



Montreal, 7 July 2004

Mr. Pierre Marois
President
Commission des droits de la personne
360, rue Saint-Jacques (2^e étage)
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RE: Inquiry Request Regarding the École Nationale de Police du Québec and the Service du police de la ville de Montréal

Mr. Marois,

On 26 January 2004, the city council of Montreal adopted a policy outlining the medical standards for hiring of the Service de police de la ville de Montreal (SPVM); a copy of this policy is attached as Appendix A (les “normes d’embauche”). These standards echo in large part those of the École Nationale de police du Quebec (ENPQ). The important points of this policy include the following:

- before the medical standards for hiring came into effect at the ENPQ, candidates for admission who tested positive for Hepatitis B, Hepatitis C, or HIV were refused by the SPVM;
- the medical standards for admission into the ENPQ also include provisions for refusing candidates who test positive for Hepatitis B, Hepatitis C, or HIV
- no HIV-positive candidate may be admitted into the ENPQ (HIV status is verified either by the ENPQ’s or by the candidate’s attending doctor)
- the SPVM does not impose screening tests for Hepatitis B, Hepatitis C, or HIV, since it has access to the complete medical files of the ENPQ; it does, however, require all candidates to complete a medical questionnaire and undergo a complete medical examination by SPVM doctors. A candidate will not be hired until the SPVM can be sure that she or he is not a carrier of Hepatitis B, Hepatitis C, or HIV. Otherwise, “the candidate will be rejected.”

By virtue of article 4 of the *Règlement sur le régime des études de l'École nationale de police du Québec* (c. P-13.1, r.1.1) ("regulation"), a candidate for admission into the ENPQ must "have passed a medical exam in the 180 days preceding his training at the school" (art. 4, al. 5 of the regulation). The regulation also includes a complete list of the medical conditions to check for, including infectious diseases. The questionnaire itself, which can be found in appendix A of the regulation, contains, in addition to a question about infectious diseases, a question specifically about HIV/AIDS.

Medical examinations and hiring criteria can only be used to measure aptitudes and qualities required by specific jobs or training programs; otherwise, they violate articles 10 and 20 of the Charter of Rights and Freedoms ("the Charter"). The ENPQ's medical examination requirement and admission criteria, and the SPVM's hiring standards, are based on elements which have nothing to do with the aptitudes and qualities they require from their candidates. A candidate's HIV status does not in and of itself have an impact on her or his physical or mental ability to undergo police-patrol training or to work as a police officer.

The ENPQ's medical standards for admission and the SPVM's hiring standards are flagrant examples of direct discrimination, of the kind formally prohibited both by the Charter and by the Supreme Court of Canada. It is systemic discrimination and it cannot be tolerated in a democratic society. For such serious violations to be permitted, the ENPQ and the SPVM must demonstrate that no other reasonable measures are available to them to get the results they want. As you know, this is a heavy burden of proof. They must show that their demand for HIV-negative status in all candidates is reasonably linked to the aptitudes and qualities they require. There are no such reasonable links in the cases which concern us. The medical conditions of people living with HIV vary widely from one person to the next. Many, many of them are in excellent physical shape, and if they possess the aptitudes and qualities required for the job of police officer, they should not be denied access to it.

In order to stop this illegal discrimination against people living with HIV, we request the following as soon as possible:

- 1) that an inquiry be conducted into the admission and hiring criteria of the ENPQ and the SPVM;
- 2) that the SPVM be obliged to modify its hiring standards, in conformity with the applicable laws;
- 3) convince our elected representatives in the National Assembly to modify all regulations which contravene the Charter so flagrantly.

Thank you for your immediate attention to this matter. Please contact us if you require any further information or clarification regarding this file. We look forward to hearing from you.

Sincerely,

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P.j.: Annexe A (normes médicales d'embauche du SPVM)
C.c. : Monsieur Jacques Chagnon, Ministre de la sécurité publique
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Monsieur Peter Yeomans, Président de la Commission de la sécurité publique
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