**Translated from the original French**

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| Commission des droits de la personne et des droits de la jeunesse (Woodley) c. Ville de Laval (Service de police de la Ville de Laval) | | | | | | 2024 QCTDP 6 |
| HUMAN RIGHTS TRIBUNAL | | | | | | |
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| CANADA | | | | | | |
| PROVINCE OF QUEBEC | | | | | | |
| DISTRICT OF | | | LAVAL | | | |
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| No.: | 540-53-000065-213 | | | | | |
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| DATE: | April 15, 2024 | | | | | |
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| PRESIDING: | | THE HONOURABLE | | CATHERINE PILON | | | |
| WITH THE ASSISTANCE OF ASSESSORS: | | | | | Mtre Carolina Manganelli  Mtre Daniel Proulx, retired attorney | |
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| COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE, acting in the public interest and on behalf of JONATHAN WOODLEY | | | | | | |
| Plaintiff | | | | | | |
| v. | | | | | | |
| VILLE DE LAVAL (SERVICE DE POLICE DE LA VILLE DE LAVAL) | | | | | | |
| and | | | | | | |
| CAROLINE BEAULAC | | | | | | |
| and | | | | | | |
| JESSICA LAMOTHE | | | | | | |
| Defendants | | | | | | |
| and | | | | | | |
| **JONATHAN WOODLEY** | | | | | | |
| Alleged victim and complainant | | | | | | |
|  | | | | | | |
|  | | | | | | |
| **JUDGMENT** | | | | | | |
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1. The Commission des droits de la personne et des droits de la jeunesse (CDPDJ) is acting in the public interest and on behalf of the alleged victim and complainant, Jonathan Woodley.
2. The CDPDJ argues that the defendants, Caroline Beaulac and Jessica Lamothe, police officers with the Service de police de la Ville de Laval (SPL), racially profiled Mr. Woodley when they intercepted him on September 19, 2018, thereby impairing his right to the equal exercise of his rights to the safeguard of his dignity, not to be deprived of his liberty, not to be subject to an unreasonable search, and to receive services ordinarily offered to the public without discrimination, in violation of sections 4, 10, 12, 24, and 24.1 of the *Charter of human rights and freedoms*.[[1]](#footnote-1)
3. On behalf of Mr. Woodley, the CDPDJ claims damages for moral prejudice and asks that Officers Beaulac and Lamothe each be ordered to pay him punitive damages.
4. The CDPDJ also seeks various orders in the public interest, to be determined by the Tribunal.
5. In defence, the Ville denies that its officers’ intervention with Mr. Woodley had any connection with his race or colour. It claims that the intervention was justified and that its sole purpose was to ensure public safety and compliance with the *Highway Safety Code*.[[2]](#footnote-2)

# Issues

1. The Tribunal must decide the following issues:

Has the CDPDJ established that the police intervention involving Jonathan Woodley, while he was driving his wife’s car on September 19, 2018, was based, in whole or in part, on his race or colour combined with his sex and that, therefore, this intervention constituted discrimination by racial profiling?

If so, what monetary compensation is justified, and what public interest orders are required in the circumstances?

# Background

1. Jonathan was a 30-year-old man at the time of the incident in dispute. He lives in Laval, where he owns a gym.
2. Caroline Beaulac has been a police officer with the SPL since 2014. In September 2018, she was working as a police patrol officer.
3. Jessica Lamothe has been a police officer with the SPL since 2017. She was also assigned to the police force. She had been working in the Chomedey sector for approximately seven months.
4. On September 19, 2018, at around 10:00 am, Mr. Woodley left the gym driving a car registered in the name of his wife, Stéphanie Mucci. He was going to buy some things for the gym, then continue on to the photography studio, where he and his wife had an appointment for a photo shoot with their newborn.
5. Mr. Woodley was driving south on Curé-Labelle Boulevard.
6. Officers Beaulac and Lamothe were patrolling in the sector and were also driving south on Curé-Labelle Boulevard. Officer Beaulac was driving the patrol car, and Officer Lamothe was a passenger.
7. The officers were running the licence plates of several cars by consulting the database of the *Québec Police Intelligence Centre* (QPIC)[[3]](#footnote-3) in the exercise of their power to intercept vehicles, as provided in section 636 of the *HSC*. The information from the QPIC confirms the owners’ vehicle registrations and driver’s licences. Other information is also available by conducting a more detailed search.
8. Because Officer Lamothe was the passenger, she did the searches using the computer in the patrol car for this purpose. According to her testimony, she selected the vehicles to search at random.
9. According to Mr. Woodley, the officers were driving approximately 2.5 km ahead of him. He eventually passed them at the intersection of Curé-Labelle Boulevard and Saint-Martin West Boulevard, where they were stopped in the left lane. In doing so, his eyes met those of Officer Lamothe.
10. According to the officers, they encountered Mr. Woodley twice. They were behind Mr. Woodley as they approached the intersection, while Officer Lamothe was running the licence plate of the car he was driving at the same time as other vehicles around them.[[4]](#footnote-4) They passed Mr. Woodley a first time when they moved into the lane to turn left on Saint-Martin Boulevard West.Subsequently, while they were stopped at the traffic light, Mr. Woodley passed them when his light turned green.
11. Mr. Woodley continued driving and turned left on Loranger Street to go to the store and shop for his gym.[[5]](#footnote-5) The officers changed direction and followed him to intercept him. They turned on the flashing lights and, he claims, the siren as well. According to the information from the QPIC, the car Mr. Woodley was driving belonged to a woman, and no man with a driver’s licence was registered at that woman’s address.
12. Mr. Woodley complied and pulled his car over. The officers got out of their patrol car and moved to the side of his vehicle. Officer Beaulac was on the driver’s side, and Officer Lamothe was on the passenger side.
13. Mr. Woodley did not understand why he was being intercepted. He was angry and expressed his displeasure, all while filming the interception.[[6]](#footnote-6) Officer Lamothe announced over the SPL radio that things were [translation] “not really, really under control at the moment”.[[7]](#footnote-7)
14. Mr. Woodley asked the reason for his interception. Officer Beaulac answered that the vehicle was registered in the name of a woman and that there was no man living at the owner’s address according to their information. This explanation upset Mr. Woodley. He informed the officers that it was his wife’s car.
15. Mr. Woodley protested at least twice as he was convinced that he was being intercepted because he is [translation] “Black”. He was speaking loudly and was visibly angry. He interrupted Officer Beaulac, who was having difficulty explaining the situation to him, as the video shows. He refused to hand over his identification papers because he considered the interception illegal. Officer Beaulac informed him that he could be arrested due to his refusal. There was no response to his request to speak to the officers’ supervisor.
16. Officer François Gélinas, also in a patrol car, was about 50 metres away from the intervention, which he was watching after he saw the flashing lights on the officers’ patrol car. He found the interception long. He decided to provide backup for his colleagues and approached in his patrol car, with the flashing lights on. He did not intervene but stayed behind and redirected traffic to protect everyone involved.
17. Officers Charles Paradis and Marc-Antoine Duchaine heard Officer Lamothe’s call over the radio. They were close by and decided to provide backup. They arrived with their flashing lights on and placed their car diagonally in front of Mr. Woodley’s car, thus preventing him from leaving the scene.
18. According to Officers Beaulac and Lamothe, Mr. Woodley insulted them, called them “fucking cops”, and said “fuck you” when he saw the other officers arrive.
19. Officer Duchaine approached Mr. Woodley’s car and saw the officers on the driver’s side. He moved to the passenger side. He grasped from the situation and from the look on Officer Beaulac’s face that the officers were about to arrest Mr. Woodley for refusing to identify himself and hand over his identification papers. Mr. Woodley finally complied, handed over his papers, and identified himself to Officer Beaulac.
20. The officers checked and discovered that the registration certificate had expired. Mr. Woodley explained that everything was in order but that he probably did not have the most recent document because his family had recently moved and that could explain why it was misplaced. He called his wife, and she told Officer Beaulac the same thing.
21. Officer Beaulac issued Mr. Woodley a statement of offence for driving a vehicle without having the registration certificate with him.[[8]](#footnote-8) Mr. Woodley was acquitted of this charge.[[9]](#footnote-9) He was also issued a statement of offence for insulting a peace officer in the performance of their duties.[[10]](#footnote-10) He was also eventually acquitted of this charge.[[11]](#footnote-11)

# Analysis

1. The CDPDJ’s action is based on the following sections of the *Charter*:

**4.** Every person has a right to the safeguard of his dignity, honour and reputation.

**10.** 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, gender identity or expression, 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.

**12.** No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.

**24.** No one may be deprived of his liberty or of his rights except on grounds provided by law and in accordance with prescribed procedure.

**24.1** No one may be subjected to unreasonable search or seizure.

**49.** Any unlawful interference with any right or freedom recognized by this *Charter* entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting therefrom.

In case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to punitive damages.

**80.** Where the parties will not agree to negotiation of a settlement or to arbitration of the dispute or where the proposal of the commission has not been implemented to its satisfaction within the allotted time, the commission may apply to a tribunal to obtain, where consistent with the public interest, any appropriate measure against the person at fault or to demand, in favour of the victim, any measure of redress it considers appropriate at that time.

## Has the CDPDJ established that the police intervention involving Jonathan Woodley, while he was driving his wife’s car on September 19, 2018, was based, in whole or in part, on his race or colour combined with his sex and that, therefore, this intervention constituted discrimination by racial profiling?

### Discrimination by racial profiling: principles and burden of proof

1. Racial profiling is a form of discrimination prohibited by section 10 of the *Charter*.
2. In 2015, in *Bombardier*[[12]](#footnote-12), the Supreme Court of Canada adopted the definition of racial profiling proposed at the time by the CDPDJ:

[33] The Commission submits that in the case at bar, Mr. Latif was a victim of racial profiling. The concept of racial profiling was originally developed in the context of proceedings brought against the police for abuse of power, but it has since been extended to other situations:

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.

[Underlining omitted.]

1. According to the definition of racial profiling adopted by the Supreme Court, the essential characteristic of this discriminatory practice is that it is carried out by “persons in a situation of authority”[[13]](#footnote-13), in particular police forces, acting for reasons of safety, security, or public protection.
2. This definition has two branches. The first branch deals with *individual* racial profiling, that is, an action by a person in a situation of authority, a police officer for example, that targets and treats a person differently due to their actual or presumed racial background. The second branch of profiling is the disproportionate application of measures to racialized segments of the population and it recalls that racial profiling also has a systemic element, particularly in the context of law enforcement[[14]](#footnote-14), as the Tribunal noted in *Dagobert*:[[15]](#footnote-15)

[translation]

[119] Racial profiling may also be systemic in nature when it is based on the dynamic interaction between measures or decisions and attitudes tainted by prejudice and on organizational structures and institutional practices that have the effect of disproportionately penalizing certain persons or groups of persons protected by the *Charter*, in particular on the basis of race or ethnic origin.

1. This application concerns an allegation of isolated or individual racial profiling that, according to the CDPDJ, nevertheless falls within the broader context of institutionalized or systemic racial profiling within the police.
2. As it is a form of discrimination prohibited by section 10 of the *Charter*, it must be legally dealt with using the analytical framework developed by the case law for this provision. There is discrimination, by profiling or otherwise, in the presence of three factors, which the plaintiff must prove, that is: (i) differential treatment; (ii) based on one of the personal characteristics listed in the first paragraph of that provision, and (iii) which has the effect of impairing or nullifying the right to equal recognition and exercise of a human right or freedom.[[16]](#footnote-16)
3. With respect to differential treatment, the party alleging racial profiling must prove that the treatment to which they were subjected by a person in authority is unusual. In other words, was there, according to the generally circumstantial evidence available, improper behaviour by a police officer as compared with usual practices in similar circumstances?[[17]](#footnote-17) Would the officer have acted differently if the complainant had not been a member, or a presumed member, of a group protected by the *Charter*?[[18]](#footnote-18)
4. The case law has recognized that police interventions conducted without reasonable grounds or conducted in an excessive manner met the criterion for differential treatment.[[19]](#footnote-19) The same is true with respect to questions that are inappropriate or asked without valid reason, unusual decisions that differ from normal practices, such as abuse of right or power, unjustified searches, irrelevant inquiries into a driver’s record, and dubious organizational practices by law enforcement.[[20]](#footnote-20)
5. It is important to note, however, that in racial profiling cases, the Tribunal does not have to determine whether the police intervention was reasonable or appropriate in the circumstances, but rather if it impaired the victim’s right to equality by its discriminatory nature within the meaning of the *Charter*.[[21]](#footnote-21)
6. The second constituent factor of discrimination is the connection between the contested decision or action and a personal characteristic listed in section 10 of the *Charter*. It goes without saying that in racial profiling cases, the victim must be identifiable by their race, colour, ethnic origin, or religion. However, because of stereotypical social representation, it is sufficient for the police officer to subjectively perceive the victim as being of such race or colour to establish a connection with that ground.[[22]](#footnote-22)
7. The connection required between the conduct complained of and a ground of discrimination listed in section 10 of the *Charter* is not the causal relationship in civil liability, that is, a logical, direct, and immediate consequence between the conduct and its result. It suffices that the prohibited ground be a factor that contributed to the differential treatment, that consciously or subconsciously influenced the officer’s decision at any step of the intervention, to somehow [translation] “contaminate” the police action and conclude that there was discrimination by profiling.[[23]](#footnote-23)
8. In addition, because discriminatory intent or a racist mindset by the police is not required to establish discrimination, it is now recognized that racial profiling may very well be the result of unconscious prejudice.[[24]](#footnote-24)
9. The third element to establish in cases of discrimination by racial profiling is prejudice or prejudicial effect. The question is whether differential treatment based on race or skin colour “affects the full and equal exercise of a right or freedom guaranteed to him or her by the *Charter*”.[[25]](#footnote-25)
10. As the Supreme Court recalled in *Bombardier*, the third element of discrimination does not require proof of a “double violation” of rights.[[26]](#footnote-26) The party alleging racial profiling therefore need not establish an unlawful interference with another *Charter* right or freedom. Nevertheless, double violation of rights often occurs and reveals the simultaneous existence of discriminatory interference with another *Charter* right or freedom.
11. That said, since proof of a double violation of rights is not required, it is therefore sufficient to establish that the complainant’s right to equality was violated. In cases of racial profiling, it must be shown that the officer’s decision or conduct prejudiced the complainant by making the exercise of one of their rights or freedoms more difficult or less favourable due to their actual or presumed racial background.
12. To counter the *prima facie*[[27]](#footnote-27) proof of profiling incumbent upon the plaintiff, the defendant has two options: refute, i.e., deny, the allegations of discrimination, or try to justify the discrimination established at first sight. To do so successfully using either of these options, the applicable standard of proof is the balance of probabilities.[[28]](#footnote-28)
13. If the defendant intends to refute the evidence presented by the plaintiff, the defendant must prove that at each step of the police intervention, the complainant was not treated worse than any other citizen and that their racial background, or any other prohibited ground listed in section 10 of the *Charter*, did not play a role in the officers’ decisions or conduct.
14. In general, the defendant will succeed by proving that the police intervention was based solely on objective, reasonable, credible, and lawful grounds such as the commission of an offence in progress or a random interception to control drunk driving for example, without the intervention having been influenced by race or another prohibited ground.[[29]](#footnote-29)
15. However, evidence of reasonable grounds is not required at the rebuttal stage because, as noted above, the analysis based on section 10 of the *Charter* does not focus on the appropriateness or reasonableness of the police intervention itself, but on its discriminatory nature.
16. If the defendant cannot refute the plaintiff’s *prima facie* case of discrimination, the Tribunal must conclude that there was discrimination by profiling. The defendant may then attempt to justify the discriminatory action at first sight of the police by invoking the exemptions provided by the *Charter* or those developed by the case law.[[30]](#footnote-30)
17. The test applicable to evidence of racial profiling on a balance of probabilities is described as:

[translation]

The Tribunal’s assessment of the evidence must allow it to conclude that the most rational or likely explanation for the person in authority’s conduct is related to one or several of the prohibited grounds of discrimination set out in section 10 of the *Charter*.[[31]](#footnote-31)

1. Of course, the alleged victim’s subjective perception that they were stopped by the police because of their colour or race cannot alone justify a finding of racial profiling. However, the perception that a reasonable person and member of the group protected by the *Charter* against discrimination would have in the same circumstances must be considered in the analysis.[[32]](#footnote-32) To completely reject the perception of a reasonable racialized person would contribute to systemic discrimination.[[33]](#footnote-33)
2. As evidence of racial profiling is difficult to make primarily because it is often based on subconscious prejudices or stereotypes and is rarely direct, the Tribunal described the appropriate approach in *Nyembwe*[[34]](#footnote-34):

[translation]

[310] To decide whether racial profiling played a role in a police intervention, the Tribunal must take all of the circumstances into consideration and draw the reasonable inferences from the general portrait revealed by the circumstantial evidence, in light of judicial notice of the existence of the phenomenon and the expert evidence that may be presented to it. Circumstantial evidence must not be isolated or compartmentalized. The meaning of each item of evidence is necessarily shaped by the others. Each piece of evidence constitutes only part of the picture, and it is only when seen as a whole that the evidence can reliably support a conclusion that racial profiling played a role in a given situation.

1. The courts must therefore, while observing the standard of the balance of probabilities, consider all the circumstances and the context to determine whether a prohibited ground, in this case race or colour, whether or not combined with another characteristic such as sex, consciously or unconsciously played a role during the police intervention.
2. Among the circumstantial evidence the Tribunal must consider, social context is unavoidable. Given the quantity of research documenting the disproportionate policing of racialized persons over the past 40 years, the Supreme Court ruled that racial profiling by police in this country is well known and of judicial notice.[[35]](#footnote-35)
3. The documentary evidence on social context cannot alone constitute evidence on a balance of probabilities that a given officer in a given situation committed an act of racial profiling, that is, that the officer intercepted or stopped a citizen because of their race or colour.[[36]](#footnote-36) It does, however, establish the [translation] “background”[[37]](#footnote-37) or [translation] “context”[[38]](#footnote-38) of the analysis, particularly the systemic nature of racial profiling by law enforcement. The well-documented context of racial profiling that prevails in police practices is therefore a relevant and useful element among all the circumstantial evidence and may even help to explain aspects of the evidence.[[39]](#footnote-39) It may enlighten the Tribunal on the meaning and scope of the facts in dispute and help it to draw proper conclusions[[40]](#footnote-40), in particular on the plausibility of the plaintiff’s allegations and the defendants’ explanations.
4. In this case, the CDPDJ filed a detailed expert report on racial profiling prepared by researchers Marie Meudec, Anne-Marie Livingstone, and Lourdes Stéphane Alix.[[41]](#footnote-41) This study addresses racial profiling both in Quebec and elsewhere in Canada and the United States, and, as we will see, “enlighten[s] the court” in its decision-making.[[42]](#footnote-42)

### Evidence

1. The Tribunal must first determine whether, on September 19, 2018, the decisions taken by Officers Beaulac and Lamothe during the interception of Mr. Woodley constitute discrimination by racial profiling prohibited by section 10 of the *Charter*.
2. To do this, the Tribunal must address the contradictory versions of the same events, that of the complainant compared to those of Officers Beaulac and Lamothe on several critical elements. It must seek the truth by assessing the credibility of the witnesses and, most importantly, the reliability of their testimony, using logic and objectivity based on the plausibility of the remarks made and their consistency with the facts.[[43]](#footnote-43)
3. In this regard, the officers’ conduct before, during, and after the interception of Mr. Woodley, their reasons for intercepting him, and the consistency between these reasons and their actions are also evidence that may allow the Tribunal to assess whether race or colour, combined with sex, was likely a factor in the decision to intercept him, as well as in the decisions, facts, and actions that followed the interception. In this context, implausible or contradictory explanations may be highly significant.[[44]](#footnote-44)
4. It should also be recalled that “the court may believe a witness’s testimony in whole, in part, or not at all”.[[45]](#footnote-45)
5. To answer the question of whether the police intervention involving Jonathan Woodley, while he was driving his wife’s car on the morning of September 19, 2018, was racial profiling at first sight, three elements must be verified using the analytical framework applicable to discrimination under section 10 of the *Charter*.[[46]](#footnote-46) Has the CDPDJ proved that (1) the complainant was treated differently from other citizens, (2) this differential treatment was connected to his race or colour combined with his sex, that is, the fact that he is a Black man, and (3) this differential treatment had the effect of impairing or nullifying his right to the recognition or exercise of a right or freedom guaranteed by the *Charter*?

### Differential treatment

1. The CDPDJ submits that the following actions by Officers Beaulac and Lamothe constitute a differential treatment of Mr. Woodley:

* heightened surveillance in the form of running the licence plate of the car he was driving followed by a change of direction by the police;
* the interception of Mr. Woodley’s even though he had committed no offence;
* the complainant’s arbitrary detention, including a visual search of the interior of the vehicle he was driving;
* Officer Beaulac’s refusal to provide her badge number or reply to his request to speak with a supervisor;
* the call for backup;
* increased control of Mr. Woodley by diagonally parking a patrol car that had arrived as backup in front of him and by opening his door;
* checking Mr. Woodley’s criminal record even before checking his driver’s licence; and
* issuing statements of offence.

1. All these factual elements were adduced in evidence by the CDPDJ and admitted by Officers Beaulac and Lamothe during their testimony before the Tribunal, except for the call for backup, the interpretation of which is contested. In fact, Officer Lamothe acknowledges that she radioed in to state her position and to indicate that they had intercepted a vehicle and that the situation was not under control. However, she contests that it was a formal call for backup.
2. In any event, it is clear to the Tribunal that a citizen driving his wife’s car on a Wednesday morning to go shopping and who is obeying all the traffic laws is treated differently and unusually by the police if he is being intercepted by the police.
3. Regarding the interception of Mr. Woodley’s, the police argue that he was treated the same as every other citizen driving a car owned by someone else and whose characteristics (age, sex, or family name) do not match those of the vehicle owner, especially if the search reveals that the driver does not live at the same address as the vehicle owner.
4. The perfectly legal practice of lending your car to a friend or relative is so widespread that the Tribunal cannot conceive that the police persist in systematically intercepting drivers who do not live at the same address as the vehicle owner and are not the same age or same sex or have the same family name. This is as unreasonable as it is discriminatory and, moreover, has been repeatedly criticized by the courts.[[47]](#footnote-47)
5. As they themselves stated, when they randomly run licence plates, Officers Beaulac and Lamothe want to confirm whether the car is authorized to be on the road, that is, if everything is in order: whether the registration has been paid and the driver’s licence is not suspended. Any interception based on the driver’s age[[48]](#footnote-48) or sex is discriminatory under section 10 of the *Charter* and thus not a valid reason to intercept, and even less a police standard.
6. Consequently, the Tribunal finds that Mr. Woodley was treated differently compared to acceptable usual practices in similar circumstances when Officers Beaulac and Lamothe changed direction to intercept him on the morning of September 19, 2018, even though he was obeying the traffic laws at the wheel of a vehicle that, moreover, was never reported stolen.
7. The other factual elements admitted by the police (visual search of the vehicle, failure to provide badge number, radio call telling other patrol officers that the situation was not under control, arrival of additional patrol officers blocking the complainant’s car, opening the passenger door, checking his criminal record, and issuing statements of offence unrelated to the ground for the interception) are clearly differential and unusual treatment because it is neither normal nor conceivable that citizens who have committed no offence suffer this kind of insulting treatment when intercepted by the police for a mere routine check.
8. To refute the allegations of racial profiling, the police affirm that their actions had nothing to do with the colour of Mr. Woodley’s skin but everything to do with his aggressiveness during his interception. The evidence instead shows that he was vigorously protesting because he disagreed with being intercepted. In general, ordinary citizens do not and should not be issued statements of offence because they became angry and perhaps said bad words to the officers who issued them. Incivility is certainly not desirable behaviour, but in a free country where freedom of expression and of opinion is protected by the Charters, it is inconceivable that mere insults can result in statements of offence.[[49]](#footnote-49)
9. The statement by Officers Beaulac and Lamothe that they intercept drivers who have committed no offence [translation] “several times in the same day” proves that they enforce the law proactively. This is not problematic from the perspective of protection against discrimination guaranteed by section 10 of the *Charter* if these interceptions are truly random and not based on prohibited grounds of distinction such as colour, age, or sex.
10. The Ville[[50]](#footnote-50) submitted documentary evidence of two other interceptions by the two officers on September 19, 2018, based on the large age gap between the driver of the car and its owner, followed by the issue of statements of offence because these young drivers had no driver’s licence. The Tribunal finds that at best, this is very anecdotal evidence of a few arbitrary, even discriminatory, interceptions that do not establish a usual or general practice by the police or the defendants.

### Connection to a prohibited ground of discrimination

1. The question the Tribunal must decide is not whether the officers made a poor decision when they intercepted Mr. Woodley, but whether they discriminated against him within the meaning of section 10 of the *Charter*. In other words, did they target the complainant because of the colour of his skin and his sex, that is, because he is a Black man? Evidence of the connection, which falls to the CDPDJ, between these personal characteristics of the complainant and the officers’ conduct is therefore essential, and each step in the intervention must be scrutinized to verify whether conscious or unconscious prejudice might have played a role in the decisions and actions of Officers Beaulac and Lamothe on the morning of September 19, 2018.

#### Decision to investigate the complainant and change direction to intercept him

1. While driving south on Curé-Labelle Boulevard, Officers Beaulac and Lamothe ran the plate of the car Mr. Woodley was driving at 10:32:17 a.m., followed six seconds later by a second more thorough search by address and name. At that point, they were at the intersection of Curé-Labelle and Saint-Martin Boulevards.
2. Two questions arise here: first, did the officers see the complainant *before* they decided to look him up or, on the contrary, did they see him *after* they decided to make these searches? If they saw him before doing the search, evidence of the connection between the colour of his skin and his sex is possible, but if they did not see him before the search because they were running the plates at random, his racial background cannot have been a factor that influenced their action at this stage.
3. Next, the second question: since the officers admit that they saw the complainant before they decided to intercept him, does this establish that the colour of his skin and his sex played a role in their decision to chase and stop him?
4. On these two questions, the parties’ versions are contradictory, and the Tribunal must determine whether the complainant’s version is more probable because it is more rational and plausible than the officers’ version. If not, the CDPDJ will have failed to establish a connection between the officers’ actions and the colour of the complainant’s skin combined with his sex.
5. The complainant testified as follows. On the morning of September 19, 2018, between 10:15 a.m. and 10:30 a.m., he was driving a white Acura south on Curé-Labelle Boulevard to run errands. At the intersection with Highway 440, he noticed a patrol car a few cars ahead of him. He was therefore driving behind the patrol car driven by the defendants until the intersection of Curé-Labelle and Saint-Martin, that is, for about 2.5 kms.
6. At Saint-Martin Boulevard, while he was still a few cars behind the patrol car, Mr. Woodley noticed that it moved into the far left-hand lane for cars that must turn left. The traffic light to turn left was red, and the patrol car was not moving. Because the light to go straight turned green, Mr. Woodley advanced slowly; several cars were ahead of him. He then passed just next to the patrol car. He saw the officers and their eyes met. Then, just after he crossed Saint-Martin Boulevard, in his rearview mirror he saw the patrol car change directions, turn on its flashing lights, and start to chase him. He pulled his car over some 30 metres ahead on Loranger Street.
7. Be it in his ethics complaint[[51]](#footnote-51), pre-trial examination, discussion recorded with Officer Beaulac on Loranger Street, or before the Tribunal, Mr. Woodley unhesitatingly stated that from Highway 440 to Saint-Martin Boulevard, the police car was always a few cars ahead of him. Having already been the subject of police interceptions, he asserts that he checks his surroundings, especially when he sees a police car, and that he was absolutely certain of his position in relation to the patrol car driven by Officer Beaulac.
8. Officers Beaulac and Lamothe stated that they were a few cars *behind* the Acura driven by the complainant when they neared the intersection of Curé-Labelle and Saint-Martin. According to Officer Beaulac, they were following the complainant in the same lane – the centre-left lane to continue driving straight – whereas the memory of her colleague Officer Lamothe is less precise. According to Officer Lamothe, the patrol car was in the same lane as the complainant or in the centre-right lane, to continue driving straight, but she recalls there being several vehicles between the white Acura driven by Mr. Woodley and the patrol car.
9. Officer Lamothe conducted a QPIC search while Officer Beaulac was driving. Officer Lamothe no longer recalls the situation with certainty and raised two possible scenarios: either she ran the plate of the white Acura diagonally next to the patrol car or she did so while they were in the same lane. This was a random check because the Acura’s rear window was tinted, and she could not see who was inside the car.
10. The search revealed that the Acura was owned by a woman with a valid driver’s licence. Everything was in order, and the officers changed lanes, crossing one or two lanes according to the scenario proposed, so that they could turn left on Saint-Martin. Before they stopped at the red light, they passed the Acura and they both saw that a man was driving the car.
11. Officer Lamothe noticed that the driver was wearing a cap, had a goatee, and appeared to be between 30 and 40 years old. However, she does not know whether she noticed at that moment that he was a Black man. Her colleague Beaulac said that she realized he was a Black man only after they intercepted him on Loranger Street. Officer Lamothe conducted a second search to confirm who owned the white Acura and saw that no man was registered at the owner’s address. She then informed her colleague Beaulac that they had to intercept that car to check the driver’s papers.
12. The Tribunal believes the complainant and accepts his testimony because it is coherent, unequivocal, uncontradicted, plausible, and consistent with the evidence adduced and the testimony given at the pre-trial examinations.
13. The defendants’ position, on the other hand, is less logical and more implausible.
14. They claim that they were behind the Acura driven by the complainant at the intersection of Curé-Labelle and Saint-Martin Boulevards but do not agree on which lane they were in. This element alone would not necessarily suffice to discredit the officers’ testimony. Considering the number of interceptions that may occur in one day and the time that has passed between the incident and the trial, it is difficult to fault them for imprecision on this detail. It must be combined, however, with other elements.
15. The officers stated that they ran the plate before they reached the intersection even though, as they admitted, there were several cars between the patrol car and the Acura. Unless they can see through cars, this seems impossible.
16. The officers maintain that they did a first blind plate search before changing lanes and finding themselves next to the complainant, observing him, and doing a second more in-depth search, the whole barely six seconds later.[[52]](#footnote-52) Since the intersection was busy and there were several cars between the patrol car and the Acura, and since the officers had to cross one lane, according to Officer Beaulac if not two, according to one of the scenarios posited by Officer Lamothe, it is unlikely that the second search could have been conducted only six seconds after the first.
17. Furthermore, both officers stated that they did not notice the complainant’s race or colour when they were next to him before they stopped at the red light. At the very least, Officer Lamothe testified that she was not certain that she noticed it. This version is implausible. They admit that they saw him briefly, but long enough to note that he was wearing a cap and had a small beard and short hair and that he was a man in his thirties.
18. In fact, the complainant was fully visible. Even if the Tribunal rejected the complainant’s version that his window was open, the uncontradicted evidence shows that the Acura’s front windows were not tinted[[53]](#footnote-53) and that nothing prevented the officers from seeing the driver inside. The Tribunal can see for itself that there can be no confusion about the complainant’s colour: the colour of his skin is clearly that of a Black man. There is therefore no doubt or confusion possible about his racial background.
19. In this case, as in *Baptiste*[[54]](#footnote-54), where the police claimed that they noticed the sex, but not the colour, of the vehicle’s occupants, the Tribunal cannot believe the officers because it is improbable.
20. The complainant’s version, however, must be accepted because it is realistic, plausible, and consistent with the evidence.
21. The Tribunal therefore accepts that Officers Beaulac and Lamothe were always in front of the Acura driven by the complainant on Curé-Labelle Boulevard until he passed them slowly at the intersection of Curé-Labelle and Saint-Martin Boulevards while they were waiting for the green light to turn left on Saint-Martin. The Acura was advancing slowly, and the two officers noticed it and could clearly see that it was being driven by a Black man in his thirties.
22. Officer Lamothe then wrote down his plate number to run two successive QPIC searches: (1) a SAAQ plate search (DBQ-1) at 10:32:17 a.m. for the name of the vehicle owner and the status of the owner’s driver’s licence, and (2) an additional two-step RAI search at 10:32:23 a.m., that is, an SAAQ search by address (DBQ-9) revealing that no other person with a driver’s licence was registered at the owner’s address, and a CPIC search by name that provided information on the police and criminal record of the person with the driver’s licence.
23. The evidence on a balance of probabilities shows that the officers indeed saw that the person driving the Acura was a Black man before they ran two searches on him based on the plate of the car he was driving. Since the complainant was obeying the traffic laws, no element other than the colour of Mr. Woodley’s skin and his sex can explain why the defendants decided to do a search.
24. The very fact that they deny having seen the complainant’s colour and gave implausible testimony affects their credibility and supports the evidence on a balance of probabilities that Mr. Woodley’s racial background consciously or unconsciously played a role in their decision to chase and intercept him. There is no other rational and plausible explanation.

#### Decision to alert the other patrol officers

1. During her testimony before the Tribunal, Officer Lamothe said that when she arrived at the scene of the interception on Loranger Street, she decided, given that the driver was aggressive, to radio in their position, the vehicle licence plate number, and the message that the situation was not [translation] “under control”.
2. Although Officer Lamothe denies that she asked for backup during the interception of Mr. Woodley on Loranger Street, it seems that her radio call was a *de facto* call for backup. Moreover, that is how the Ville itself interpreted Officer Lamothe’s call because the defendants’ brief clearly states that [translation] “Officers Beaulac and Lamothe radioed their position so that a patrol car could approach”.[[55]](#footnote-55)
3. Furthermore, Officer Duchaine, who arrived on the scene one or two minutes after Officer Lamothe’s call, told the Tribunal that a reasonable police officer who is nearby and hears a patrol officer provide the location of an interception underway and radio that the situation is not under control immediately understands that they have to provide backup.[[56]](#footnote-56)
4. Was the decision to call for backup in this case objectively related to a genuine threat to safety or, on the contrary, to the prejudices and stereotypes of dangerousness held by Officer Lamothe against a Black man?
5. The uncontradicted evidence shows that Mr. Woodley was vigorously protesting during his interception, that he was speaking loudly because he was outraged, and that he was constantly interrupting Officer Beaulac because he was convinced that he was being racially profiled since he had committed no offence.
6. According to the officers present, five in total, his remarks and attitude were uncivil, but the evidence shows that at no time did he threaten them. He did not take out a weapon or point a dangerous object at them; he did not raise his fist and never even got out of his vehicle. In short, he merely expressed his discontent loudly and clearly by refusing, in the beginning, to provide his papers, then begrudgingly agreeing to provide them after Officer Beaulac warned him that he would receive a statement of offence for obstructing the police if he refused.
7. The Tribunal notes in passing that Officer Beaulac tried to trivialize, if not ridicule, Mr. Woodley’s reaction throughout the intervention by telling him more than once that he was putting on a show.
8. In the circumstances, aside from the fear caused by prejudices and stereotypes on the so-called dangerousness of Black men, nothing explains Officer Lamothe’s virtually immediate call for backup. Indeed, by stating before the Tribunal that she called for backup as soon as she arrived on the scene because she [translation] “thought it might degenerate”, she did not provide a legitimate excuse for her call for backup but instead confirmed her prejudices about Black men. It should be recalled that this happened in broad daylight in a busy public place.
9. Moreover, the way Officers Duchaine and Paradis placed their patrol car, diagonally in front of Mr. Woodley’s car so that he was blocked in, when they could see that he is a Black man, confirms that they perceived him as potentially dangerous when all he was doing was protesting against what he believed was an unfair and discriminatory police intervention.
10. The Tribunal therefore concludes that the call quickly placed by Officer Lamothe was indeed a call for backup motivated by her fears and prejudices based on Mr. Woodley’s racial background.

#### Arbitrary detention and verification of police and criminal records

1. According to *Grant*[[57]](#footnote-57), a driver intercepted by the police on the highway is detained because the driver cannot leave the scene or refuse to answer questions by the police concerning highway safety.
2. *Ladouceur*[[58]](#footnote-58) stated that random interceptions of drivers are arbitrary detentions and that the legal authorization to conduct such random checks is justified under section 1 of the *Canadian Charter* only if the stops are actually made for reasons of highway safety.
3. It follows that if a car is not randomly intercepted but, on the contrary, the interception is based in whole or in part on the driver’s race or colour, it is a discriminatory act of racial profiling within the meaning of section 10 of the *Charter* that is not authorized by *Ladouceur* or by section 636 *HSC*.[[59]](#footnote-59)
4. The Tribunal has already found that the decision to intercept Mr. Woodley’s vehicle was based on the fact that he is a Black man and that it was not a random interception.
5. Moreover, the evidence reveals that after Officers Beaulac and Lamothe obtained Mr. Woodley’s driver’s licence, registration certificate, and insurance documents, even before they checked his Ontario driver’s licence, they searched Mr. Woodley’s police and criminal records by consulting the CPIC and IG-MIP databases by name.[[60]](#footnote-60) They explained that they wanted to know [translation] “who they were dealing with”.
6. Since there was no reason to suspect any criminal activity by Mr. Woodley, the only possible rational and plausible explanation is that this criminal check during a routine road stop was based only on the prejudices and stereotypes of dangerousness associated with Black men.[[61]](#footnote-61)
7. The same is true for the other unusual actions that marked the differential treatment of the complainant during the time he was being intercepted: visual search of his vehicle’s interior, failure to provide the badge number, refusal to contact the supervisor, and the passenger door being opened by Officer Duchaine. All these actions fall within the continuum of racial profiling suffered by Mr. Woodley on the morning of September 19, 2018.

#### The two statements of offence

1. Even though Officers Beaulac and Lamothe testified that they intercepted Mr. Woodley to check whether he had a valid licence and was authorized to drive the Acura registered in his wife’s name, they nonetheless gave him two statements of offence, one for insulting a peace officer and another for not having a valid registration certificate in his possession.
2. Issuing statements for minor offences that have little or nothing to do with the reason raised by the officers to stop racialized people is a well-known and documented racial profiling practice. Here is what the Tribunal stated in this regard in *Nyembwe*[[62]](#footnote-62), which is relevant even though it involved an informational stop, not an interception:

[translation]

[480] The expert explained that the use of municipal by-laws at the end of a mistaken or unlawful stop under the pretext of punishing what the police officers characterize as incivility, is intended to punish the manhandled person for denouncing the discriminatory treatment of which he or she is the victim. This denotes a flagrant lack of respect for the rights of this person and adds to the humiliation that he or she has already suffered by reaffirming his or her powerlessness to be respected.

[481] … This is part of racial profiling and contributes to the wrongs that the phenomenon causes its victims.

...

[506] [This] is consistent with the statistics reported by the expert Livingstone regarding the disproportionate use of municipal by-laws against racialized persons for trivial infractions.

1. Since Officers Beaulac and Lamothe admitted before the Tribunal that, to give an intercepted person a second chance, they sometimes exercise their discretion and decide not to issue statements of offence even when they are warranted, such as running a red light, it is clear that they wanted to punish Mr. Woodley when he had committed no offence and that the offences for which he was ticketed had nothing to do with the reason they decided to stop him.
2. The offence of insulting a police officer is also an offence inconsistent with the fundamental right of every person to freely express their opinions[[63]](#footnote-63), as Lewis J. on behalf of the Tribunal, rightly recalled in *Nyembwe*[[64]](#footnote-64), as follows:

[translation]

[479] Denouncing the injustice of which one is victim is the last bastion remaining when one’s rights have been violated. It is indeed not uncommon for persons who believe that they are victims of racial profiling to strongly, nay aggressively, denounce the police conduct. The expression of a person who denounces a police arrest he or she deems illegitimate is indeed protected by s. 2(*b*) of the *Canadian Charter of Rights and Freedoms*and s. 3 of the *Quebec Charter*.

1. As for the late payment of the registration certificate, this technical offence was not due to the complainant himself, but to his wife because it is her car. She explained to the officers over the phone, during Mr. Woodley’s interception, that she had already paid the registration fees but had not yet received the new certificate in the mail, no doubt because of their recent move.
2. In any event, Mr. Woodley was acquitted of the two statements of offence by the municipal court[[65]](#footnote-65), which confirms that they were unfounded.
3. The evidence preponderantly establishes that the abusive issuance of these statements of offence, without any regard for the state of frustration in which a person of colour stopped without any real reasons finds himself, is linked to the officers’ decision to intercept Mr. Woodley due to their conscious or unconscious prejudices and stereotypes of dangerousness about Black men.

\* \* \*

1. Racial profiling by the police of Black men, particularly those driving luxury cars, is well documented, and the CDPDJ itself has conducted significant research on the subject.[[66]](#footnote-66) In this case, it also filed an expert report signed by three experts in racial profiling.[[67]](#footnote-67)
2. The highlights of this report, which reveals an established pattern of racial profiling in Quebec, Canada, and elsewhere, were presented to the Tribunal by one of its authors, Marie Meudec. The Tribunal deems it important to cite certain particularly relevant passages from the expert report of authors Meudec, Livingston, and Alix[[68]](#footnote-68):

[translation]

In the greater Montreal area, the police tend to conduct more frequent, extensive, and abusive interventions with racialized persons. Racial discrimination appears in every step of the police stop. ... Racialized men are more likely to be intercepted, as well as searched and treated violently. (at 5)

A recent report by researchers Armony, Hassaoui, and Mulone (2019) … reveals that **Indigenous and Black people are four to five times more likely to be stopped than White people** …. (at 5)

Racial profiling is expressed through indirect forms of racial discrimination, including arbitrary stops, differential treatment, and the use of force ... (at 8)

According to the Commission des droits de la personne et des droits de la jeunesse, racial profiling complaints have increased in recent years, particularly in Montreal and Laval: the number of complaints increased from 24 in 2015 to 35 in 2019, even though the year is not yet finished. (at 12)

We see racial profiling as a **systemic phenomenon** – not just a practice resulting from individual behaviour or anecdotal events. While racial profiling is apparent in the behaviour of certain police officers, it is also made possible and perpetuated by other factors: **stereotypes** associating Black people with criminality ... (at 13)

All of the studies convincingly illustrate the fact that **racial profiling is widespread in Canada** and happens in big and small cities. Certain trends are also clear throughout the various contexts and resemble the results found in Quebec. In summary, the research confirms the following trends: (1) Black people, more specifically **Black men, are arbitrarily stopped by the police more often even though they have done nothing** ... (at 17)

Racial profiling of Black men is influenced by the **stereotype** rooted in the history of Canada and the United States that they are inherently criminal and more **inclined to commit crimes** than White people. This stereotype is reinforced by a series of racist prejudices that portray Black men as physically stronger, more violent, more aggressive, more threatening, and less intelligent than White men. These stereotypes **mean that the police will automatically and more quickly suspect Black men of being involved in criminal activity** ... Study after study has shown that the higher rates of stopping and intercepting Black men – as compared to White men – cannot be attributed to the behaviour of those groups or their crime rates. (at 19)

In Quebec, one of the most common criminal **stereotypes** concerning Black men is that they are involved in [translation] “**street gangs**” and are more associated with pimping than other groups. (at 20)

Despite stereotypes associating “street gangs” with racialized persons, **no scientific research to date has conclusively established** that this occurs more frequently among racialized persons in Montreal ... (at 21)

The arrival of **“proactive” law enforcement** since the 1990s and 2000s in Canada, the United States, and Europe has aggravated racial profiling because intercepting racialized persons is now justified by policies that seek not only to stop crimes when they happen, but also to “prevent” future offences. Research across the world reveals that racial disparities in **stops** of Black and White people are **highest for these so-called “preventive” activities**. Included among these activities are **identity checks** and arbitrary stops by the police **in the street and on the roads**. (at 24–25)

... researchers Armony *et al*. (2019) found that Black people in Montreal are stopped more often for information rather than on evidence of an offence. (at 25)

... studies on racial profiling in the greater Montreal area show that racialized people are intercepted more frequently because they are more often motivated by unfounded or weak grounds compared to the interceptions of White people. **The stereotype of innate criminality associated with Black men incites the police to monitor them more closely, to intercept them more often**, and to treat them differently and more harshly. (at 25)

A study by Epp *et al*. (2014) found that **profiling happens more often during investigative stops, where the driver has not committed an actual offence.** The authors explain that investigative stops ... are **motivated almost exclusively by the drivers’ characteristics (e.g., race, gender, age).** Because of stereotypes associated with criminality, young Black men are more often targeted for this type of baseless stop. … Epp *et al*. (2017) describe police checks for **verification purposes as an “institutionalized practice” at the root of racial disparities in police stops.** (at 27)

While racial profiling is not simply denied, it is trivialized or described as anecdotal. ... When asked if discrimination against visible minorities is a problem in Quebec, they (the police) have a wide variety of answers and most of them tend to deny or at least trivialize the problem of racism and discrimination. (at 35–36)

[Emphasis added.]

1. It is important to recall that an expert report alone is not sufficient to support a finding of differential treatment based on race or colour in a given situation. This report, however, is extrinsic evidence that helps to situate police action in its social context “to enlighten the court”[[69]](#footnote-69) and to confirm the plausibility and probability of the circumstantial evidence presented by the CDPDJ.

[124] In this case, the following evidence is consistent with the long-standing systemic tendencies observed by the experts in police practice and lead the Tribunal to conclude that Officers Beaulac and Lamothe racially profiled the complainant:

* their implausible explanations, including the statement that they did not notice the complainant’s racial background even though they were less than three metres from him;
* the admission that they frequently relied on discriminatory grounds such as sex and age to intercept drivers for checks;
* the fact that they enforce the law proactively, which results in interceptions based not on reasonable and probable grounds of unlawful conduct, but on mere suspicions induced by their prejudices connected to the drivers’ personal characteristics;
* use of an excessive means such as a call for backup during a simple identity check solely because the complainant expressed his frustration at being unfairly and discriminatorily stopped; and
* the fact that they issued Mr. Woodley two statements of offence for minor offences that had nothing to do with highway safety or the reason he was intercepted.

1. The Tribunal is also surprised that the Ville had a sociologist testify at length when her expertise was not in racial profiling as such, but in street gangs. The relationship she tried to establish between Black people and street gangs, far from justifying discriminatory interceptions by SPL officers, instead supported the prejudices and stereotypes prevailing in the public and the police that young Black men are more involved in street gangs than any other group because of their so-called innate propensity for crime. As Meudeu-Livingstone-Alix’s report indicates, no scientific research to date has conclusively established that there are more racialized people in street gangs in the greater Montreal area than other groups.
2. In conclusion, the social context marked by racial profiling within the police in general and the SPL in particular supports the Tribunal’s conclusions, established on the balance of probabilities, that the complainant’s racial background and skin colour, combined with his sex, were a factor, if not the primary factor, that led Officers Beaulac and Lamothe to intercept him and treat him differently on September 19, 2018.

### Prejudicial differential treatment in the exercise of a guaranteed right

1. To find that there was discriminatory racial profiling, the CDPDJ must also show that the differential treatment suffered by a person was not only based on   
   their ethnic or racial characteristics, but also had the effect of causing them prejudice in the recognition or exercise of a *Charter* right or freedom.
2. This prejudice may arise from the denial, i.e., the non-recognition of another *Charter* right. It may also take the form of an unfavourable condition of exercise of another *Charter* right, without that other right having been denied or violated as such.
3. In this case, the CDPDJ argues that Officers Beaulac and Lamothe impaired the complainant’s right to the equal exercise or recognition guaranteed by section 10 of the *Charter* of the following rights and freedoms: the right to the safeguard of his dignity (section 4), the right to receive police services without discrimination (section 12), the right not to be deprived of his liberty or of his rights (section 24), and the right not be subjected to unreasonable searches (section 24.1).

#### Violation of equality and the right to the safeguard of his dignity

1. The Tribunal has ruled on several occasions[[70]](#footnote-70) that intercepting a citizen driving a car based on racial background is inconsistent with the respect owed to all humans and the equal consideration they deserve – values that lie at the heart of both the right to equality and the right to the safeguard of one’s dignity.
2. In *Ward*[[71]](#footnote-71), the Supreme Court defined the contours of the right to the safeguard of dignity. It described the circumstances and conditions under which this right may be violated.
3. In a recent judgment[[72]](#footnote-72), the Court of Appeal of Quebec recalled these conditions:

[translation]

[127] The Supreme Court discussed the scope of that right in *Ward*. Wagner, C.J. and Côté, J., for the majority, noted that such right to the safeguard of dignity protects the humanity of every person in its most fundamental attributes. It allows a person to claim “protection from the denial of their worth as a human being.” That being so, to be contrary to section 4 of the *Quebec Charter*, conduct must reach a high level of gravity that does not trivialize the concept of dignity. In finding such conduct, an objective analysis is required. Ultimately, it must be shown that “a person is stripped of their humanity by being subjected to treatment that debases, subjugates, objectifies, humiliates or degrades them, there is no question that their dignity is violated. In this sense, the right to the safeguard of dignity is a shield against this type of interference that does no less than outrage the conscience of society”.

1. In application of these teachings, the Court of Appeal recognized that a regulatory provision requiring any transgender or non-binary minor to provide a letter from a health care professional confirming the appropriateness of their application to change the designation of their sex on their act of birth violates the safeguard of their dignity.[[73]](#footnote-73)
2. The Court noted in particular that these people experience stigmatization and discrimination and that the non-concordance between the designations that appeared in their documents of civil status and their true identity hinders their everyday lives and often leads them “to withdraw from many aspects of daily life in order to avoid these hardships”[[74]](#footnote-74), which compromises their right “to participate fully in society”.[[75]](#footnote-75)
3. Racial background lies at the heart of a person’s identity. When the police use skin colour as a pretext to stop someone, it contributes to their stigmatization and impairs their ability to move about freely while driving a car, which might cause them to reduce their movements and even decide not to participate in certain activities of everyday life.
4. In this sense, the conduct of defendants Beaulac and Lamothe and the humiliation it caused meets the conditions set out in *Ward*.[[76]](#footnote-76)
5. That said, as the Supreme Court stated in *Bombardier*[[77]](#footnote-77), section 10 of the *Charter* does not require the violation of another *Charter* right as such, but the violation of the right to the equal recognition or exercise of another *Charter* right or freedom.
6. The situation in which the officers placed Mr. Woodley falls within the sphere of recognition of the safeguard of dignity recognized by the *Charter*.
7. Consequently, his stop based on prejudices related to his skin colour and race violates his right to equal treatment, and as required by section 10 of the *Charter*, this violation falls within the recognition or exercise of his right to the respect he is owed as a human being that lies at the heart of the right protected by section 4 of the *Charter*.[[78]](#footnote-78)

#### Violation of equality and the right to services ordinarily offered to the public without discrimination

1. In *Mastropaolo,* the Tribunal gave section 12 a broad and liberal interpretation that furthers the objectives of the *Charter* in matters of equality and the protection of rights and freedoms. It ruled that the concept of juridical act must receive a contextual interpretation that cannot be limited to a contractual and bilateral concept as traditionally understood in civil law.[[79]](#footnote-79)
2. The Tribunal has previously held that at the municipal level, police services are a service ordinarily offered to the public within the meaning of section 12 of the *Charter*.
3. When they provide their services to the public, particularly when they patrol the roads to protect public safety, the police must comply with sections 10 and 12 of the *Charter* and ensure that their interventions are free of discrimination in the form of racial profiling or otherwise.
4. In this case, the Tribunal is of the view that the defendant officers discriminated against the complainant and therefore violated his right to equality and his right to public services without racial discrimination when they intercepted him without cause while he was driving his wife’s car on September 19, 2018.

#### Violation of equality and the right not to be deprived of his liberty or his rights

1. The preponderant evidence establishes that the complainant was detained within the meaning of *Grant* and that this detention was not connected to a random check but instead to the fact that the complainant is a Black man.
2. The complainant’s right to equality was therefore violated in the exercise of his right guaranteed by section 24 of the *Charter* not to be deprived of his liberty except on grounds provided by law and in accordance with the prescribed procedure.
3. While section 636 *HSC* authorizes the police to intercept drivers on the road without grounds other than to ensure public safety, it goes without saying that this provision can never be interpreted as allowing the police to violate the *Charter*, which, it should be recalled, is situated above the *HSC* and prevails over it.[[80]](#footnote-80)

#### Violation of equality and protection against unreasonable searches

1. The CDPDJ submits that the defendant Lamothe unreasonably and discriminatorily visually searched the interior of the car driven by Mr. Woodley.
2. Section 24.1 of the *Charter* protects every person against, notably, unreasonable searches.
3. As there is no doubt that a search based on prejudices and stereotypes motivated by personal characteristics such as the driver’s race, colour, or sex constitutes an unreasonable search, the necessary conclusion is that the complainant was the victim of a discriminatory interference of the right guaranteed to him by section 24.1 of the *Charter*.
4. Given that the defendants have no persuasive evidence to refute or justify the allegations of racial profiling, the Tribunal finds that the CDPDJ has met its burden of proving on a balance of probabilities that Mr. Woodley was the victim of discrimination in the form of racial profiling on September 19, 2018, when he was intercepted at the corner of Loranger Street and Curé-Labelle Boulevard in Laval by Officers Beaulac and Lamothe, in violation of section 10 of the *Charter*.

## What monetary compensation is justified and what public interest orders are required in the circumstances?

1. The CDPDJ asks that the defendants be condemned solidarily to pay Mr. Woodley $20,000 in damages for moral prejudice and that each officer be condemned to pay $2,000 in punitive damages.
2. The various orders requested as measures of redress seek primarily to compel the Ville de Laval to adopt a policy to combat racial profiling, to train its officers to counter discrimination in the form of racial profiling, and to collect and publish anonymized data on the perceived or presumed racial background of individuals who have been intercepted by the police to document racial profiling.

### Moral prejudice

1. To start, the Tribunal notes that the obligation to make reparation for injury caused to another through the fault of more than one person is solidary in extracontractual matters. Officers Beaulac and Lamothe are therefore solidarily liable for the prejudice suffered by Mr. Woodley.[[81]](#footnote-81)
2. The Ville de Laval, as employer and therefore principal of the officers, is also bound to make reparation for the prejudice caused to Mr. Woodley by their fault in the performance of their duties.[[82]](#footnote-82)
3. Having stated these principles, the Tribunal must assess the moral prejudice. The Court of Appeal stated that this exercise is delicate and discretionary in several respects:

[translation]

Translating moral prejudice into damages, that is, into monetary terms, is always delicate. As Vézina J.A. wrote in *Calego International inc. c. Commission des droits de la personne et des droits de la jeunesse*, [translation] “measuring moral damages and the resulting compensation is a delicate task that is necessarily discretionary”, and, we would be tempted to add, almost arbitrary.[[83]](#footnote-83)

1. That said, as Brunelle J. stated on behalf of the Tribunal in *DeBellefeuille*[[84]](#footnote-84), this exercise may be guided by judgments rendered in similar cases:

[translation]

[225] To alleviate some of the uncertainty inherent in the assessment of moral injury, the higher courts teach us to compare the case at hand “to other analogous cases in which non-pecuniary damages were awarded”.

[References omitted.]

1. The Tribunal therefore considers it useful to repeat the summaries of a few recent decisions of the Human Rights Tribunal on racial profiling by the police to try to identify a trend.
2. In *DeBellefeuille*[[85]](#footnote-85) in 2020, the Tribunal summarized the 2012 judgment in *Rezko* with respect to the moral damages awarded:

[translation]

[232] *Rezko* concerned an intervention, during which a police officer made discriminatory remarks to the victim related to his ethnicity and multiplied the steps necessary to verify his criminal record, bordering on harassment and abuse.

[233] Before the Tribunal, Mr. Rezko testified about the state of shock and the anger, humiliation, and feeling of powerlessness that the police intervention initially caused him, as well as the fear and loss of confidence he continues to have in regard to the police several years later.

[234] The Tribunal found that the racist insults, the resulting discriminatory interference with his dignity, and the deprivation of liberty that Mr. Rezko suffered as a result of police practices marked by racial profiling justified monetary compensation of **$10,000**.

[References omitted; emphasis added.]

1. In *Nkamba*[[86]](#footnote-86), rendered in 2023 in connection with an incident that occurred on February 16, 2018, Lapierre J., on behalf of the Tribunal, discussed the amounts awarded in *Mensah*[[87]](#footnote-87) in 2018, *DeBellefeuille*[[88]](#footnote-88) in 2020, and in *Nyembwe*[[89]](#footnote-89) in 2021:

[translation]

[114] Recent case law includes many instances where damages for moral prejudice were awarded for violations of fundamental rights during police stops in the context of racial profiling. The Tribunal will discuss three recent files that analyze the case law to set the appropriate amount of damages for moral prejudice.

[115] In *Mensah* in 2018, a Black man was subject to an interception while driving his vehicle. The police noted irregularities in his driving record. Things degenerated, and the victim was arrested, handcuffed, searched, and detained for some time in the patrol car. The Tribunal awarded the victim **$8,000**.

[116] In *DeBellefeuille* in 2020, a Black man was intercepted at the wheel of a luxury car in front of his young son’s daycare. The police checked his identity and released him. The Tribunal awarded the victim **$10,000.**

[117] In *Nyembwe* in 2021, following a report made by a victim of domestic violence, a Black man was arrested, handcuffed, searched, and detained in the patrol car, even though he did not match the description provided by the person who made the report. The Tribunal awarded him **$15,000.**

[References omitted; emphasis added.]

1. Also in *Nkamba*, the Tribunal referred to a judgment rendered concerning the same complainant regarding an incident on November 30, 2017, involving the same police force[[90]](#footnote-90):

[translation]

[119] This is the second such incident in two and a half months for Mr. Nkamba. On November 30, 2017, the Uber in which Mr. Nkamba was a passenger was intercepted in front of his home. Officers with the Gatineau police force (SPVG) asked him to identify himself without cause and he refused. The situation degenerated. Mr. Nkamba was arrested, handcuffed, searched, and issued two statements of offence. This Tribunal held that he was the victim of racial profiling and awarded him **$10,000** in damages for moral prejudice.

[References omitted; emphasis added.]

1. The Tribunal rendered judgment the same day on the second incident that occurred on February 16, 2018, and awarded Mr. Nkamba **$7,500** in compensation for moral prejudice due to racial profiling.[[91]](#footnote-91) Mr. Nkamba was arrested in front of his home, while sitting in a taxi, because he was not wearing his seatbelt. He was arrested, searched, and handcuffed because he refused to identify himself. The slightly lower amount awarded for this second incident was justified by the fact that his psychological state was less affected than during the first incident.
2. To these decisions, the Tribunal adds *Janvier*[[92]](#footnote-92), rendered in 2023, a few months after the two *Nkamba* judgments. The complainants, Mr. Janvier and his wife, Ms. Estimable, who are Black, claimed that they were victims of an interception motivated by racial profiling. The officer in question had also prolonged the detention and check because she doubted Mr. Janvier’s identity. Lewis J. awarded Mr. Janvier **$6,000** in compensation for the moral prejudice, noting that the officer had not allowed the situation to escalate and stopped acting when she realized that her intervention was perceived as racial profiling. The judge also noted that he was not arrested, handcuffed, or issued a statement of offence. The Tribunal awarded Ms. Estimable, who was disturbed by the incident, $4,000.
3. In light of these decisions that offer guidance, the Tribunal must conduct an individualized analysis of the impact of the intervention experienced by Mr. Woodley on September 19, 2018.
4. First, the circumstances of the intervention.
5. Mr. Woodley had not committed any offence at the time he was intercepted. He was surprised, but quickly suspected that it was because he is a Black man. He was offended that he was being faulted for driving a car owned by a woman and did not understand why it was a problem. The video shows that he was agitated and indignant. He explained at the hearing that it was not the first time he had been intercepted this way without having committed any offence.
6. Three other officers joined Officers Beaulac and Lamothe; five officers in total were present. He was surrounded by three police cars with their lights flashing, one of which was placed diagonally to impede his vehicle, even though he had done nothing to suggest to the police that he planned to flee. He did not brandish a weapon or utter any physical threats.
7. Officer Lamothe placed her hand inside his vehicle to unlock the door. Officer Duchaine opened the door and inspected the interior. He was issued two statements of offence.
8. Unfortunately, the situation escalated.
9. Mr. Woodley testified that he was afraid of being seen, which is understandable. A witness seeing the extent of the scene could have easily concluded that the police were intercepting a major criminal, which Mr. Woodley is not.
10. Mr. Woodley was shaken by the incident. He was anxious and frustrated. His wife testified that he was overwhelmed by what had happened. He felt like a criminal for having driven his wife’s car. He was humiliated and kept repeating the story. She had to drive to the photographer for the photo shoot with their newborn because he was too shaken. Even though this photo shoot still took place, he could not smile for the photos and what was supposed to be a happy family moment was ruined.
11. Mr. Woodley consulted a psychologist but could not continue the sessions because of the cost.
12. Overall, he is more suspicious of the police and fears more for his safety.
13. The Court of Appeal recalled in *Bou Malhab*[[93]](#footnote-93) that the consequences of interfering with fundamental rights may be pernicious and genuine:

[translation]

[63] The fact that moral prejudice is more difficult to identify in no way diminishes the injury it constitutes. I would even go so far as to say that moral prejudice is all the more pernicious because it is not apparent. It affects human beings to their very core, has ramifications on their private selves, and destroys the serenity to which they aspire. It attacks their dignity and leaves individuals shaken and alone to combat the effects of an injury they carry within themselves rather than on their person or in their property.

[Emphasis added.]

1. It would be easy to affirm that being the subject of an interception in order to check your driver’s licence and registration certificate is not so serious, that Mr. Woodley was upset for nothing, that he should have simply shown his documents without protesting, and everything would have been over quickly. However, this would trivialize racial profiling and its impact on those affected by it. Care must be taken to avoid doing so without having experienced the prejudices related to one’s skin colour.
2. Mr. Woodley’s wife also noted in her testimony that as a White woman, her husband’s reaction was difficult to understand, but that after careful consideration, her brother or father often drove her mother’s car and never experienced this type of check. This comment is rather revealing.
3. In the circumstances, the Tribunal finds that $15,000 is appropriate and in line with the case law to compensate Mr. Woodley’s moral prejudice.

### Punitive damages

1. Section 49 of the *Charter* provides that in the case of unlawful and intentional interference with a *Charter* right or freedom, the victim is entitled to punitive damages.
2. Unlawful and intentional interference occurs when the person who commits the interference desires the consequences or a reasonable person in the same situation could have foreseen that these consequences were extremely probable for the victim. In *St-Ferdinand*[[94]](#footnote-94), the Supreme Court stated:

[121] Consequently, there will be unlawful and intentional interference within the meaning of the second paragraph of s. 49 of the *Charter* when the person who commits the unlawful interference has a state of mind that implies a desire or intent to cause the consequences of his or her wrongful conduct, or when that person acts with full knowledge of the immediate and natural or at least extremely probable consequences that his or her conduct will cause.

[References omitted.]

1. In *de Montigny*[[95]](#footnote-95), the Supreme Court stated that “[a]t this stage, intentionality refers not to the intent to commit the fault but rather to the intent to cause the result thereof”.
2. In Imperial Tobacco Canada ltée c. Conseil québécois sur le tabac et la santé[[96]](#footnote-96), the Court of Appeal stated that intent focuses on the consequences of the conduct, not on the conduct itself:

[translation]

[1000] It was settled during the hearing that the analysis of intent should focus on the consequences of the injurious misconduct and not on the conduct itself. The case law requires proof (i) that the author of the interference wished to cause the consequences of the wrongful interference or (ii) that he or she was aware of the immediate and natural or extremely probable consequences of his or her misconduct.

1. The analysis of intent to cause the consequences, or knowledge of the probable consequences, is a two-step test as contemplated by the Court of Appeal in Spieser c. Procureur général du Canada.[[97]](#footnote-97)
2. In *DeBellefeuille*[[98]](#footnote-98), the Tribunal noted that the analysis of whether the unlawful interference is intentional has both a subjective and an objective aspect. The subjective aspect determines whether the perpetrator of the violation intended the consequences, whereas the objective aspect determines whether a reasonable person in the same situation could have foreseen the consequences to the victim.
3. As in *DeBellefeuille*[[99]](#footnote-99), the Tribunal cannot find that the officers here intended to cause the consequences of their intervention to Mr. Woodley or the moral prejudice he suffered. The question is whether, when assessing the objective aspect, a reasonable person in the same situation could have foreseen the negative consequences of the intervention to Mr. Woodley. The Tribunal must answer this question in the affirmative.
4. Mr. Woodley was intercepted because of his skin colour even though he had not committed any offence. Right away, an objective reasonable person informed of the circumstances would easily understand the vexatious nature of the interception for the person concerned. A reasonable person would view it as an interference with their dignity and freedom, with the ensuing consequences.
5. Added to this is all the circumstances of this interception. The officers’ call for backup increased Mr. Woodley’s humiliation and anger because it could give the impression that the police were intercepting a criminal.
6. It was more than probable that Mr. Woodley felt he was being profiled, which moreover was what he spontaneously said when the officers approached him. They should have known that their interception would cause him prejudice.
7. The Tribunal therefore concludes that the officers’ interference with Mr. Woodley’s right to equality was intentional within the meaning of section 49 of the *Charter* and gives rise to punitive damages.
8. The CDPDJ seeks $2,000 from each officer under this count. This amount is justified based on the criteria set out in article 1621 of the *Civil Code of Québec*.[[100]](#footnote-100)

### Public interest measures

1. In accordance with section 80 of the *Charter*, the CDPDJ seeks the following measures of redress in the public interest:

[translation]

**ORDER** the defendant SPL:

**TO ADOPT** a policy specifically intended to combat racial profiling;

**TO INCLUDE** the following in the policy:

1. A statement that racial profiling is present in police interventions as well as possible conscious or unconscious prejudices during such interventions;
2. The main prejudices associated with various racialized groups, including in particular Black people;
3. The main signs of differential or unusual treatment that are characteristic of racial profiling during police interventions;
4. The most effective measures to counter racial profiling during police interventions; and
5. The consequences of racial profiling on racialized persons and groups.

**TO CIRCULATE** the policy to all police officers, supervisors, and managers currently employed by its police force as well as to employees to be hired in the future, and to forward a copy to the Commission, the whole within one year of the judgment to be rendered or on the date of hire, as the case may be;

**TO PROVIDE** training by a racial profiling expert to counter discrimination in the form of profiling, with a formal assessment of learning outcomes, to police officers currently in its employment as well as those to be hired in the future, including supervisors and managers, the whole within one year of the judgment or within three months of the date of hire, as the case may be, such training to include at least the following:

1. The definition of racial profiling as recognized by the Supreme Court of Canada in *Bombardier*, [2015] 2 SCR 789;
2. A review of the current case law on racial profiling;
3. A review of the literature on the social context related to racial profiling during police interventions;
4. A statement that racial profiling is present in police interventions as well as possible conscious or unconscious prejudices during such interventions;
5. The main prejudices associated with various racialized groups, including in particular Black people;
6. The main indicators of differential or unusual treatment that are characteristic of racial profiling during police interventions;
7. The most effective measures to counter racial profiling during police interventions; and
8. The consequences of racial profiling on racialized persons and groups.

**TO ENSURE** that the training is revised and/or adapted, as needed, so that it is provided at least every five years to all police officers, supervisors, and managers currently in its employment as well as to employees to be hired.

**TO** systematically **COLLECT AND PUBLISH** the anonymized data on the perceived and/or presumed racial background of individuals who have been subject to any type of interception by the police to document racial profiling, the whole, in respect of the rights and freedoms guaranteed by the *Charter*, including the right to a private life, in a separate database strictly for administrative purposes.

1. The measures sought by the CDPDJ can be divided into three groups:

* implement a policy to combat racial profiling;
* train the police on racial profiling; and
* collect data on the racial background of individuals who have been intercepted.

1. The Ville considers that the measures sought are not necessary because it has already implemented an action plan to counter racial profiling and improve relations between its officers and racialized persons.
2. In June 2020, the Ville published a document titled *Nouveau regard sur le Service de police de Laval – Comment offrir un service de proximité de qualité à l’ensemble des citoyens, sans distinction à l’égard de leurs origines ethniques ou statut social* ([translation] *Fresh look at the Service de police de Laval – How to provide quality local service to all citizens regardless of ethic origin or social status*).[[101]](#footnote-101) It acknowledges the existence of racial profiling, its negative consequences, and the disproportionate number of interception of people from minority groups. It is basically a statement of principles and measures that the Ville wishes to implement.
3. In July 2020, the Ville launched the “Grand dialogue” ([translation] “Great Dialogue”), a series of citizen consultations. Its purpose was to open a dialogue with citizens to diagnose the relationship between the police and citizens, more specifically those from ethnocultural minorities.
4. The report on this consultation with over 3,000 people was published in July 2021.[[102]](#footnote-102) It gave rise to a plan to combat racial and social discrimination called *Justice et équité* ([translation] *Justice and fairness*), published in March 2022.[[103]](#footnote-103) This plan contains an undertaking not to discriminate and is built around seven measures, including the development of a directive to guide police stops and training for SPL staff on how to intervene and interact with the different cultural communities.
5. In accordance with the *Justice et équité* plan, a directive titled *Interpellation policière et profilage* ([translation] *Police stops and profiling*) was issued in December 2022.[[104]](#footnote-104) It applies to all SPL staff and identifies the difference between criminal profiling and discriminatory profiling and describes unlawful profiling, in particular where profiling is based on racial background and ethnic, cultural, or national origin. It includes a procedure to systematically collect data on police stops. The scope of application states that there should not be any unlawful profiling when a person is stopped on the road or intercepted. However, the entire directive, whether in its guiding principles or practices, mentions only informational stops. It should be noted that it replaced a 2008 intervention policy on the subject.[[105]](#footnote-105)
6. Since April 2022, a four-hour training on the *Chartes des droits et libertés de la personne et travail policier* ([translation] *Charters of human rights and freedoms and police work*) is being offered by the Ville’s legal affairs department. Every employed officer had to take it, as will each new recruit.
7. The Ville is also working with other organizations to develop videos on unlawful profiling. The videos will be available in approximately two years.
8. From all of the above, the Tribunal finds that the Ville acknowledges the seriousness of racial profiling in police interventions and has taken reasonable steps to counter it.
9. By examining the measures taken by the Ville and those sought by the CDPDJ side by side, the Tribunal observes that they are not all the same and that it is necessary and justified to render certain orders as measures of redress.
10. First, with respect to the request to draft a policy, the Tribunal finds that the directive *Interpellation policière et profilage*, which can be characterized as a policy, concerns only informational stops, not interception, two different concepts from both a legal and a factual perspective. Thus, the directive does not apply to the case of Mr. Woodley, who was intercepted. As discussed above, interceptions are an intrinsic part of racial profiling. This directive should be revised to also apply to interceptions.
11. Next, with respect to training, after reading the presentation *Chartes des droits et libertés de la personne et travail policier*, the Tribunal notes that its content corresponds to what the CDPDJ is asking for. Its content is appropriate and consistent with the teachings in the case law. However, this training is not repeated once it has been completed. This is important because Officers Beaulac and Lamothe both completed this training, but Officer Beaulac testified that she has no particular memory of it. Officers should redo an updated training on a regular basis. The CDPDJ asks that it be every five years, which is reasonable.
12. Last, with respect to data collection, the Ville acknowledges its need and usefulness because it is part of the directive *Interpellation policière et profilage*. This collection should also include interception, not merely informational stops. Insofar as this is already being done for informational stops, it would be easy for the SPL to expand its scope.
13. The Tribunal adds and concludes its judgment on the importance of collecting data on actual or presumed racial background to document the extent of racial profiling within the police as the Tribunal also acknowledged in *DeBellefeuille*.[[106]](#footnote-106)

\* \* \*

1. Throughout this judgment, the Tribunal has used the expression [translation] “race” because it is the word used in section 10 of the *Charter* as a prohibited ground of discrimination.
2. The Tribunal would nonetheless like to note that this expression is outdated and inconsistent with the modern French language. Moreover, the Larousse Dictionary acknowledges this in its definition of the word race:

[translation]

…

**2.** Former classification of the human species according to morphological or cultural criteria, without any scientific basis, the use of which is at the root of various racisms and their practices. (Faced with human diversity, classification according to the most obviously apparent criteria [especially skin colour] was introduced and prevailed throughout the 19th century. Due to progress in genetics, any attempt to classify human beings by race is now rejected.)

**…**[[107]](#footnote-107)

1. In the Tribunal’s view, the word race is undesirable when referring to skin colour. Black people, like White people or any other person to whom a skin colour is attributed, are part of one and the same race, the human race. While it is necessary to protect Black people, or anyone who is a visible minority, from discrimination based on their skin colour, it is regrettable to use a word that should instead signify the difference between the human race and the animal race.
2. As Gilles Vigneault so aptly sang in *Mon pays*: [translation] “Humans are my race”.

**FOR THESE REASONS, THE TRIBUNAL:**

1. **GRANTS** the plaintiff’s application in part;
2. **CONDEMNS** the defendants solidarily to pay Jonathan Woodley moral damages of $15,000;
3. **CONDEMNS** the defendant Caroline Beaulac to pay Jonathan Woodley punitive damages of $2,000;
4. **CONDEMNS** the defendant Jessica Lamothe to pay Jonathan Woodley punitive damages of $2,000;
5. **ORDERS** the defendant Ville de Laval (Service de police de la Ville de Laval) to revise its directive *Interpellation policière et profilage* to also include police interceptions, in particular to collect data on actual or presumed racial background during police interceptions;
6. **ORDERS** the defendant Ville de Laval (Service de police de la Ville de Laval) to distribute to every person employed by its police force, within one year of this judgment, its directive *Interpellation policière et profilage*, revised to include police interception, or upon hiring, as the case may be;
7. **ORDERS** the defendant Ville de Laval (Service de police de la Ville de Laval) to ensure that its training on the *Chartes des droits et libertés de la personne et travail policier* be updated annually and that every person employed by its police force receive this training within three months of being hired and every five years thereafter;
8. **THE WHOLE** with interest at the legal rate and the additional indemnity under article 1619 CCQ as of the date of service of the proposed measures of redress for moral damages and as of the date of the judgment for punitive damages, as well as legal costs, including any expert fees.

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|  | | |
| Mtre Buschra Jalabi | | |
| Mtre Erin Sandberg | | |
| BITZAKIDIS CLÉMENT-MAJOR FOURNIER | | |
| For the plaintiff | | |
|  | | |
| Mtre Marie-Pier Dussault-Picard | | |
| Mtre Maryann Carter | | |
| LESAJ, AVOCATS ET NOTAIRES | | |
| For the defendants | | |
|  | | |
| Dates of hearing: | March 6 to 10, May 18 and 23, June 6, 2023 | |

1. *Charter of human rights and freedoms*, CQLR, c. C-12 [*Charter*]. [↑](#footnote-ref-1)
2. *Highway Safety Code*, CQLR, c. C-24.2 [*HSC*]. [↑](#footnote-ref-2)
3. Exhibit D-28A, Licence plate inquiries made with the *Québec Police Intelligence Centre* (QPIC) by Officers Beaulac and Lamothe between September 18 and 20, 2018 (sealed); Exhibit D-28B, Inquiries made with the *Québec Police Intelligence Centre* (QPIC) by Officers Beaulac and Lamothe on September 19, 2018, between 10:32:17 a.m. and 10:52:08 a.m. (sealed). [↑](#footnote-ref-3)
4. *Ibid*. [↑](#footnote-ref-4)
5. Exhibit D-27, Google Mapsexcerpt showing the intersection of Curé-Labelle Boulevard and Loranger Street, annotated by Officer Gélinas, March 10, 2023, at 11:36 a.m. [↑](#footnote-ref-5)
6. Exhibit P-2, Copy of video recordings dated September 19, 2018 (*en liasse*). [↑](#footnote-ref-6)
7. Exhibit D-26, Excerpt of radio communications on September 19, 2018, of the Service de police de Laval from 10:35:49 a.m. to 10:40:01 a.m. [↑](#footnote-ref-7)
8. Exhibit P-5, Copy of statement of offence 0413746674, September 19, 2018. [↑](#footnote-ref-8)
9. Exhibit P-7, Copy of acquittal on charge 0413746674, June 22, 2020. [↑](#footnote-ref-9)
10. Exhibit P-4, Copy of statement of offence 0413746683, September 19, 2018. [↑](#footnote-ref-10)
11. Exhibit P-6, Copy of acquittal on charge 0413746683, June 22, 2020. [↑](#footnote-ref-11)
12. *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Bombardier Inc. (Bombardier Aerospace Training Center),* 2015 SCC 39 at para. 33 [*Bombardier*]. [↑](#footnote-ref-12)
13. *Commission des droits de la personne et des droits de la jeunesse (Dagobert et autres) c. Bertrand,* 2013 QCTDP 6 at para. 121 [*Dagobert*]. [↑](#footnote-ref-13)
14. *Commission des droits de la personne et des droits de la jeunesse (DeBellefeuille) c. Ville de Longueuil,* 2020 QCTDP 21 at paras. 135–136 [*DeBellefeuille*]. [↑](#footnote-ref-14)
15. *Dagobert*, *supra* note 13 at para. 119. [↑](#footnote-ref-15)
16. *Bombardier*, *supra* note 12 at para. 35; *Mouvement laïque québécois v. Saguenay (City),* 2015 SCC 16 at para. 63 [*Mouvement laïque*]; *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse),* 2021 SCC 43 at para. 36 [*Ward*]. [↑](#footnote-ref-16)
17. *Commission des droits de la personne et des droits de la jeunesse (Rezko) c. Montréal (Service de police de la ville de) (SPVM),* 2012 QCTDP 5 at paras. 181 and 183 [*Rezko*]; *DeBellefeuille, supra* note 14 at para. 141; *Commission des droits de la personne et des droits de la jeunesse (Bazelais) c. Ville de Montréal (Service de police de la Ville de Montréal) (SPVM),* 2022 QCTDP 6 at paras. 210–211 [*Bazelais*]; *Commission des droits de la personne et des droits de la jeunesse (Nkamba) c. Ville de Gatineau*, 2023 QCTDP 14 at para. 20 [*Nkamba*]. [↑](#footnote-ref-17)
18. *Rezko*, *ibid*. at paras. 179 and 250; *Commission des droits de la personne et des droits de la jeunesse (Mensah) c. Ville de Montréal (Service de police de la Ville de Montréal)*, 2018 QCTDP 5 at para. 69 [*Mensah*]; *Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau*, 2021 QCTDP 1 at para. 307 [*Nyembwe*]. [↑](#footnote-ref-18)
19. *Rezko, supra* note 17 at para. 183. [↑](#footnote-ref-19)
20. Michèle Turenne, “Le profilage racial : une atteinte au droit à l’égalité – Mise en contexte, fondements, perspectives pour un recours”, in *Développements récents en profilage racial, Barreau du Québec*, Service de formation continue, 2009, La Référence, at 87, 88, 90, and 96. See also David M. Tanovich, “Applying The Racial Profiling Correspondence Test”, (2017) 64 *CLQ* 359 at 368, who states that an (“… unjustifiable arrest…”) may constitute racial profiling. [↑](#footnote-ref-20)
21. *Rezko*, *supra* note 17 at para. 180; *Commission des droits de la personne et des droits de la jeunesse (Miller et autres) c. Ville de Montréal (Service de police de la Ville de Montréal) (SPVM),* 2019 QCTDP 31 at para. 185 [*Miller*]; *DeBellefeuille*, *supra* note 14 at para. 143; *Bazelais*, *supra* note 17 at paras. 276 and 307. [↑](#footnote-ref-21)
22. *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City),* 2000 SCC 27 at para. 41; *Rezko, supra* note 17 at para. 178; *Mensah*, *supra* note 18 at para. 69; *Miller*, *supra* note 21 at para. 175; *DeBellefeuille*, *supra* note 14 at para. 144. [↑](#footnote-ref-22)
23. *Bombardier*, *supra* note 12 at paras. 48–52; *Ward*, *supra* note 16 at para. 36; *DeBellefeuille*, *supra* note 14 at paras. 131, 145 and 146; *Nyembwe*, *supra* note 18 at paras. 314–315; *Nkamba*, *supra* note 17 at para. 23. [↑](#footnote-ref-23)
24. *Bombardier*, *ibid.* at paras. 40–41*; Rezko*, *supra* note 17at para. 184; *Miller*, *supra* note 21at paras. 195–196; *DeBellefeuille*, *ibid.* at para. 147*; Nyembwe*, *ibid.* at para. 297*; Nkamba*, *ibid.* at para. 25. [↑](#footnote-ref-24)
25. *Bombardier*, *ibid.* at para. 53. [↑](#footnote-ref-25)
26. *Ibid*. at para. 54; *DeBellefeuille*, *supra* note 14 at paras. 129 and 150. [↑](#footnote-ref-26)
27. See *Ont.* *Human Rights* *Comm. v. Simpsons-Sears,* [1985] 2 SCR 536 at para. 28; *Bombardier*, *supra* note 12 at paras. 59–60: A p*rima facie* case is [translation] “sufficient proof absent an answer that a discriminatory ground was a factor”, that is, evidence “which covers the allegations made and which, if they are believed, is complete and sufficient …”. [↑](#footnote-ref-27)
28. *Bombardier*, *ibid.* at para. 64; *Bazelais*, *supra* note 17 at paras. 205–206; *Nkamba*, *supra* note 17 at paras. 28–29. [↑](#footnote-ref-28)
29. *Dagobert*, *supra* note 13 at para. 151; *Rezko*, *supra* note 17 at para. 193; *Mensah*, *supra* note 18 at para. 81; *DeBellefeuille*, *supra* note 14 at para. 154; *Nyembwe*, *supra* note 18 at para. 291; *Nkamba*, *ibid.* at para. 99. [↑](#footnote-ref-29)
30. *Bombardier*, *supra* note 12 at paras. 3, 34–37, and 64. [↑](#footnote-ref-30)
31. *Dagobert*, *supra* note 13 at para. 145; *Rezko*, *supra* note 17 at para. 185; *Miller*, *supra* note 21 at para. 196; *DeBellefeuille*, *supra* note 14 at para. 155; *Bazelais*, *supra* note 17 at para. 204. [↑](#footnote-ref-31)
32. *R. v. Le,* 2019 SCC 34 at paras. 80–81; *R. c. Dorfeuille,* 2020 QCCS 1499 at para. 61 [*Dorfeuille*]. [↑](#footnote-ref-32)
33. *Nyembwe*, *supra* note 18 at para. 311. [↑](#footnote-ref-33)
34. *Ibid.*; See also *Dorfeuille* *supra* note 32 at para. 55; *Miller*, *supra* note 21 at para. 196; *DeBellefeuille*, *supra* note 14 at para. 148. [↑](#footnote-ref-34)
35. *R.* *v*. *Grant*, 2009 SCC 32 at para. 154; *R*. *v*. *Ipelee*, 2012 SCC 13 at paras. 59–60; *R*. *v*. *Le*, *supra* note 32 at para. 97; *Commission des droits de la personne et des droits de la jeunesse (Toussaint) c. Procureur général du Québec (Ministère de la Sécurité publique)*, 2023 QCTDP 21 at para. 234 and following. [↑](#footnote-ref-35)
36. *Bombardier*, *supra* note 12 at para. 88. [↑](#footnote-ref-36)
37. *Mensah*, *supra* note 18 at para. 94; *DeBellefeuille*, *supra* note 14 at para. 161; *Nyembwe*, *supra* note 18, at para. 187; *Nkamba*, *supra* note 17 at para. 31. [↑](#footnote-ref-37)
38. *R. v*. *Ipeelee*, *supra* note 35 at para. 469; *Miller*, *supra* note 21 at para. 163. [↑](#footnote-ref-38)
39. *R*. *v*. *S. (R.D.)*, 1997 CanLII 324 (SCC) at paras. 42–43; *R*. *v*. *Spence*, 2005 SCC 71 at para. 57. [↑](#footnote-ref-39)
40. *Peel Law Association v*. *Pieters*, 2013 ONCA 396 at para. 120. [↑](#footnote-ref-40)
41. Exhibit P-9, Copy of the expert report prepared by Marie Meudec, dated May 28, 2022, her statement of fees, curriculum vitae, and Statement on an expert’s mission (art. 235 CCP) (*en liasse*); Exhibit P-9A, Addendum to Ms. Meudec’s expert report dated February 2, 2023, additional statement of fees and updated CV (*en liasse*, in a sealed envelope). [↑](#footnote-ref-41)
42. *Code of Civil Procedure*, CQLR, c. C-25.01, art. 22. [↑](#footnote-ref-42)
43. *Commission des droits de la personne et des droits de la jeunesse (Nasr) c. Beaulé,* 2009 QCTDP 25 at para. 64; *Dagobert*, *supra* note 13 at para. 160; *Mensah*, *supra* note 18 at paras. 86–91; *Miller*, *supra* note 21 at para. 238; *DeBellefeuille*, *supra* note 14 at paras. 165–166; *Nkamba*, *supra* note 17 at paras. 32–34. [↑](#footnote-ref-43)
44. See in particular *Longueuil (Ville de) c. Debellefeuille,* 2012 QCCM 235 at paras. 128 and 252 [*Debellefeuille*]; *Ville de Montréal c*. *Baptiste*, 2019 QCCM 131 at para. 33 [*Baptiste*]; *Ville de Montréal c. Charles,* 2020 QCCM 70atparas. 30 and 32 [*Charles*]. [↑](#footnote-ref-44)
45. *R.* *v*. *R. (D.)*, 1996 CanLII 207 (SCC) at para. 93; *Mensah*, *supra* note 18 at para. 91; *DeBellefeuille*, *supra* note 14 at para. 167. [↑](#footnote-ref-45)
46. *Bombardier*, *supra* note 12 at paras. 35 and 40–54. Note that this three-point framework replaces the one developed by the Tribunal in *Rezko*, *supra* note 17 at para. 177. [↑](#footnote-ref-46)
47. *Baptiste*, *supra* note 44 at para. 21; *DeBellefeuille*, *supra* note 14 at paras. 163 and 169; *Commission des droits de la personne et des droits de la jeunesse (Ducas) c. Ville de Repentigny (Service de police de la Ville de Repentigny)*, 2022 QCTDP 14 at paras. 107–108; *Dowd c. Lemay-Terriault,* 2021 QCCQ 4884 at paras. 49–50; *Benoit c. Dowd,* 2022 QCCQ 1528 at para. 49; *Charles*, *supra* note 44 at paras. 20–22 and 27; *Debellefeuille, supra* note 44 at para. 272; *Commissaire à la déontologie policière c. Lachance*, 2022 QCCDP 31 at para. 104. [↑](#footnote-ref-47)
48. Unless the driver is perceived as a minor under the age of 16 since section 10 of the *Charter* prohibits discrimination based on age “except as provided by law”. [↑](#footnote-ref-48)
49. *Nyembwe*, *supra* note 18 at paras. 469, 476, 479, 500, 502, and 505; *Baptiste*, *supra* note 44 at paras. 1 and 36–39; *Charles*, *supra* note 44 at paras. 9, 10, and 16. [↑](#footnote-ref-49)
50. Exhibit D-20, Statement of offence 0 413 746 692 and abridged offence report, statement of offence 0 413 746 709 and abridged offence report, and statement of offence 0 413 746 736 and abridged offence report of the Ville de Laval dated September 19, 2018 (*en liasse*). [↑](#footnote-ref-50)
51. Exhibit D-22, Amended police ethics complaint by Jonathan Woodley, dated April 24, 2019. [↑](#footnote-ref-51)
52. Exhibit D-28B, Inquiries by Officers Beaulac and Lamothe with the *Québec Police Intelligence Centre* (QPIC) on September 19, 2018, between 10:32:17 a.m. and 10:52:08 a.m. (sealed). [↑](#footnote-ref-52)
53. Exhibit P-12, Affidavit of Stéphanie Mucci and three photos of the vehicle; Exhibit D-29, Affidavit of Charles Laurin, dated April 5, 2023, and three (3) photos of the vehicle. [↑](#footnote-ref-53)
54. *Baptiste*, *supra* note 44 at para. 23. [↑](#footnote-ref-54)
55. Defendants’ factum, February 3, 2022, at para. 32. [↑](#footnote-ref-55)
56. Exhibit D-26, Excerpt from radio calls on September 19, 2018, by the Laval police force from 10:35:49 a.m. to 10:40:01 a.m. (USB key). [↑](#footnote-ref-56)
57. *R. v. Grant,* 2009 SCC 32 atpara. 25. [↑](#footnote-ref-57)
58. *R. v. Ladouceur,* [1990] 1 SCR 1257. [↑](#footnote-ref-58)
59. See also *DeBellefeuille*, *supra* note 14 at paras. 193–197 and *Luamba c. Procureur général du Québec*, 2022 QCCS 3866 (notice of appeal, CA, 2022-11-30, 500-09-030301-220, under advisement since February 6, 2024). [↑](#footnote-ref-59)
60. Exhibit D-28B, *supra* note 3 at 10:43:02, 10:43:07, and 10:44:16. [↑](#footnote-ref-60)
61. *Rezko*, *supra* note 17 at paras. 183 and 254–255. [↑](#footnote-ref-61)
62. *Nyembwe*, *supra* note 18 at paras. 480–481 and 506. [↑](#footnote-ref-62)
63. *Baptiste*, *supra* note 44; *Charles*, *supra* note 44. [↑](#footnote-ref-63)
64. *Nyembwe*, *supra* note 18. [↑](#footnote-ref-64)
65. Exhibit P-6, *supra* note 11; Exhibit P-7, *supra* note 9. [↑](#footnote-ref-65)
66. See Commission des droits de la personne et des droits de la jeunesse, “Racial profiling: Context and Definition”, June 2005 [Online: https://www.cdpdj.qc.ca/storage/app/media/publications/racial\_profiling\_definition.pdf]. [↑](#footnote-ref-66)
67. Exhibit P-9, *supra* note 41; Exhibit P-9A, *supra* note 41. [↑](#footnote-ref-67)
68. Exhibit P-9, *supra* note 41 (Text transcription). [↑](#footnote-ref-68)
69. *Supra* note 42. [↑](#footnote-ref-69)
70. See e.g., *Rezko*, *supra* note 17; *Mensah*, *supra* note 18; *DeBellefeuille*, *supra* note 14. [↑](#footnote-ref-70)
71. *Ward*, *supra* note 16. [↑](#footnote-ref-71)
72. *Procureur général du Québec c. Centre de lutte contre l'oppression des genres*, 2024 QCCA 348. [↑](#footnote-ref-72)
73. *Ibid*. at para. 134. [↑](#footnote-ref-73)
74. *Ibid*. at para. 128. [↑](#footnote-ref-74)
75. *Ibid.* at para. 130. [↑](#footnote-ref-75)
76. *Ward*, *supra* note 16. [↑](#footnote-ref-76)
77. *Bombardier*, *supra* note 12 at para. 54. [↑](#footnote-ref-77)
78. *Quebec (Public Curator) v. Syndicat national des employés de l'hôpital St-Ferdinand,* [1996] 3 SCR 211 at para. 105 [*St-Ferdinand*]; *Ward*, *supra* note 16 at paras. 56 and 105. [↑](#footnote-ref-78)
79. *Mastropaolo* *c.* *St-Jean-de-Matha (Municipalité de)*, 2010 QCTDP 7 at para. 138; *Miller*, *supra* note 21 at paras. 223–225. [↑](#footnote-ref-79)
80. Ss. 52 and 53 of the *Charter*; *Bombardier*, *supra* note 12 at para. 30. [↑](#footnote-ref-80)
81. Art. 1526 CCQ. [↑](#footnote-ref-81)
82. Art. 1463 CCQ; *Mensah*, *supra* note 18 at para. 331; *DeBellefeuille*, *supra* note 14 at para. 238; *Nyembwe*, *supra* note 18 at paras. 512–513; *CDPDJ* (*Nkamba) c. Ville de Gatineau*, 2023 QCTDP 13 at paras. 292–293; *Nkamba*, *supra* note 17 at paras. 131–132. [↑](#footnote-ref-82)
83. Commission des droits de la personne et des droits de la jeunesse (X) c. Commission scolaire de Montréal, 2017 QCCA 286, leave to appeal to SCC refused, 37538 (17 August 2017), cited in *DeBellefeuille*, *supra* note 14 at para. 220. [↑](#footnote-ref-83)
84. *DeBellefeuille*, *ibid*. [↑](#footnote-ref-84)
85. *Ibid*. [↑](#footnote-ref-85)
86. *Nkamba*, *supra* note 17. [↑](#footnote-ref-86)
87. *Mensah*, *supra* note 18. [↑](#footnote-ref-87)
88. *DeBellefeuille*, *supra* note 14. [↑](#footnote-ref-88)
89. *Nyembwe*, *supra* note 18. [↑](#footnote-ref-89)
90. *Nkamba*, *supra* note 17 at para. 119. [↑](#footnote-ref-90)
91. *Ibid.* *supra* note 17 at para. 130. [↑](#footnote-ref-91)
92. *Commission des droits de la personne et des droits de la jeunesse (Janvier et Estimable) c. Ville de Gatineau (SPVG)*, 2023 QCTDP 20. [↑](#footnote-ref-92)
93. *Bou Malhab c*. *Métromédia CMR Montréal inc.,* 2003 CanLII 47948 (QC CA). [↑](#footnote-ref-93)
94. *St-Ferdinand*, *supra* note 78 at para.121. [↑](#footnote-ref-94)
95. *de Montigny v. Brossard (Succession),* 2010 SCC 51 at para. 60. [↑](#footnote-ref-95)
96. *Imperial Tobacco Canada ltée c. Conseil québécois sur le tabac et la santé,* 2019 QCCA 358. [↑](#footnote-ref-96)
97. Spieser c. Procureur général du Canada, 2020 QCCA 42 at paras. 555 and 569. [↑](#footnote-ref-97)
98. *DeBellefeuille*, *supra* note 14 at para. 248. [↑](#footnote-ref-98)
99. *Ibid*. at para. 249. [↑](#footnote-ref-99)
100. *Civil Code of Québec* (CQLR) (CCQ). [↑](#footnote-ref-100)
101. Exhibit D-3, Document titled *Nouveau regard sur le Service de police de Laval*. [↑](#footnote-ref-101)
102. Exhibit D-14, *Rapport de consultation citoyenne – Dialogue avec les citoyens par le Service de police de Laval* ([translation] *Citizen consultation report – Dialogue with citizens by the Laval Police*), July 2021. [↑](#footnote-ref-102)
103. Exhibit D-15, Service de police de Laval, *Justice et Équité*. [↑](#footnote-ref-103)
104. Exhibit D-19, Service de police de Laval, *Interpellation policière et profilage – Directive*, December 7, 2022. [↑](#footnote-ref-104)
105. Exhibit D-30, *La directive politique d’intervention : profilage criminel, profilage raciale* ([translation] *Intervention policy: criminal and racial profiling*) October 28, 2008. [↑](#footnote-ref-105)
106. *DeBellefeuille*, *supra* note 14 at paras. 323 to 325. [↑](#footnote-ref-106)
107. Isabelle Jeune-Maynart (ed.), *Larousse- Dictionnaire de français* (Paris: Larousse, 2024) sub verbo “race”, online: <Définitions : race - Dictionnaire de français Larousse>. [↑](#footnote-ref-107)