Translated from the original French

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| R. c. Septus | 2024 QCCQ 1577 |
| COURT OF QUÉBEC |
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| CANADA |
| PROVINCE OF QUEBEC |
| DISTRICT OF | MONTREAL |
| Criminal and Penal Division |
| No.: | 500-01-207900-207 |
|  |
| DATE: | May 1, 2024 |
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| PRESIDING: THE HONOURABLE |  FLAVIA K. LONGO, J.C.Q. |  |
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| HIS MAJESTY THE KING PROSECUTOR |
| v. |
| GROLLS SEPTUS |
| ACCUSED |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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| SENTENCING JUDGMENT |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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1. After trial, the accused was convicted of several charges[[1]](#footnote-1) involving a loaded firearm that he was not authorized to possess. The complete facts were set out in the Court’s judgment dated May 19, 2023.[[2]](#footnote-2) Here is a summary.
2. During an attempt by the Emergency Response Team (hereinafter ERT) to intercept the accused in a residential neighbourhood of Montreal North in broad daylight, the accused fled by car, charged toward two police officers while doing so, and sped away. The police officers went after him, and during his escape, the accused threw his Gucci bag out the driver-side window and it landed on the front lawn of a residential property. A citizen immediately picked up the bag and saw that it contained a firearm. After seeing that the accused was continuing his frantic race, the police officers had no choice but to end their chase for the safety of the community.
3. The weapon in question was a restricted weapon, and it was loaded. The accused did not have a licence or an authorization or a registration certificate authorizing him to possess it.
4. After a few hours, the accused was located and intercepted on highway 20 heading toward Ontario. He was a passenger in a different vehicle than the one he had fled with at the start of the ERT’s intervention.
5. The prosecution seeks a total term of imprisonment of eight years with mandatory orders (109 and 487.051 *Cr. C*.) and a discretionary order prohibiting the accused from driving for four to six years.
6. The defence responded by asking the Court to impose a total term of imprisonment of three years. The accused did not testify at the sentencing hearing.
7. Although the evidence at trial did not establish that the accused is a street gang member or that he committed the offences for the benefit of, at the direction of, or in association with a criminal organization, the prosecution asks the Court to find that the accused is part of a street gang and, as such, that it be considered an aggravating factor justifying the imposition of an exemplary sentence.
8. Following a *voir-dire*, the Court recognized police officer Sébastien Pitre as an expert witness in the structure and functioning of Montreal street gangs and in the language and interpretation of codes used by these street gangs.[[3]](#footnote-3) The purpose of his testimony was to establish that the accused is part of one of these gangs. It was agreed that the evidence heard during the *voir-dire* would be filed at the sentencing hearing on the merits.

# ISSUES IN DISPUTE

1. Is the accused part of a street gang?
2. What is the appropriate term of imprisonment in the circumstances?

# ANALYSIS

**Is the accused part of a street gang?**

1. The defence contests the Crown’s position that the accused is a street gang member and that this aggravating factor must therefore be attributed to him. Given that this factor is disputed, it must be proved beyond a reasonable doubt.[[4]](#footnote-4)
2. For the reasons set out below, the Court finds beyond a reasonable doubt that the accused is part of the street gang PopTeam/Zone 43,which operates in the Montreal North area.
3. Officer Pitre prepared an additional report[[5]](#footnote-5) in which he thoroughly analyzed four music videos posted on YouTube for songs[[6]](#footnote-6) by the accused (Bloodshot). These songs were posted online after the offence in this case was committed.
4. The music video “James Bond” is a collaboration with ICEY DA ZOE (Marc-André Toureau), a member of Pop Team/Zone 43. Mr. Toureau is also connected to crimes involving firearms.
5. In the music video, the accused is wearing a shirt that refers to many individuals that he names at the beginning of the song.[[7]](#footnote-7) These individuals include:
* Stevenson Choute, who was charged with a triple homicide in the district of Rivière-des-Prairies (hereinafter RDP) and who is facing firearm charges in Laval. Mr. Choute is considered to be a member of Pop Team.
* Jeffrey Fort and Ombonwan Klincy, who are connected to Pop Team*.*
* Hensley Jean, who was convicted of attempted murder and is known to be a member of the street gang Goon squad 369*.*
1. Officer Pitre defined many terms that are used in the four songs, such as:
* “*Sacoche lourde*” [translation] “heavy purse” = purse/man purse containing a firearm.[[8]](#footnote-8)
* “Wet” = to get hit by the discharge of firearms/blood-soaked shirt.[[9]](#footnote-9)
* “Craquing four” = to kill the guys from 4th street (gesture with four fingers pointing down to provoke a rival gang from RDP).[[10]](#footnote-10)
* “Opps” = term used to denote an opponent (enemy), such as the rival gang from RDP.[[11]](#footnote-11)
* “Boîte” [translation] “Box” = cellphone used in prison.[[12]](#footnote-12)
* “Rat” = informer.[[13]](#footnote-13) At the end of the Bulletproofvideo, the accused handles a fuel can to show that the informer’s fate will be death.[[14]](#footnote-14)
* “Whip” = term used to denote a car.[[15]](#footnote-15)
* “Thang” = term used to denote a firearm.[[16]](#footnote-16)
1. According to Officer Pitre, the accused has been a member of Pop Team since 2020, and the gang’s name means team of shooters. Having shot with a firearm is required to hold the title Pop.[[17]](#footnote-17) When three fingers are pointing up in the videos, this gesture is referring to PopTeam/Zone 43*.*[[18]](#footnote-18)
2. Officer Pitre does not know when the videos were filmed, but the evidence reveals that they were posted online[[19]](#footnote-19) after the offences in this case had been committed. Most of them were posted by an account called Bloodshot Ogc.
3. According to the Module du Renseignement criminel ([translation] Criminal Information Unit) of the SPVM, six criteria must be assessed to determine if an individual is a street gang member. The accused must meet three criteria, including the fourth criterion, which must be met in all cases. Following its analysis, the Court finds that five of the six criteria have been met. The criteria are as follows:
* **(1) There is information from a reliable source that confirms that the subject is a member:** The first criterion is met. A reliable source[[20]](#footnote-20) said that the accused’s alias is Bloodshot (his artist name is Bloodgang) and that he is part of PopTeam. To be part of PopTeam, a potential member must have shot with a firearm.[[21]](#footnote-21)
* **(2) There is a police surveillance report confirming that the person has ties to known gang members:** The second criterion is met. There are two surveillance reports confirming that the accused has ties to JHood (nickname of Hensley Jean), who is a known street gang member.[[22]](#footnote-22)
* **(3) The person’s admission**: The third criterion is met as the accused declared (1) in the video “James Bond”: [translation] “PopTeam remains his religion”;[[23]](#footnote-23) and (2) he posted the same statement on Facebook with a selfie video of him smoking and Bloodgang written in red.[[24]](#footnote-24)
* **(4) The person was directly or indirectly involved in a gang-related crime**:  The fourth criterion is met as there is considerable evidence establishing that the accused was directly or indirectly involved in a gang-related crime: (1) a firearm was discharged behind 12254 Langelier in Montreal, and the accused lives in that same building with a different civic address;[[25]](#footnote-25) (2) the accused was arrested at the site of a search where a firearm was found.[[26]](#footnote-26) A police officer saw a Black man throw a firearm backwards, and the accused was the only Black man on site during the search; and (3) the accused was arrested at the site of a search where a significant amount of narcotics and ammunition were seized.[[27]](#footnote-27) The intervention was filmed by the accused and shared on social media with the mention [translation] “They’re after me”.
* **(5) There is a court ruling confirming that the individual is a gang member**: The fifth criterion is not met as it does not apply to the accused.
* **(6) The individual has gang markings, carries out initiation rituals, and possesses items and symbols unique to the gang**: The sixth criterion is met as the accused wears clothing that represent PopTeam, such as a black hoodie, a red hoodie, and a red cap. Moreover, in the “Jailstory” video, he mentions this case and points three fingers up and four fingers down to promote his gang and insult gang rivals.[[28]](#footnote-28) He says he carries a gun because people want him dead.[[29]](#footnote-29) The accused also uses terms that are uncommon, such as “thang” and “whip”.[[30]](#footnote-30)
1. The document titled “Outil d’évaluation du besoin d’encadrement sécuritaire-classement d’une personne incarcérée”[[31]](#footnote-31) filed­ in evidence by the defence to establish that the accused simply has a relationship with the gang but is not part of it has no probative value. Although according to this document, the accused denied being part of a gang, this in no way influences Officer Pitre’s opinion as all the criteria that are met support his membership. Moreover, Officer Pitre’s expert opinion is uncontradicted.

 **What is the appropriate term of imprisonment in the circumstances?**

1. During the sentencing process, the Court’s role is to impose a just sentence that seeks balance between the gravity of the offence and the degree of responsibility of the offender.[[32]](#footnote-32)
2. To this end, the Court must assess the aggravating or mitigating circumstances relating to the offence or the offender.[[33]](#footnote-33) It must also seek to impose a sentence that is similar to sentences imposed on similar offenders for similar offences committed in similar circumstances.[[34]](#footnote-34)
3. The principle of proportionality requires the Court to consider all the sentencing objectives set out in section 718 of the *Criminal Code.* These objectives areto denounce, deter, neutralize, provide reparations, promote a sense of responsibility in the offender, and rehabilitate. Only a balance of all these objectives will result in a fit sentence.[[35]](#footnote-35)
4. Although denunciation and deterrence are the main objectives when it comes to firearms,[[36]](#footnote-36) significant weight can be assigned to other factors, such as rehabilitation, to determine a sentence that is just and proportionate to the gravity of the offence and the degree of responsibility of the offender. Proportionality is the cardinal principle that must guide the Court.[[37]](#footnote-37)
5. Before imposing a sentence for the possession of a loaded firearm, the responsibility of the accused must be situated on the spectrum of conduct set out in section 95 of the *Criminal Code* according to the range adopted in *Nur*,[[38]](#footnote-38) which is divided into three categories.
6. The first category, which can be characterized as “true crime”,[[39]](#footnote-39) concerns the outlaw who carries a loaded prohibited or restricted firearm in public places as a tool of their criminal trade.[[40]](#footnote-40) The large majority of individuals accused under section 95 *Cr. C.* fall into this category. The offender in this category poses a real and immediate danger to the public. In these cases, a three-year sentence may be appropriate.[[41]](#footnote-41)
7. The second category concerns the person whose conduct is less serious and poses less danger.[[42]](#footnote-42) Three years’ imprisonment may be disproportionate, but not grossly so.[[43]](#footnote-43)
8. The third category concerns the licensed and responsible gun owner who makes a mistake as to where it can be stored.[[44]](#footnote-44) In these cases, a three-year sentence is grossly disproportionate.[[45]](#footnote-45)
9. The Court accepts that the applicable range of sentences in this case is between 18 and 36 months of imprisonment,[[46]](#footnote-46) but there is a tendency to impose sentences closer to the upper end of the range.[[47]](#footnote-47)
10. As for offences concerning the contravention of a regulation made under paragraph 117(h) of the *Firearms Act*, the sentences vary between a few months and one year of imprisonment[[48]](#footnote-48) for offenders charged with a first offence.
11. The range of sentences for evading a police officer is very broad.[[49]](#footnote-49) The Court identified judgments in which the sentences ranged from 5 to 30 months of imprisonment.[[50]](#footnote-50)
12. As for the offence of assault with a weapon against a peace officer, the Court must give primary consideration to the objectives of denunciation and deterrence when imposing the sentence for this type of offence.[[51]](#footnote-51) The sentence must be served consecutively to any other punishment imposed for the commission of an offence arising from the same events. The range of sentences for this type of offence is between 6 and 24 months of imprisonment,[[52]](#footnote-52) and the sentences imposed must reflect society’s condemnation of an accused that flouts authority in this way.[[53]](#footnote-53)

*Objective gravity of the offence*

1. Objective gravity is assessed in light of the maximum sentence provided by Parliament and corresponds to the position the offence occupies on the gravity of offence spectrum.[[54]](#footnote-54)
2. The maximum sentence provided by Parliament for counts 1, 5, 6, and 7 (sections 95(2)(a), 320.17/320.19, and 270.01(1)(a)(2)(a) *Cr. C.*) is 10 years.[[55]](#footnote-55) Although these offences are in the upper median part of the gravity spectrum, the Court considers that the objective gravity of the offence is high as the purpose of the unlawful possession of a loaded handgun is to threaten or cause serious injuries or death and such possession poses a high risk to public safety.[[56]](#footnote-56) The maximum sentence provided for count 4 (section 86(2)(3)(a) *Cr. C*.) is two years of imprisonment.

*Subjective gravity of the offence*

1. The assessment of the subjective gravity of the offence takes into account the circumstances surrounding the commission of the crime[[57]](#footnote-57) and the aggravating and mitigating factors.[[58]](#footnote-58)
2. The **aggravating factors** are as follows:
* The accused is a street gang member;
* In broad daylight, the accused discarded his bag containing his loaded weapon by throwing it onto a residential property. Members of the public had access to it, which could have led to devastating consequences;[[59]](#footnote-59)
* The firearm was loaded with two bullets;
* The accused fled the police at high speed in a residential area;[[60]](#footnote-60)
* The accused was intercepted on his way to Ontario. He was a passenger in a different vehicle than the one he was driving when the ERT tried to intercept him. The Court is convinced that the accused was trying to leave the province; the evidence in this respect is uncontradicted; and
* When he was intercepted on highway 20, he did not cooperate with the police officers, and they had to use the taser on him twice in order to arrest him.
1. The Court also takes into account the following **mitigating factors**:
* The absence of a criminal record; and
* His young age (20 years old when he committed the offences).[[61]](#footnote-61)
1. The Court takes the following **relevant factors** into account when determining the just sentence in the circumstances:
* The accused's pending cases and his criminal record further to the offences committed in this case;[[62]](#footnote-62)
* His disciplinary breaches in detention;[[63]](#footnote-63) and
* The proliferation of firearm-related offences in Montreal.[[64]](#footnote-64)

**SUMMARY**

1. Firearm-related offences are serious,[[65]](#footnote-65) and they pose a significant risk to society due their common use in criminal activity.[[66]](#footnote-66) This case is no exception.
2. In light of all the foregoing, the factors of denunciation of the gravity of the crime and deterrence require that the appropriate sentence in the circumstances be higher than the spectrum’s maximum for possession of a firearm.
3. The Court is of the view that the accused’s conduct is on the “true crime” end of the spectrum. Despite his young age and the absence of a criminal record when the offences were committed, there are numerous aggravating factors combined with his belonging to a street gang that indicate that he is an offender with a criminal lifestyle.
4. The accused’s responsibility is complete and without mitigation as there is no evidence regarding his prospects for rehabilitation. As the risk of reoffending is high, the sentence imposed on the accused must reflect the need to protect the public.

**FOR ALL THESE REASONS, THE COURT:**

**SENTENCES Grolls Septus** **to**:

* A 40-month (1,200 days) term of imprisonment on **count 1** (section 95(2)(a) *Cr. C.*);
* A 9-month term of imprisonment on **count 4** (section 86(2)(3)(a) *Cr. C*.);
* An 18-month term of imprisonment on **count 5** (sections 320.17-320.19(5) *Cr. C*.); and
* A 20-month (600 days) term of imprisonment on **counts 6 and 7** (section 270.01(1)(a)(2)(a) *Cr. C*.). The sentence for **count 6** will be served consecutively[[67]](#footnote-67) to any other sentence.

The total sentence is 60 months (1,800 days) of imprisonment,[[68]](#footnote-68) and the accused is given a credit equivalent to 41 months and 6 days (1,236 days) in detention pursuant to section 719(3.1) *Cr. C.* The remaining sentence to be served is 18 months and 24 days (564 days) of detention.

**SUBMITS** the accused, upon the expiration of the term of imprisonment, to a 3-year probation order, of which the first 24 months will be supervised, subject to the following statutory and additional conditions:

* The accused must report to his probation officer within 72 hours of his release;
* The accused must follow all the recommendations of his probation officer;
* The accused is prohibited from being in the presence of persons who, to his knowledge, have a criminal record; and
* The accused is prohibited from possessing weapons.

**PROHIBITS** the accused, under section 320.24(4)(5)(b) of the *Criminal Code*, from operating any motor vehicle in Canada for 24 months upon the expiration of the sentence of detention.

**AUTHORIZES** the taking of the number of samples of bodily substances that is reasonably required for the purpose of forensic DNA analysis, in accordance with section 487.051(1) of the *Criminal Code*.

**PROHIBITS** the accused, under the provisions of section 109 of the *Criminal Code* from possessing all weapons described in paragraph (2)(a) for 10 years, and for life for those described in paragraph (2)(b) of that section.

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| Mtre Geneviève BélangerMtre Philippe Vallières-Roland |
| Counsel for the DCPP |
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| Mtre Dominic Côté |
| Counsel for the accused |
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| Date of hearing: | February 23, 2024 |

1. **Count 1** – s. 95(2)(a) *Cr. C.* (possessing a loaded restricted firearm without being the holder of a licence or an authorization); **count 4** – s. 86(2)(3)(a) *Cr. C.* (contravening a regulation made under the *Firearms Act* by handlingor transporting a restricted firearm); **count 5** – ss. 320.17/320.19(5) *Cr. C.* (operating a motor vehicle while being pursued by a peace officer and failing to stop without reasonable excuse); **counts 6 and 7** – s. 270.01(1)(a)(2)(a) *Cr. C*. (assaulting Officers Brochu and Lamontagne). [↑](#footnote-ref-1)
2. *R*. *c.* *Septus*, 2023 QCCQ 3198. The reasons for that judgment are an integral part of the sentencing judgment. [↑](#footnote-ref-2)
3. Judgment on *voir-dire* at the sentencing stage rendered on December 23, 2023. [↑](#footnote-ref-3)
4. *R. v.* *Gardiner*, [1982] 2 SCR 368 at 414–415; *Guilbeault c*. *R*., 2023 QCCA 1563 at paras. 133–134, and 136; *Yombo* *c.* *R.*, 2024 QCCA 464 at para. 73. [↑](#footnote-ref-4)
5. S6. [↑](#footnote-ref-5)
6. 1-“James Bond”; 2-“Veulent ma tête”; 3-“Jail Story”; and 4-“Bulletproof”. [↑](#footnote-ref-6)
7. S6, *supra* note 5 at 8. [↑](#footnote-ref-7)
8. *Ibid* at 12. [↑](#footnote-ref-8)
9. *Ibid.* [↑](#footnote-ref-9)
10. S7 at 9; *Ibid* S6 at 23. [↑](#footnote-ref-10)
11. S6, *supra* note 5at 11. [↑](#footnote-ref-11)
12. *Ibid* at 19. [↑](#footnote-ref-12)
13. *Ibid* at 25. [↑](#footnote-ref-13)
14. S2, Schedule 1 at 2:08. [↑](#footnote-ref-14)
15. S6, *supra* note 5 at 20. [↑](#footnote-ref-15)
16. *Ibid* at 20. [↑](#footnote-ref-16)
17. *Ibid* at 26. [↑](#footnote-ref-17)
18. S2, *supra* note 14 at 2:14. [↑](#footnote-ref-18)
19. Dates they were posted online: “Jailstory”(July 19, 2022) S1 at 1; “Veulent ma tête” (June 27, 2021) S1 at 2; “Bulletproof” (January 20, 2022) S2 at 1; “James Bond” (October 29, 2021) S2, Schedule 4 at 1 and S6, *supra* note 5 at 3. [↑](#footnote-ref-19)
20. Source A provided this information on February 28, 2023. [↑](#footnote-ref-20)
21. S8 at 9. [↑](#footnote-ref-21)
22. *R.* *c. Jean*,2021 QCCS 5721 at para. 271, appeal pending before the Court of Appeal, 2022 QCCA 150. [↑](#footnote-ref-22)
23. S8, *supra* note 21 at 10. [↑](#footnote-ref-23)
24. *Ibid* at 10 and 11. [↑](#footnote-ref-24)
25. *Ibid* at 11. [↑](#footnote-ref-25)
26. *Ibid*. [↑](#footnote-ref-26)
27. *Ibid*. [↑](#footnote-ref-27)
28. *Ibid* at 13–15. [↑](#footnote-ref-28)
29. S8, *supra* note 21 at 13. [↑](#footnote-ref-29)
30. *Ibid* at 13. [↑](#footnote-ref-30)
31. SD1 ([translation] “Assessment tool for secure supervision – inmate classification”). [↑](#footnote-ref-31)
32. Section 718.1 *Cr. C.* [↑](#footnote-ref-32)
33. Section 718.2(a) *Cr. C.*  [↑](#footnote-ref-33)
34. Section 718.2(b) *Cr. C.; R* *c*. *Martinez Abarca*, 2022 QCCA 1095 at para. 18. [↑](#footnote-ref-34)
35. *Lacelle Belec* *c*. *R*., 2019 QCCA 711 at para. 29. [↑](#footnote-ref-35)
36. *R*. *c*. *Colangelo*, 2017 QCCA 195 at para. 11; *R.* *v*. *Nur*, 2013 ONCA 677 at para. 206; *R.* *v. Kachuol,* 2017 BCCA 292at para.25. [↑](#footnote-ref-36)
37. *R.* *v*. *Friesen*, [2020] 1 SCR 424 at para. 30; *R*. *v*. *Nasogaluak*, [2010] 1 SCR 206. [↑](#footnote-ref-37)
38. *R.* *v.* *Nur*, 2015 CSC 15, [2015] 1 SCR [*Nur*]. [↑](#footnote-ref-38)
39. *Ibid* at para. 36. [↑](#footnote-ref-39)
40. *Ibid* atpara. 34. [↑](#footnote-ref-40)
41. *Ibid* at para. 35. [↑](#footnote-ref-41)
42. *Ibid* at para. 34. [↑](#footnote-ref-42)
43. *Ibid* at para. 35. [↑](#footnote-ref-43)
44. *Ibid* at para. 34. [↑](#footnote-ref-44)
45. *Ibid* at para. 35. [↑](#footnote-ref-45)
46. *R.* *c. Green*, 2016 QCCA 379 at para. 22; *R.* *c*. *Colangelo*, 2017 QCCA 195 at para. 39. [↑](#footnote-ref-46)
47. *R*. *c*. *Burihabwa*, 2023 QCCQ 3842 at paras. 41–42 (citing *R*. *v*. *Graham*, 2018 ONSC 6817 at para. 36); *R*. *c*. *Collins*, 2021 QCCQ 233, **sentence** **of** **40 months’ detention**; *R*. *v*. *Samaniego*, 2020 ONCA 439, **sentence of 45 months’ imprisonment** confirmed (appeal from conviction dismissed by the Supreme Court, 2022 SCC 9); *R*. *v*. *Mansingh*, 2017 ONCA 68, **sentence of 43 months’ imprisonment** confirmed; *R*. *v*. *Thavakularatnam*, 2018 ONSC 2380, **sentence of 40 months’ detention**; *R*. *v*. *Williams*, 2018 ONSC 5409, **sentence of 4 years’ detention**; *R*. *v*. *Benninger*, 2020 ONSC 6094, **sentence of 5 years’ imprisonment**; [↑](#footnote-ref-47)
48. *R.* *c*. *Colangelo*, 2017 QCCA 195, **3 months’** **imprisonment**; *R*. *c*. *Parasiris*, 2009 QCCS 523, **sentence of 6 months’ imprisonment**; *R*. *c*. *Delisle*, 2022 QCCQ 2351 (appeal dismissed, 2023 QCCA 11), **sentence of 3 years’ detention**; *R*. *v*. *Benninger*, 2020 ONSC 6094, **sentence of 12 months’ detention**. [↑](#footnote-ref-48)
49. *R*. *c*. *Gagnon*, 2022 QCCA 552 at para. 15. [↑](#footnote-ref-49)
50. *Bordeleau Blais* *c*. *R*., 2020 QCCA 1089, **sentence of 30 months’ detention**; *R*. *v*. *Tully,* 2022 ONSC 3515, **sentence of 1 year of imprisonment**; *R*. *v*. *Dillon*, 2021 SKQB 78 (appeal dismissed, 2022 SKCA 17), **sentence of 26 months’ detention**; *Dea* *c*. *R*., 2022 QCCA 972, **sentence of 5 months’ detention**; *Brissard* *c*. *R*., 2021 QCCA 953, **sentence of 12 months’ detention**; *DPCP* *c*. *Cornellier*, 2021 QCCQ 4033, **sentence of 18 months’ detention**; *R*. *c*. *Bélanger*, 2021 QCCQ 4561, **sentence of 9 months’ detention**; *R.* *v*. *Dafoe*, 2019 ONSC 5377, **sentence of 27 months’ detention**. [↑](#footnote-ref-50)
51. Section 718.02 *Cr. C*. [↑](#footnote-ref-51)
52. *R*. *v*. *Bélanger*, 2021 QCCQ 4561 at para. 42; See e.g., *R*. *c*. *Vaillancourt*, 2019 QCCA 150, **sentence of 24 months less one day of detention**; *R*. *v*. *Sawchuk*, 2021 BCCA 74, **sentence of 2 years’ detention**; [↑](#footnote-ref-52)
53. *R*. *c*. *Furtado*, 2014 QCCA 549 at para. 41. [↑](#footnote-ref-53)
54. Hugues Parent & Julie Desrosiers, *Traité de droit criminel: la peine*, t 3, 3rd ed. (Montreal: Thémis, 2020) at 53–54. [↑](#footnote-ref-54)
55. Although the maximum sentence for offences under s. 95 *Cr. C.* was increased from 10 to 14 years of imprisonment on December 15, 2023, pursuant to the *Act to amend certain Acts and to make certain consequential amendments (firearms)*, SC 2023, c. 32. [↑](#footnote-ref-55)
56. *R*. *c*. *Harmali*, 2021 QCCQ 2614 at paras. 24–25. [↑](#footnote-ref-56)
57. Parent & Desrosiers, *supra* note 54 at 54. [↑](#footnote-ref-57)
58. Section 718.2 *Cr. C*. [↑](#footnote-ref-58)
59. *R*. *v*. *McCue*, 2012 ONCA 773 at para. 15. [↑](#footnote-ref-59)
60. *Ibid*. [↑](#footnote-ref-60)
61. However, the importance attached to this factor is mixed in this case as it is a crime of violence for which denunciation and deterrence must prevail. [↑](#footnote-ref-61)
62. S4. Criminal record for possessing, for the purpose of trafficking, a substance included in Schedule I or II of the *CDSA* (s. 5(2)(3)(a)) committed on October 29, 2020. Pending cases: three failures to comply with a release order (July 29, 2020, October 8, 2021, and April 24, 2022) and possession of a prohibited or restricted firearm with ammunition/unauthorized possession of a prohibited or restricted firearm (April 24, 2022). [↑](#footnote-ref-62)
63. S5. Nine various disciplinary breaches, such as: making a hole in his cell, three breaches for possessing a cellphone, possessing tobacco and hashish, and an altercation with a fellow inmate. The punishments imposed on the accused were confinement for 2 to 5 days. [↑](#footnote-ref-63)
64. The Crown asks the Court to consider the prevalence of this type of crime in Montreal. The Court has been sitting in the district of Montreal since 2017 and takes judicial notice of this phenomenon and of the proliferation of firearm-related offences. In this regard, see *R*. *c*. *Burihabwa*, 2023 QCCQ 3842 at para. 45; *R*. *c*. *Marabella*, 2023 QCCQ 6614 at para. 46–57; *R. c*. *Maxwell*, 2023 QCCQ 1556 at para. 19; *Dallaire* *c*. *R*., 2022 QCCA 1422 at para. 27. [↑](#footnote-ref-64)
65. *Nur*, *supra* note 38 at para. 1. [↑](#footnote-ref-65)
66. *Ibid* at para. 29. [↑](#footnote-ref-66)
67. Section 270.03 *Cr. C*. provides that the sentence imposed on a person for assault with a weapon against a peace officer must be served consecutively to any other punishment imposed on the person for an offence arising out of the same event. [↑](#footnote-ref-67)
68. According to the Court, the total sentence of 60 months of imprisonment is not unduly long or harsh within the meaning of section 718.2(c) *Cr. C.* This sentence is proportionate to the gravity of the offence and to the degree of responsibility of the offender, as set out in section 718.1 *Cr. C*. [↑](#footnote-ref-68)