and supervision	
Areas of intervention:	1.1.1. Inform, train, equip and innovate	
	<p>B. Use consistent and integrated strategies to identify and prevent racial and social profiling in all departments and units</p> <ul style="list-style-type: none"> ▪ Establish a procedure to ensure that the implementation of new anti-crime strategies does not lead to discriminatory treatment or a perception of racial or social profiling ▪ Implement the P.T.M (<i>Poste de travail mobile</i>) project. 	
	<p>C. Improve mechanisms for supervising and overseeing staff</p> <ul style="list-style-type: none"> ▪ Develop a framework for supervising staff in terms of racial and social profiling 	
	<p>D. Promote and recognize policing staff's commitment to relations with the public (RAC)</p> <ul style="list-style-type: none"> ▪ Develop internal recognition programs to pay tribute to staff-driven RAC initiatives (good work, special distinctions, awarding prizes...) ▪ Use external merit programs to highlight and publicize staff-driven RAC initiatives (Ministers' awards of excellence, galas...) ▪ Update the criteria for career advancement to include an RAC component ▪ Use mass media and special events 	

Challenges:	2. Maintain the trust and respect of the community	Comments
Approaches:	2.1. Communication, outreach and demystification	
Areas of intervention:	2.1.1. Build bridges with the public and strengthen partnerships with the community	
Measures and selected means:	A. Promote intercultural outreach activities <ul style="list-style-type: none"> ▪ Support bridge-building projects with the community through the GAAP (Groupe d'accompagnement et d'appréciation de projets) [Advisory and Project Assessment Group] ▪ Produce a video for young people ▪ Promote the Échanges jeunesse [Dialogue with Youth] project 	<ul style="list-style-type: none"> ▪ A video for young people aimed at demystifying the job of police officer has been developed in partnership with the Youth Vigilance Committee and school boards and is in its final production stages. Approximate completion to date: 80%.
	B. Increase the number of positive contacts and active dialogue on our respective realities, and mobilize the public and partners around the issue of bridge-building between police and the public <ul style="list-style-type: none"> ▪ Undertake a public awareness campaign on client services and police/citizen relations ▪ Build on existing vigilance structures within the organization, as well as liaison officers' expertise ▪ Continue developing the welcome kit for new immigrants ▪ Develop intercultural communication tools 	<ul style="list-style-type: none"> ▪ All the vigilance committees have identified their action themes for this year. In some cases, project development is underway. Approximate completion to date: 50%.
	C. Adapt our communications strategies with diversity in mind <ul style="list-style-type: none"> ▪ Develop partnerships with community media networks (radio, television and community newspapers) to reach cultural communities ▪ Promote the use of digital communication (social media) 	
	D. Coordinate with our partners to ensure that we work hand in hand to deal with social problems while respecting our respective roles and skills <ul style="list-style-type: none"> ▪ Be on the lookout for and attend public consultations and social forums in the neighbourhood 	
	E. Continue efforts to ensure that the community is better represented in the make-up of our staff <ul style="list-style-type: none"> ▪ Improve the performance of our Employment Equity Program ▪ Improve our cadet recruitment program to reflect the community 	

Challenges:	3. Take action against inappropriate behaviours	Comments
Approaches:	3.1. Identification, research and follow-up	
Areas of intervention:	3.1.1. Strengthen vigilance	
Measures and selected means:	A. Improve methods used to identify and prevent inappropriate behaviours <ul style="list-style-type: none"> ▪ Standardize the steps involved in identifying and preventing inappropriate behaviours 	
	B. Optimize the internal complaints management process and assess public satisfaction with police actions <ul style="list-style-type: none"> ▪ Update the SPVM's Client Service Office's operations and develop a communications strategy to inform the public and promote the changes ▪ Set up a committee with the Commission des droits de la personne et des droits de la jeunesse to analyse complaints⁶¹ ▪ Organize training sessions for managers and supervisors to learn communication techniques and complaint resolution (or client dissatisfaction) approaches ▪ Do client satisfaction surveys and inquiries 	<ul style="list-style-type: none"> ▪ A multidisciplinary steering committee has been formed within the SPVM to update the complaints management process and the Client Service Office's operations. Approximate completion to date: 15%. ▪ Discussions are underway with the Commission des droits de la personne et des droits de la jeunesse to set up quarterly meetings to assess how the recommendations are being implemented. Approximate completion to date: 30%.
	C. Support police officers when unjustified complaints of racial or social profiling are made against them <ul style="list-style-type: none"> ▪ Make (internal and external) announcements in the media to set the record straight ▪ If necessary, provide legal and psychological support to the police officer involved 	
	D. Strengthen inter-departmental networking related to racial and social profiling <ul style="list-style-type: none"> ▪ Hold a national symposium on racial and social profiling ▪ Encourage staff to attend conferences, take part in inter-departmental networking and other activities related to racial and social profiling, and support their efforts to do so ▪ Develop partnership agreements 	

⁶¹ On May 28th, the Commission met with representatives of the SPVM, primarily to give the SPVM the opportunity to make a progress report on what has been achieved since the strategic plan was launched four months ago. The following table includes a column on the far right describing the main points brought up during the meeting.

Once again, the intention of this document is not to comment in detail on each of the actions described by those involved, but rather to present an initial update on the implementation of the Commission's recommendations. To this end, the Commission wishes to commend the marked transformation in public discourse at the City of Montréal and city departments as well as the beginnings of concrete changes that were announced in the fight against racial and social profiling and its consequences. Let us hope that these are early signs of significant progress in this area.

We should also note that the Commission deplores the fact that SPVM has expressed serious doubts about the relevance of the Commission's recommendation on data collection.⁶² The SPVM stated this quite clearly in its strategic plan released last January:

In short, the SPVM is in agreement with partners it consulted and refutes the idea that data collection is a "necessary evil." We need to explore other ways of detecting possible discriminatory biases that can occur at different stages during police interventions. One possibility would be to measure the level of community satisfaction (through surveys, safety analyses, consultations with vigilance committees or public security commissions, etc.) [translation].⁶³

At the same time, the Commission applauds the change in orientation that the SPVM seems to have made in the past few months. To illustrate this, we need only to mention that the Relations with the Public and Research teams are exploring ways to identify best practices in this area. Representatives of these teams have also been in contact with the Ottawa Police Service and the Ontario Human Rights Commission because the Ottawa Police Service is about to implement a data collection project following an agreement reached by the two organizations.

In conclusion, while there is no doubt that the City of Montréal faces particular challenges in this area largely due to its demographic make-up, it goes without saying that the Commission expects Québec's other municipalities to follow Montréal's example as soon as possible.

⁶² Op cit., note 6, recommendation # 16: "that the municipal police departments and the Sûreté du Québec systematically collect and publish data related to the presumed racial identity of individuals during police actions in order to document the phenomenon and take the appropriate measures; and that these same procedures be established by public transit companies with respect to the actions of their employees."

⁶³ SPVM, op. cit., note 54, p. 36.

4 FIRST ASSESSMENT BY COMMUNITY ORGANIZATIONS

As indicated earlier, this section presents the viewpoint of community groups with respect to the changes that they have been able to observe in the the field in terms of racial profiling. The Commission used a qualitative method to carry out this survey, consisting of a telephone survey of the community organizations that participated in the pre-consultation, which represented approximately 100 calls. In all, thirty spokespersons answered our questions by telephone. Of these, only five had not participated in the pre-consultation, but their organizations were represented by other individuals. Furthermore, two of those questioned belonged to the same organization.

Most of those questioned belonged to groups located in the various boroughs of Montréal (19). The other associations are located in the regions of Sherbrooke (4), Gatineau (4) and Trois-Rivières (3). All of these organizations work closely with racialized groups. Some provide activities for families, while others are specifically intended for youth. Their areas of intervention are varied: job integration, human rights, housing rights and community relations with police forces.

The questionnaire was designed to verify whether the individuals had witnessed any changes in the field or any incidents involving racial profiling. It also sought to measure what use the organizations have made of the report. Finally, it allowed the Commission to take note of their expectations regarding its future work and action in this area.

The qualitative methodology that was used does not allow us to determine whether the comments collected are representative of the perception of all community groups working with racialized communities nor to report on the phenomenon of racial profiling in Québec in 2012. That being said, the special contacts that these organizations maintain with the people that are most likely to experience racial profiling constitute a valuable source of information offering relevant information in terms of issues that remain to be addressed.

Although the questionnaire involved the three sectors mentioned in the report – public security, the education sector and the youth protection system – respondents dealt primarily with relations between public security and racialized minorities. In this area, the majority of those

questioned had not noticed any improvement. Despite this rather negative assessment, a number of them mentioned initiatives that seek to bring police departments closer to racialized communities.

It is also worth noting that there were considerably fewer comments on the education sector and youth protection system. With respect to the education sector, reports of improvements are nearly as numerous as those who mentioned the *status quo*. As for youth protection, comments were nearly equally divided between individuals who see little or no change and those who have noticed an improvement.

Finally, the vast majority of those who were questioned encouraged the Commission to continue working on this issue, through training, education and awareness-raising, which were considered to be essential and appropriate.

In the pages that follow, the comments related to these three sectors are presented in greater detail.

4.1 Public security

The vast majority (n=20) of individuals who were questioned were of the opinion that there had been no improvement in relations between public security personnel and racialized minorities over the last year. However, eight individuals said they had observed an improvement and two others had no opinion on this issue. The following subsections present these viewpoints.

4.1.1 A majority of groups find that nothing has changed

Despite the attention focused on the problem of racial profiling and the efforts that have been made to raise awareness, and despite the intercultural training programs that are available to police departments, most of the spokespersons questioned saw no improvement. One of those surveyed noted that, even before the report came out, his organization was already working to raise awareness, but the "same problem people remain impervious".

A number of respondents related incidents of racial profiling by the police forces as well as by the media and the courts. For example, racialized youth are still more scrutinized in public

places and are accused of “loitering,” of “being on welfare”, or of “causing problems.” One person noted that the public security personnel who are responsible for community liaison had better relations with adults than with youth. The media were said to emphasize thefts by racialized youth by specifying that they were “black” or “Muslim”. In the eyes of some of those questioned, police officers agree to give common versions of the facts, either during an internal police investigation or before the courts, in order to protect each other. In this respect, in order to avoid problems, parents tell their children not to immediately challenge the police if they are given tickets, but to contest them later on, should they choose to. Some spokespersons made very harsh comments about the way the police departments exercise their power. They feel that the police misuse their discretionary power, that they “abuse their power” and display “arrogance.”

A number of individuals maintain that the official discourse has not been translated into behavioural changes in the field. They refer in particular to statements made by certain directors – including the head of the SPVM – who have expressed their goal to eliminate racial profiling. The result is that distrust of police departments remains.

For many, there is still much to be done to eliminate racial profiling: “You have the feeling that you have to keep going back to square one.” Public security personnel do not appear to have the knowledge or the skills to work with racialized groups. For example, they do not seem to be aware of the fact that the black community includes individuals of different ethnic or national origins. What are called “cultural communities” are in fact multiple realities that are far from representing a uniform and monolithic block. Therefore, there are a number of groups within the same ethnocultural community, and they require different types of intervention, whether youth, the elderly, etc.

That being said, some of the spokespersons who witnessed little or no improvement still mentioned some positive points. One of them noted that awareness-raising has had as a positive effect in terms of making the problem known or recognized: “They can’t deny its existence anymore.” Also, youth and parents are now more aware of their rights and of possible recourses. Another individual noted a reduction in very aggressive police interventions in his community, but that police interventions in general are still too frequent.

Furthermore, some people mentioned initiatives that seek to bring the police departments closer to organizations and youth. The activities that are organized are diverse: soccer tournaments, artistic projects, renovation of facilities, etc. However, some meetings with youth were marked by tension, a lack of cultural sensitivity on the part of the police, or the absence of significant social contact. For some, these attempts at rapprochement do not allow for the building trust and mutual respect, while others sense a degree of openness. However, they say that these activities are not enough on their own to guarantee success: more is needed.

4.1.2 Improvements noted

Among the spokespersons who noted an improvement (n=8), nearly half consider the change to be noteworthy, while the other half describe it as slight. However, the majority agree that the consultation, education and awareness-raising work with police forces must continue.

The reported improvements involved the type of intervention and approach used by public security officials. For example, police officers are said to spend more time talking to youth rather than giving them tickets. They no longer make surprise visits to certain organizations, which tends to reassure some youth, for whom police in their native country represents a threat. In addition, the police forces have changed tactics in terms of dealing with conflicts between youth belonging to different racialized communities. Rather than targeting all the youth from these communities, they focus on those considered to be leaders with a negative influence. Finally, several spokespersons pointed out significant improvements when the police departments use civilian – non-police – professionals for community outreach.

However, these improvements are still accompanied by negative attitudes and racial profiling. An example was given of a young racialized anglophone to whom a police officer said: “You still don’t speak French. What are you doing here?” This exchange is said to have taken place as part of an activity that was aimed at bringing youth and police closer. Furthermore, some members of police departments still deny that racial profiling exists. For example, one spokesperson reported that, although meaningful improvements have been felt in his neighbourhood, youth continue to experience problems in other parts of the city, especially the downtown area.

Moreover, members of the groups surveyed noted that these improvements have been made possible by their ongoing awareness and collaboration efforts with the local police, whether through statutory meetings, the presence of police on community relations committees or specific initiatives. One person noted that vigilance remains necessary, and that awareness-raising and education must continue on a regular basis.

Other groups point out that support for the integration of immigrants can also contribute to the prevention of problems. Toward this end, francization, employment integration and anti-poverty efforts must continue. However, the integration of immigrants seems to be more difficult in certain areas that are more culturally homogenous. This is what was reported by a spokesperson from an organization located in a rural area where the majority of employers and employees are natives of the region. On the other hand, she pointed out that there are problems with workforce integration for both immigrants and those who have been in Québec for a long time, but who are originally from outside of the region. However, despite the fact that certain things are left unsaid and certain prejudices are still present, she believes that tolerance has increased in every respect.

4.2 Education sector

As noted earlier, only nine of the thirty organizations that were questioned had any comments to make with respect to racial profiling in the education sector. This may be partly due to the low number of contacts between organizations and the education sector. On the one hand, these organizations work with youth outside of school (providing homework assistance, for example), and on the other hand, they do not participate in shared projects within the education sector. Of the nine comments collected, five of the respondents noted no change, while the other four saw things differently.

4.2.1 Slightly more than half of the organizations see no change

The five organizations that do not see any improvement gave a variety of examples of persistent practices of racial profiling, discrimination and racism. In particular, they reported discriminatory acts by faculty members that were not punished by school administrators. Others stated that teachers continue to discourage students with an immigration background from continuing their studies or following the educational path of their choice.

A number of the spokespersons who were interviewed believe that the personnel within the education sector lack knowledge, training and know-how when it comes to “cultural particularities.” They do not understand the realities of the parents (poverty, anxiety, unemployment), especially in the case of students attending welcome classes. Similarly, another person noted shortcomings both in terms of the continuing education of the staff at schools and in university teacher training programs. Student curriculums are still too limited. They deal with intercultural issues, but not sufficiently with anti-racism. For example, history courses make no mention of slavery in New France. The few existing initiatives are due to teachers acting on their own, with no support from the school administration.

To summarize, and in the words of one person interviewed, the fact that the problem has only been identified and admitted recently probably explains, at least in part, why there has been so little improvement in the field.

4.2.2 Improvements noted in connection with the measures that have been implemented

The four organizations that noted an improvement in the education sector mentioned measures that have been implemented. In one case, the security guard was replaced by one who happens to belong to the Black community. In another neighbourhood, it was the efforts toward collaboration and communication with adults that were beneficial. In other cases, they pointed to the importance of having professional resources act as go-betweens with the school, the immigrant families and the various services. These resources make it possible to make the various people involved more aware of the realities of immigrant groups and to help guide and accompany families to existing services. In other words, concrete measures must be adopted in order to see improvements.

4.3 Youth protection

Only a few organizations expressed opinions with respect to systemic discrimination in the youth protection system (n=7). Even during the pre-consultation, the “small number of stories collected”⁶⁴ related to this topic was noted. This is probably due in part to the fact that the

⁶⁴ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 14, p. 33.

spokespersons who were questioned represent organizations that do not have a mission to deal with issues related to youth protection. The comment from one person who was surveyed was along those lines: “We do not seek to have the students discuss this subject with us. We leave that to the appropriate interveners.”

Among those who did speak about it, three of them concluded that there has been no change. One reported the testimony of mothers, who complain about how little consideration is given to their culture when Directors of Youth Protection (DYP) intervenes. Another considered that much work remains to be done in this area. On the other hand, the comments of the third person are encouraging. She noted there is a willingness to do better which suggests that the situation may improve with time.

The other four spokespersons believe that there have been improvements. Two of them maintain that the DYP have modified their approach, and are displaying a better understanding of intercultural realities. Also, two people say that their group has been asked by the DYP to intervene with racialized populations. One of them had provided mediation between the DYP, the court and a migrant family that was experiencing a conflict between its own values and the provisions of the Youth Protection Act. The other group reported that it was asked to participate in strategic planning by the DYP, and to provide intercultural training for its personnel.

4.4 The report, its impact and its appropriation

4.4.1 An impact that is deemed to be positive

The vast majority of the organizations that were questioned had read some or all of the report on racial profiling published by the Commission. Although the Commission did not ask for their assessment of the impact of the report during the telephone interviews, some nevertheless, provided it.

Some groups welcome the awareness-raising that the publication of this report has generated. There was an increase in awareness that affected a number of the stakeholders involved, and even the organizations that initially had not observed this phenomenon among their clientele. That is the case for one team that, although it may not witness racial profiling, decided, after reading the Commission’s report, to examine how it views the problem of “intercultural

integration”. Another association noted the quality of the report, and indicated that it “gives credence to the existence of the problem.” However, this same organization found, to its surprise, that a number of representatives of organizations and public institutions had not read it. Finally, some organizations mentioned the relevance of the solutions proposed by the Commission.

On the other hand, some reservations were expressed about the report’s content. Some of the respondents would have liked the report to speak more about the racial profiling experienced by members of the Latin American community, because its experience mirrors that of the Black community. Another organization pointed out that the recommendations have relatively little impact on their adult clientele who are looking for employment, but do not feel affected by racial profiling.

Finally, one person who was initially sceptical about the consultation process felt that the Commission had done a good job.

4.4.2 *Taking ownership of the report*

More than half of the groups said that they had taken ownership of the report by organizing activities related to the issue of racial profiling, including presenting the content of the report to youth and adults; organizing awareness-raising activities with the municipality; developing a program intended for youth of various age groups (18-25 years old, 10-15 years old); and training new employees.

On the other hand, some organizations were rather dubious about this type of activities bringing together different groups. They remember the lack of knowledge and awareness displayed by the police about youth culture, and ultimately, this spoiled any possible “rapprochement”. One spokesperson pointed out that, with the long history of racism in society, it will take a great deal of time and effort before there is any noticeable lessening of prejudices.

Furthermore, the topic of racial profiling constitutes a large part of the current regular activities of the organizations. The persistence of racial profiling incidents, mainly involving youth means that continuing the awareness-raising work is necessary. In fact, this issue has been a concern

among these organizations for years. They also point out also that racial profiling is addressed as part of a broader discussion of systemic racism. In addition to regularly organizing discussion evenings on these issues, both for youth and their parents, actions are undertaken to build sound relationships with police departments.

4.4.3 *Expectations with respect to the Commission des droits de la personne et des droits de la jeunesse*

In answer to the question, “What do you expect from the Commission at this stage?” the organizations essentially encouraged the Commission to continue the awareness-raising activities, education and representation work with the institutions concerned (police departments, the education sector and the government) (20). “We must not be discouraged. We must continue to hammer the message home.” The groups that need to be targeted are: youth, parents, communities, community organizations, and particularly those who work with racialized communities, school personnel, individuals in positions of authority, institutions, the Québec population in general, and the media, which convey much prejudice, according to the individuals surveyed. Although the report does not cover the employment situation, some emphasized the importance of making employers aware, because “minority people don’t get hired.”

Certain comments mentioned the form and content that the awareness-raising work of the Commission should take: invite the police and/or school personnel to training in the presence of the community; visit the regions in order to deliver the same type of education as in Montréal; publicize the possible forms of recourse; specifically train intercultural associations in human rights; cover not only interculturalism, but also anti-racism, which is even more important; continue to disseminate the results of research; publicize other related research and join with other movements.

Other suggestions for action were expressed:

- Some spokespersons suggested continuing to pressure on the City of Montréal, the police and the government, in particular with respect to collecting statistical data on racial profiling, because much remains to be done;
- Some suggested a follow-up of the recommendations in the report.

To summarize, the findings reported here, are in many ways similar to the points that were already made by the organizations that participated in the pre-consultation during the summer of 2009. The majority of the groups still witness racial profiling, although there is some improvement.

A trend seems to have developed with respect to the assessment of the improvements. Generally, the organizations note that advances depend on the sustained efforts deployed by various stakeholders, including the groups themselves, who have long been involved in various actions on this issue. A number of them not only act on racial profiling, but more broadly, on issues of racism and systemic discrimination based on race, colour, language, ethnic or national origin and, in some respects, social status. Their desire to pursue the work can be seen in the various initiatives undertaken, specifically for the purpose of combating the problem of racial profiling.

The interventions by the Commission with respect to racial profiling and systemic discrimination (regular training, taking public stands, issuing statements and intervening with decision-makers) are considered by a majority to contribute greatly to creating awareness of the phenomenon of racial profiling. Some express the hope that the Commission will also pressure decision-makers. Still others consider it to be more important for the Commission to work more broadly on issues related to anti-racism and interculturalism. The subject of immigrant women was raised, perhaps suggesting that this issue should be addressed from the perspective of a differentiated analysis according to gender. As one interviewed stakeholder explained, the capacity of the whole Québec population to welcome others must be developed: “Quebecers receive very little training in how to welcome and assist immigrants, from whom much more is asked.”

5 THE COMMISSION AND ITS COMMITMENTS

For years, the Commission has contributed to fighting racial profiling and systemic discrimination, first by devoting efforts to conceptualizing the problem and circumscribing the concept, and second by carrying out the reflection and awareness-raising work that is essential to the acknowledgment of this type of discrimination. Since 2003, it has developed the necessary tools to accept and investigate complaints related to racial profiling.

At the same time, the Commission acknowledged its shortcomings. As stated in its 2011 consultation report: the lack of confidence in public institutions expressed by victims of racial profiling as well as the groups and organizations working to eliminate it did not spare it either.⁶⁵

Thus:

“Most of the people and groups who were consulted acknowledged and supported the efforts of the Commission in fighting racial profiling, but more than a few either stated that its actions along these lines were inadequate or that it seemed adopt a wait-and see attitude or that it was unwilling to fight, especially on the judicial front. It should be said that a number were thinking of previous consultations or public hearings held in Quebec on racism and discrimination. They were quick to remind us that these exercises generally had not contributed to making significant and lasting changes, and therefore, they doubted that this consultation would succeed where the others had failed.”⁶⁶

It was precisely with a view to avoiding such a failure that the Commission, acknowledging these criticisms, made a series of commitments in response to the expectations expressed during the consultation. These 11 commitments mainly seek to:

- improve the procedures for detecting situations of profiling and improve the training of personnel dedicated to investigations in terms of assessing and investigating these complaints;
- take into account the systemic nature of racial profiling more effectively;
- make accessible, in the public interest, the settlements obtained by mediation, while protecting the anonymity of the parties;
- minimize delays in handling complaints related to racial profiling;
- regain the trust of ethnic and racialized minorities, and of the groups and organizations that represent them and defend their rights.⁶⁷

One year later, what are the changes? That is what we will discuss in detail in the next section.

⁶⁵ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 97.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*, p. 95-100.

5.1 Detection of profiling and the search for evidence

Among criticisms addressed to the Commission was the reproach that it analyzed racial profiling complaints too narrowly. It has been stated repeatedly that racial profiling is an insidious and subtle form of discrimination that is difficult to prove. The Human Rights Tribunal confirms that, in most cases, the evidence is circumstantial.⁶⁸ In fact, it takes special expertise to search for and identify the elements that can constitute evidence. The Commission already had training materials for this purpose, but given the importance of this issue and what still needs to be done, it made a commitment to:

“1. ensure that the courses on racial profiling, in particular those given to its own personnel assigned to complaint handling, are accompanied by follow-up procedures intended to measure their effectiveness and, where necessary, to make the appropriate corrections;⁶⁹

Since its report was released in May 2011, the Commission has made a concerted effort to provide training in Canadian case law on racial profiling to its investigators and to personnel responsible for preliminary assessment, including the recent judgment obtained before the Human Rights Tribunal.

As it has recommended to other institutions, the Commission must likewise continue to develop training for its staff. It must also apply the necessary measures in order to ensure that such training is accompanied by follow-up procedures to measure its effectiveness, and that the appropriate corrections are made where necessary.

5.2 The systemic approach to racial profiling

Focusing on a range of measures associated with this first commitment, the Commission has also pledged to take into account the systemic nature of racial profiling more effectively in processing the complaints that it receives. As it noted in its report, whether at the preliminary assessment stage, when searching for evidence during an investigation or when seeking

⁶⁸ *Commission des droits de la personne et des droits de la jeunesse c. Ville de Montréal (Service de police de la Ville de Montréal) et Dominique Chartrand*, op. cit., note 10, par. 181.

⁶⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 102 and 113.

remedial measures, it must ensure the systemic nature of its intervention. Thus, the Commission made a commitment to:

- “2. design and implement an intervention model that, in the case of complaints with a systemic dimension, provide for the formation of a team bringing together complementary expertise and whose members work in collaboration at every stage of the complaint processing;
3. pay careful attention, when handling complaints of racial profiling, to elements of contextual evidence, such as statistical data revealing recurring suspicious patterns in police interventions or organizational policies with potentially discriminatory effects;
4. be more inclined, when handling complaints of racial profiling, to propose or demand, as the case may be, corrective measures of a structural nature.”⁷⁰

With respect to the second commitment, we point out that the Commission personnel who are assigned to racial profiling investigations now meet every two weeks. The purpose of these meetings is to take stock of the situation, and to discuss the best practices to be adopted for this type of complaint. A lawyer from the Commission’s legal department also attends these meetings in order to answer questions, and more generally, to serve as a resource person.

As for the third commitment, Commission personnel that deals with racial profiling complaints have been the focus of several initiatives that have emphasized the importance of contextualizing evidence. Secondly, since the report on racial profiling was adopted, more than fifteen legal opinions have been drafted by the Commission’s lawyers in connection with complaints of this type. These opinions offer a rigorous analysis of the circumstantial evidence and organizational policies involved in complaints that are being processed by the Commission. Some examples include the analysis made of the policy on handling complaints involving discriminatory treatment and profiling of prisoners, the context of the frequent stopping and questioning of black youth driving luxury cars and the Société de transport de Montréal’s policy of conducting fare controls. The Commission will continue to revise and improve the systemic and contextual approach it wishes to apply, on the basis of these opinions.

Further to its fourth commitment, the Commission has requested that corrections of a structural nature be ordered in a number of files, in particular three cases that were the subject of the legal

⁷⁰ *Ibid.*, p. 102 and 113.

analyses mentioned above. In this respect, again by way of example, we refer to *Commission des droits de la personne et des droits de la jeunesse (Steven Laincy) c. Service de police de la Ville de Montréal*, which involved the stopping of a young black man driving a luxury vehicle. In this case, the Commission asked the Human Rights Tribunal:

[Translation] “TO ORDER the City of Montréal Police Department to revise its police policies and practices with respect to the application of the *Highway Safety Code* in order to detect and eliminate discriminatory impacts on racialized persons;

TO ORDER the City of Montréal Police Department to collect and systematically publish data concerning the presumed racial identity of individuals in the case of police actions in order to document the phenomenon and take the appropriate measures;

TO ORDER the City of Montréal Police Department to formulate guidelines that would make it possible to detect and monitor incidents of racial profiling among their police officers;

TO ORDER the City of Montréal Police Department to take steps to ensure that practices involving recruitment, promotion and evaluation of officers take into account competencies in intercultural relations.⁷¹

The same holds true for a number of complaints for which the Commission recommends corrective measures necessary to eradicate the discriminatory situation involved, whether these corrections have an individual or structural scope.

5.3 Mediation

As part of its report on racial profiling, the Commission stated that it was “aware that, in files involving a systemic dimension for which there are no precedents in case law, a settlement achieved by mediation can be a disappointment for certain groups that are focused on the public interest and advancement of the law.”⁷² Noting that, in accordance with Section 71(2) of the Charter, it must favour a settlement, and it is not up to the Commission to object to the desire of the complainant, unless it is contrary to the public interest to do so,⁷³ the Commission made a commitment to:

⁷¹ *Commission des droits de la personne et des droits de la jeunesse (Steven Laincy) c. Service de police de la Ville de Montréal*, Demande introductive d’instance, TDP Montréal, n° 500-53-000344-117, August 4, 2011, p. 2-3.

⁷² COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 98.

⁷³ *Ibid.*, p. 98.

"5. make accessible, in the public interest, the settlements obtained by mediation while protecting the anonymity of the parties."⁷⁴

The Commission remains committed, and over the next several months, will examine the measures that need to be taken in order to implement it. However, in this respect, the Commission reiterates that, "in cases of racial profiling, moral and psychological exhaustion, even discouragement, loom very large among the reasons why some complainants decide to withdraw their complaint at the end of mediation."⁷⁵ As we will see in the following paragraphs, it is appropriate to draw attention to the issue of the continuing delays in the processing of racial profiling complaints.

5.4 Delays in the processing of complaints

The commitments that the Commission made with respect to delays in processing complaints reflect its great concern about this subject. These delays are all the more deplorable because they not only affect the complainants at every step of the process, but also partially explain the loss of confidence in the Commission that was expressed by spokespersons for ethnic and racialized minorities during the public consultation. In light of this, it is appropriate to restate that "the Commission also intends to do everything it can to attack it head on."⁷⁶ The Commission undertakes specifically to:

6. guarantee better follow-up with complainants in order to keep them better informed of the progress of the handling of their complaint;

7. reduce the time involved in handling complaints of racial profiling at every stage to the extent possible;

8. prioritize the option of referring cases of racial profiling to the Human Rights Tribunal on their merits in its decision-making process, even in the absence of collaboration from the police officers involved during the investigation stage;

9. pursue its efforts to have municipalities, including the City of Montréal and the SPVM, instruct their police officers to collaborate in the Commission's investigations of racial profiling, in particular by providing testimony when requested."⁷⁷

⁷⁴ *Ibid.*, p. 102 and 113.

⁷⁵ *Ibid.*, p. 99.

⁷⁶ *Ibid.*, p. 99.

⁷⁷ *Ibid.*, p. 102 and 113.

Since then, in order to respect the Commission's sixth commitment, regular follow-up of the processing of racial profiling complaints has been undertaken by the Commission's evaluation coordinators. They also ensure that the parties are kept informed of the progress of their file.

It is worth devoting some attention to the specific commitment to reduce the delays in handling racial profiling complaints to the extent possible. In this area, it is worth noting from the outset that 75% of investigations that were completed by the Commission in 2011-2012 involving all grounds of discrimination were finalized within an average of 161 days. Nevertheless, 25% of all investigations take longer to complete, raising the average time for all finalized investigations in 2011-2012 to 316 days. In both cases, these time periods remain well below the maximum of 15 months provided for in the *Declaration of Services to Citizens* that was adopted in 2001.⁷⁸ However, the Commission is aware that these delays can still be reduced.

Comparing these delays with the average processing time for racial profiling investigations demonstrates again that the delays that characterize them are of quite another order. On average, the 26 racial profiling complaint investigations finalized during this same period, took 600 days. The average is thus nearly twice as long as for any other type of investigations. It must be noted that the legal tactics employed by the City of Montréal, which were clearly identified in the Commission's consultation report last year, such as the refusal of police officers to cooperate or provide testimony in the course of the Commission's investigation process,⁷⁹ continue to significantly extend the time required for processing racial profiling complaints.

However, on the basis of its seventh and eight commitments, the Commission has adopted a number of measures to improve the processing time for racial profiling complaints, both in its investigations and its court procedures.

The Commission remains convinced that it can further improve its practices, but that it is not solely responsible for the problem of delays in investigating racial profiling complaints. Until

⁷⁸ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *Déclaration of Services to Citizens. The Commission des droits de la personne et des droits de la jeunesse takes people to heart*, March 2001, p. 2.

⁷⁹ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, *op. cit.*, note 4, p. 99-100.

quite recently, systematic obstruction by the City of Montréal Legal Department at the investigation stage constituted a serious problem, despite the settlement reached in Superior Court between the Commission and the City of Montréal.⁸⁰ However, the Commission welcomes the agreement entered into with the City of Montréal and its police department as of May 14, 2012 regarding the processing of complaints involving SPVM officers. This agreement should help the Commission obtain documents and to obtain police statements as part of its investigation process involving complaints against the City of Montréal and the SPVM, and thus reduce the delays.

The Commission is also very satisfied with the Québec Court of Appeal March 2011 judgment which confirmed Human Rights Tribunal jurisdiction in dealing with cases of racial profiling, despite the fact that the complainant had been found guilty of the offence charged.⁸¹ This judgment is in response to the legal challenge by the City of Montréal to the “right of the Commission to make accusations of racial profiling if the complainant has already been found guilty of the offence with which he was charged.”⁸² The second court challenge launched by the City of Montréal as part of its delaying tactics, which were denounced in the consultation report, is thus closed.

The Commission also wishes to point out that it won an important legal victory before the Human Rights Tribunal when, on April 18, 2012, a judgment was issued after having heard for the first time the complete representations of the parties in a racial profiling complaint.⁸³ Accepting the complainant’s version, and ruling that the police officer had not only uttered discriminatory remarks, but had done so relentlessly, the Court ordered the City of Montréal and the police officer involved to pay \$10,000 in moral damages. The officer must also pay \$8,000 in punitive damages. The Human Rights Tribunal also found:

⁸⁰ *Ville de Montréal c. Commission des droits de la personne et des droits de la jeunesse*, Transaction, CS Montréal, n° 500-17-054623-098, 19 septembre 2011.

⁸¹ *Ville de Montréal c. Commission des droits de la personne et des droits de la jeunesse*, op. cit., note 41.

⁸² COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 105.

⁸³ *Commission des droits de la personne et des droits de la jeunesse c. Ville de Montréal (Service de police de la Ville de Montréal) et Dominique Chartrand*, op. cit., note 10.

[translation] “This being the case, the Court notes that the difficult relationship of the Montréal police with members of racialized groups has long been documented, given the conclusions of the Bellemare and Corbo reports and the Commission’s recent public consultation report on racial profiling. The Court can thus only invite the police authorities to work with determination to resolve these complex problems.”⁸⁴

In this respect, and in accordance with its ninth commitment, the Commission has pursued its efforts with municipal authorities, including the City of Montréal, to address the issue of their delay tactics. It has met with City of Montréal police and municipal representatives on several occasions since the report was published. On a strictly procedural level, it has also tried to facilitate collaboration by the counsel for the City of Montréal in specific cases in various ways, in particular by providing them with better access to relevant documents. The Commission intends to pursue such efforts, but it also hopes to see the police and municipal authorities respond positively to the Tribunal’s invitation to resolve this “complex problem.”⁸⁵

5.5 To regain the confidence of community organizations

As mentioned earlier, some of the individual victims of racial profiling as well as the community groups that are working to eliminate it had expressed their loss of confidence in public institutions, including the Commission.

In an effort to remain a credible ally of community groups, and to join with them in playing a leading role in dealing with racial profiling, the Commission undertook in its report to “regain the trust of not only ethnic and racialized minorities, but also of the groups and organizations that represent them and defend their interests.”⁸⁶ Toward this end, the Commission made the following commitments:

“10. remain attentive to the community organizations that it encountered during the consultation, and to continue to work in collaboration with them;

11. carry out rigorous follow-up in the future in order to ensure that the recommendations that it has addressed to various institutions in this report are in fact implemented.”⁸⁷

⁸⁴ *Ibid.*, par. 284.

⁸⁵ *Ibid.*

⁸⁶ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., p. 101.

⁸⁷ *Ibid.*, p. 102 and 113.

In order to demonstrate the seriousness of the Commission's tenth commitment, the President, the Director of the Research, Education-Cooperation and Communications Department and members of its education division first presented the report's findings to the community organizations that had participated in the consultation. There were two meetings. One was held in the Côte-des-Neiges district, bringing together some sixty organizations from Little Burgundy, LaSalle, Notre-Dame-de-Grâce and Côte-des-Neiges. The other was held in the Saint-Michel district bringing together 25 people from the Saint-Michel, Rivière-des-Prairies and Montréal-Nord districts.

In addition to these meetings, 34 training sessions were organized for members of community groups before and after the publication of the racial profiling report. In 2011-2012, following the release of the report, 18 training sessions were given in Montréal, 3 in the Montérégie, one in the Eastern Townships, one in Laval and one on the North Shore. These sessions resulted in fruitful discussions that have allowed the Commission take stock of their concerns.

These various actions demonstrate that the Commission takes this commitment seriously. It has remained attentive to and continued a productive dialogue with community organizations. The Commission will work to keep these links active, both through existing communication channels and through new initiatives aimed at responding to the needs of the moment.

As part of its eleventh and final commitment, the Commission has undertaken to do everything in its power to ensure that the report will produce tangible results. Among the measures in place to achieve this goal, the Commission is working to closely monitor the commitments related to racial profiling made by the institutions for which it formulated recommendations. In this respect, this taking stock exercise seeks to measure the progress made since last year by those institutions in order to better guide future work and to identify actions that must be undertaken without delay.

As previously mentioned, six government departments have been associated with the Commission's initiative through the creation of an inter-ministerial panel. The six departments are Justice (MJ), Sécurité publique (MSP), Santé et Services sociaux (MSSS), Immigration et Communautés culturelles (MICC), Emploi et Solidarité sociale (MESS) and Éducation, Loisir et Sport (MELS). This panel is another means for ensuring that institutions take concrete actions

that will lead to real change. More specifically, the panel’s objective is to “better understand what measures they have implemented or plan to implement in order to prevent racial profiling and systemic discrimination in the public institutions under their authority.”⁸⁸ The group had met three times prior to the release of this report.

Moreover, just before the publication of its report, the Commission met individually with nine departments and public institutions: the Conseil des relations interculturelles, the ministère de la Justice, the City of Montréal and its police (SPVM) and transport (STM) services, the MESS, the Director of Criminal and Penal Prosecutions of Québec, the MELS, the MICC, the mayor of the Borough of Mercier–Hochelaga-Maisonneuve, the Vice President of the Commission de la sécurité publique de la Ville de Montréal and the Fédération des commissions scolaires du Québec. These bilateral meetings provided an opportunity to outline the Commission’s recommendations, and to hear which commitments they were planning to make on this issue.

Following the release of the report, a meeting of the inter-ministerial panel brought together key representatives from the six government departments, including six Deputy Ministers, their professional staff responsible for this issue, and the President, Vice President and several Commission employees. In addition, seven bilateral meetings have been held with the MELS, the MSSS, the Québec Ombudsman and Deputy Ombudsman, the Bâtonnier du Québec, and the Fédération des commissions scolaires du Québec (two bilateral meetings). These meetings have essentially served to foster a better understanding of our recommendations, to make the various groups aware of their importance and to persuade them to implement them.

CONCLUSION

In May 2011, the Commission released its report on *Racial Profiling and Systemic Discrimination of Racialized Youth* after an extensive consultative process that was launched in 2009. This report, which clearly stated the State’s responsibility in fighting against discrimination, contained 93 recommendations, 6 of which were of general scope, 44 of which specifically targeted the public security sector, 33 of which focused on the education sector and

⁸⁸ COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, op. cit., note 4, p. 12.

10 of which addressed the youth protection system. The Commission's consultation clearly demonstrated that there are solutions for fighting racial profiling and systemic discrimination. In turn, the Commission pledged that it would follow-up in order to ensure that its recommendations are implemented.

One year after the publication of the report, it is too early to adequately assess its effects. The Commission acknowledges that such important changes take time, especially considering the issues at stake and the scope of the challenge. It was nevertheless important to report on the progress this far. This first taking stock exercise is an opportunity to acknowledge once again, that fighting racial profiling and systemic discrimination is a long-term undertaking. The past year has been marked by a greater awareness of the problem, changes in the discourse and the planning of future actions, rather than by tangible change. The conclusion may be disappointing, but what is most important is to continue to work so that we can report on more concrete results in the very near future. As one of the spokespersons from the organizations that were surveyed stated, "We must not be discouraged. We must drive home the message."

The Commission is also committed to remaining responsive to racialized communities and to providing rigorous follow-up to the recommendations that it made to the various institutions, as well as to the commitments that it made for itself.

In this respect, the Commission welcomes the ministère de la Justice's openness to engage in concerted government action against racial profiling. The Commission intends to monitor the work done in this area very closely.

Moreover, the Commission is very satisfied with its major court victory before the Human Rights Tribunal on April 18, 2012. Justice Pausé issued a judgment after the court had heard the complete representations of the parties in a racial profiling case for the first time.

No doubt there is much more work to be done but on the strength of our community support, the political commitments of the principal government departments involved, and a first landmark judgment on the issue, the Commission intends to continue the fight against racial profiling and systemic discrimination.

**APPENDIX 1
RECOMMENDATIONS OF THE COMMISSION DES DROITS DE LA PERSONNE ET
DES DROITS DE LA JEUNESSE**

The Commission recommends:

1. that the government adopt a policy aimed at fighting racism and discrimination that provides a plan of action for preventing and eliminating racial profiling and its consequences;
2. that each institution targeted by this consultation ensure that its staff reflects the ethnocultural diversity of the clientele that it serves by applying appropriate measures to meet or even exceed the representation targets established in the Act respecting equal access to employment in public bodies;
3. that the government take the necessary measures to increase the representation of ethnic and racialized minorities in the public administration, and concurrently, that section 92 of the Charter be amended to the effect that Equal Access Employment Programs in the public service are subject to the Commission's reporting and monitoring procedures;
4. that the ministère de l'Éducation du Loisir et du Sport (MELS), in collaboration with the university faculties concerned, ensure that the degree programs for each sector concerned contain antiracism and intercultural training, and that the students have acquired intercultural competency upon completion of their studies;
5. that government departments and institutions concerned adopt standard methods and indicators for collecting data pertaining to the ethnic origin and colour of their clienteles, with a view to detecting possible discriminatory biases;
6. that the government provide more measures to combat poverty that specifically target the groups at the greatest risk of living below the poverty level, which include recent immigrants, Aboriginals, racialized groups and single mothers, and that it adopt tools to measure the effectiveness of such measures.

Public Security Sector

The Commission recommends:

7. that the cities and their police departments review their policies for deploying police by district in order to prevent discrimination and racial profiling;
8. that the cities and their police departments review their policies for fighting crime and street gangs in order to reflect the discriminatory biases that are inherent in the policies or in their application;
9. that the cities and their police departments take measures to ensure that the results of the application of their policies for fighting crime and street gangs are known to the public;
10. that each city and its police department review the police policies and practices with respect to the application of municipal by-laws in order to detect and eliminate any discriminatory impacts on racialized persons;
11. that the City of Montréal and the SPVM review the police policies and practices with respect to fighting incivility in order to detect and eliminate any discriminatory impacts on racialized persons;
12. that the government officially recognize a definition of racial profiling and take steps to amend the Charter of Human Rights and Freedoms to include discriminatory profiling as a prohibited act. This amendment could be inserted after Section 10.1 of the Charter, which protects against discriminatory harassment;
13. that racial profiling be prohibited in the Police Act and in the Code of Ethics of Police Officers of Québec;
14. that the government take steps to amend the Act respecting Private Security to include in it prohibited actions linked to racial profiling;

15. that the cities and administrators of public transit systems provide policies prohibiting racial profiling linked to verifying the payment of fares and the movement of its clientele;
16. that the municipal police departments and the Sûreté du Québec systematically collect and publish data related to the presumed racial identity of individuals during police actions in order to document the phenomenon and take the appropriate measures; and that these same procedures be established by public transit companies with respect to the actions of their employees;
17. that the ministère de la Justice and the ministère de la Sécurité publique take the necessary steps to document the path of racialized minorities throughout the judicial system (laying of charges, trial, sentencing, parole, etc.);
18. that youth centres produce and publish data pertaining to the representation of racialized youth in rehabilitation centres who were sentenced pursuant to the Youth Criminal Justice Act, and pertaining to the types of measures (judicial or other) that the DYP is inclined to propose for these youth;
19. that the ministère de la Sécurité publique and the cities implement an annual accountability process to document actions taken against racial profiling by police services;
20. that police departments introduce measures that ensure greater impartiality in the supervision of their officers, in particular by involving police managers or commanders in the process;
21. that police departments issue instructions to detect and track signs of racial profiling among their officers;
22. that the cities establish anti-profiling watch committees consisting of members of civil society and city council members; and more specifically, that the City of Montréal make public reports by the Commission de la sécurité publique;

23. that the cities draw upon certain successful partnership initiatives between police and the community (such as in Rivière-des-Prairies and Saint-Michel) in order to develop alternative methods for preventing and controlling crime;
24. that police training programs and the École nationale de police du Québec provide anti-racism training that includes a formal evaluation of what has been learned by future police officers; and that the cities and the ministère de la Sécurité publique establish a similar process for police officers;
25. that the government amend the Private Security Act in order to have it include similar training adapted to the private security context;
26. that the École nationale de police du Québec, the cities and the ministère de la Sécurité publique take steps to promote diversity training and activities within racialized communities, both as part the curriculum of officers in training and once they are employed;
27. that cities and police departments take steps to ensure that their practices in recruiting, promoting and evaluating police take into account intercultural competencies;
28. that the ministère de la Justice and the ministère de la Sécurité publique take steps to ensure that all participants in the legal system and administrative tribunals (judges, lawyers, crown prosecutors, parole officers, prison guards, etc.) be recruited, trained, evaluated and promoted in accordance with their intercultural competencies;
29. that the Director of Criminal and Penal Prosecutions adopt rules of practice that make it possible to detect actions involving racial profiling in the cases submitted to him;
30. that the administrators of police departments work with community partners to fight effectively against crime, with respect for the rights of citizens, and that the government and the municipalities allocate adequate funding for this purpose in their budgets;

31. that the government amend the Police Act and the Code of Ethics of Québec Police Officers to enable the Commissioner to conduct investigations on his own initiative when required by the public interest, in order to ensure effective civilian monitoring of the police;
32. that the ministère de la Sécurité publique take steps to enable citizens to better understand the duties of the police and the remedies provided for by the Code of Ethics of Québec Police Officers;
33. that the government amend the Police Act and the Code of Ethics of Québec Police Officers to oblige police, subject to penalties, to inform citizens of their rights whenever they stop someone, make an arrest or write a ticket;
34. that the government amend the Police Act and the Code of Ethics of Québec Police Officers so that the Police Ethics Commissioner, with the consent of the complainant, can send any complaint alleging potentially discriminatory behaviour to the Commission des droits de la personne et des droits de la jeunesse for review;
35. that the government amend the Police Act in order to make the conciliation process optional when a complaint is filed with the Police Ethics Commissioner and to guarantee an investigation when the Commissioner has reason to believe that the Code of Ethics of Québec Police officers has been violated;
36. that the government amend the Police Act in order to abrogate Section 192, which confers upon police officers the right to silence and non-collaboration, given that the police ethics system is of civil rather than criminal nature;
37. that the ministère de la Sécurité publique establish guidelines for the application of the Code of Ethics of Québec Police Officers in order to better guide the Police Ethics Committee in the attribution of the penalties provided for in Sections 234 and 235 of the Police Act;
38. that the ministère de la Sécurité publique and the Director of Penal and Criminal Prosecution issue a directive that provides for withdrawing charges by the Crown in

application of Sections 24(1) and 24(2) of the Canadian Charter when the Code of Ethics of Québec Police Officers has been violated by a police officer;

39. that the government amend the Police Act in order that, when it is proven that a ticket was issued as a result of motives or circumstances violating the Code of Ethics of Québec Police Officers, the entity that collected the fine (municipality or government) provide financial compensation equivalent to the sum and fees paid;
40. that the ministère de la Sécurité publique implement appropriate measures so that a majority of civilians who are not former police officers conduct the investigations and the conciliation process involving police ethics;
41. that, in order to guarantee greater independence and impartiality for the ethics system, the process of appointing the Ethics Commissioner, the Deputy Commissioner, and members of the Ethics Committee be made known to the public;
42. that the ministère de la Sécurité publique implement appropriate measures in order to ensure that there is fair representation of ethnic and racialized minorities and women within the police ethics system;
43. that the government amend the Police Act in order to provide a regulatory framework for the process of investigating incidents involving police officers that lead to death or serious injury, and that this framework include all the elements and milestones recommended by the Ombudsman;
44. that the ministère de la Sécurité publique adopt guidelines to ensure greater transparency for the investigation process, in particular with respect to the decisions of the Director of Criminal and Penal Prosecution;
45. that the government amend the Police Act in order to establish a Special Investigations Bureau, an independent agency that would be charged with conducting investigations of incidents involving police officers that result in death or life-threatening injuries;

46. that the government take steps to ensure the presence of civilian investigators who are not former police officers on the teams responsible for conducting this type of investigation;
47. that the government promote a male-female balance and a representation of Québec's ethnocultural diversity among those responsible for conducting, monitoring and supervising these investigations;
48. that the ministre de la Sécurité publique submit an annual report to the National Assembly on investigations of incidents involving police officers resulting in a death or serious injuries, and on the decisions made in such cases;
49. that any new independent entity charged with investigating incidents involving police officers that result in death or serious injuries submit an annual report to the National Assembly on the management of the investigations it has conducted.

The Education Sector

The Commission recommends:

50. that school administrations: 1) explicitly state in their educational mission and organizational standards that discrimination in all its forms is prohibited at school, including with respect to maintaining order, discipline and security and 2) examine their practices and organizational standards in order to ensure that they are free of discriminatory bias;
51. that school administrators collaborate more closely with parents and community organizations in order to find solutions to student behavioural problems;
52. that school boards offer training on discrimination and racial profiling to school administrators, faculty and non-teaching staff;

53. that, when school administrations hire a private security agency, they require that the work of the guards be free of racial profiling, that clear instructions to that effect be given and that close control be exercised over them;
54. that school boards and schools that serve a clientele of ethnic and racialized minorities make it compulsory for all of their personnel to attend antiracism and intercultural training;
55. that schools develop alternative models of parent-school collaboration, specifically recognizing persons or parties asked by parents to act on their behalf, including members of their extended family or representatives of community organizations, as legitimate interlocutors;
56. that the MELS, in collaboration with the Institut de la statistique du Québec, conduct validity tests in order to ensure that the index of disadvantage used to determine which schools are eligible for additional financial aid is properly adapted to the schools that serve a high proportion of racialized or immigrant families;
57. that the MELS demand better reporting from schools that benefit from financial aid programs for disadvantaged schools, in order to ensure that the funds are actually used for projects to promote educational success and retention among students in difficulty in disadvantaged neighbourhoods;
58. that the MELS provide schools with guidelines that define the precise criteria that proposed projects must meet in order to be eligible for funding from programs designed to promote educational success and retention among students in difficulty in disadvantaged neighbourhoods;
59. that the MELS break down the data pertaining to SHSMLD students in such a way as to provide a more refined statistical snapshot that will make it possible to see the relative weight of racialized and immigrant students within each sub-category and the proportion of such students who are sent to special classes;

60. that the MELS revise its evaluation tools for special needs students in order to ensure that they are not tainted by cultural biases that result in inadequate classifications, and to ensure that the specialized personnel who are authorized to make these classifications take the cultural dimension into account in their evaluations;
61. that the MELS provide a better definition of the concept of “at-risk” students by more clearly stating the criteria that justify the use of this label by school personnel;
62. that the MELS produce data pertaining to the proportion of “at-risk” students represented among racialized and immigrant students, and in particular among those who are sent to special classes or remedial schools;
63. that the MELS break down the data pertaining to “at-risk” students from ethnic and racialized students according to whether they are students with learning disabilities or behavioural problems;
64. that school boards integrate students from the welcome sector into their neighbourhood school from the outset, rather than sending them to a service point for their school board;
65. that school boards provide a transition plan that allows each student in the welcome sector to be integrated into regular classes as quickly as possible, in a way that is adapted to their needs and pace of learning;
66. that the MELS allow for a reduction in the number of students per class when students from the welcome sector are being integrated into regular classes;
67. that school boards, in collaboration with the MELS, ensure that students from the welcome sector who are integrated into regular classes continue to receive language support adapted to their needs;

68. that the Education Act provide an exemption that allows allophone students who enter the Québec school system late and have a major academic delay to continue their secondary school education until the age of 21;
69. that the MELS standardize the tools for evaluating the language competencies of allophone students;
70. that the MELS require school boards to submit to a more detailed accounting of the use and management of funding intended for students receiving welcome and French-learning support services;
71. that the MELS require school boards to document, with data, the educational path of students from the welcome sector in order to verify the efficacy of the welcome and linguistic support services models;
72. that school boards introduce initiatives for newly arrived families in order to create optimum conditions for school and social integration;
73. that school boards ensure that the teaching tools and educational materials used in welcome classes are adapted to the specific needs, socio-cultural realities and ages of the students in this sector;
74. that school administrations ensure that there is collaboration between the welcome classes and the regular classes in order to allow for optimum integration of students who move from one sector to the other;
75. that school boards ensure that the Adult Education Centres take better account of the classifications made in the youth sector and of the information on educational needs and school difficulties recorded by secondary schools, and particularly of intervention plans;
76. that the MELS ensure that students with special needs who attend Adult Education Centres can benefit from an instructional services that is adapted to their needs;

77. that school boards revise the method for funding Adult Education Centres so that they are no longer given an incentive, even indirectly, to punish repeated student absences with expulsion;
78. that school boards ensure that the adult sector establishes francization programs that are better adapted to the needs of young immigrants, meaning courses that are adapted to mastering the subjects required for obtaining their HSD;
79. that the MELS, in collaboration with the school boards, take the steps necessary to enable students in difficulty to obtain their secondary school diploma in the youth sector, to the extent possible, and thereby reverse the current trend of secondary schools guiding this category of students to the adult sector;
80. that faculties of education include compulsory courses or training on antiracism and intercultural education in their basic teacher training programs, and that school boards include them in their continuing education programs;
81. That the MELS, in its publication *Teacher Training. Orientations. Professional Competencies* (MEQ, 2001) add a thirteenth competency to the twelve professional competencies that future teachers must acquire: the capacity to become engaged in a process of openness to diversity using an antiracism and intercultural approach;
82. that faculties of education establish Equal Access Employment Programs designed to increase the representation of members of ethnic and racialized minorities among their teacher training students;
83. that faculties of education conduct recruiting campaigns, including incentive measures like scholarships, designed to convince members of ethnic and racialized minorities to opt for university programs leading to teaching at the preschool, primary and secondary school levels.

The Youth Protection System

The Commission recommends:

84. that the ministère de la Santé et des Services sociaux (MSSS), in cooperation with the ministère de l'Éducation, du Loisir et du Sport (MELS) provide professionals in the education, healthcare and social services sector with intercultural and antiracism training designed to reduce incorrect readings of the family dynamics prevalent among youth of racialized and immigrant minorities;
85. that the CSSS, in collaboration with youth centres and experts who specialize in intercultural and antiracism intervention, take on a leading role in establishing this training;
86. that DYPs develop indicators that allow their social workers to assess the situations for which an intercultural consultation with an expert is required at each step in the youth protection system;
87. that the MSSS ensure that formal partnerships with youth centres, first-line services and community organizations become the standard for youth protection, and secure its funding;
88. that youth centres and CSSS establish more formal partnerships with community organizations, when the situation allows, so that interventions with migrant or racialized families are supported by a multidisciplinary and intersectorial team with a view to ensuring that the services are adapted to the needs of this clientele;
89. that all DYPs adopt a reference document stating the guidelines for integrating the intercultural and antiracism approach to their clinical evaluation processes, and that they ensure that the orientations and principles of this document are well understood and applied by the social workers;

90. that youth centres include their commitment to respecting the principles of an antiracism and intercultural approach in a policy, their mission statement and their code of ethics;
91. that youth centres establish procedures intended to ensure that the intercultural and antiracism approach is taken into account at all levels of the organization;
92. that youth centres that serve a clientele from ethnic and racialized minorities make an intercultural and antiracism course compulsory for all of their employees;
93. that youth centres develop and apply an interview protocol and hiring examinations that ensure that the instruments and selection criteria used for the purposes of recruiting in fact measure the intercultural and antiracism competencies of candidates for all job categories, including executive positions.

APPENDIX 2
THE COMMITMENTS OF THE COMMISSION DES DROITS DE LA PERSONNE ET
DES DROITS DE LA JEUNESSE

The Commission undertakes to:

1. ensure that the courses on racial profiling, in particular those given to its own personnel assigned to complaint handling, are accompanied by follow-up procedures intended to measure their effectiveness, and where necessary, to make the appropriate corrections;
2. design and implement an intervention model that, in the case of complaints with a systemic dimension, provide for the formation of a team that brings together complementary expertise and whose members work in collaboration during every stage of the complaint processing;
3. pay careful attention, when handling complaints of racial profiling, to elements of contextual evidence, such as statistical data revealing recurring suspicious patterns in police interventions or organizational policies with potentially discriminatory effects;
4. be more inclined, when handling complaints of racial profiling, to propose or demand, as the case may be, corrective measures of a structural nature;
5. make accessible, in the public interest, the settlements obtained by mediation, while protecting the anonymity of the parties;
6. guarantee better follow-up with complainants in order to keep them better informed of the progress of the handling of their complaint;
7. reduce the time involved in handling complaints of racial profiling at every stage to the extent possible;

8. prioritize the option of referring cases of racial profiling to the Human Rights Tribunal on their merits in its decision-making process, even in the absence of collaboration from the police officers involved during the investigation stage;
9. pursue its efforts to have municipalities, including the City of Montréal and the SPVM instruct their police officers to collaborate in the Commission's investigations of racial profiling, in particular by providing testimony when requested;
10. remain attentive to that community organizations that it encountered during the consultation, and to continue to work in collaboration with them;
11. carry out rigorous follow-up in the future in order to ensure that the recommendations that it has addressed to various institutions in this report are in fact implemented.