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**Office of Inspector General of Montréal,
a First in Canada
2017 ICN Cartel Workshop
Combatting Cartels in Public Procurement
Ottawa, Canada
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Public Inquiry (Charbonneau Commission)

October 2011

Québec announces a wide scale public inquiry into the allegations of widespread corruption, infiltration of organized crime and illegal financing of political parties in the construction industry in the province, succumbing to the political and public pressure.

The Commission of Inquiry into the Awarding and Management of Public Contracts in the Construction Industry was chaired by the Honourable France Charbonneau, a Superior Court Justice.





Evidence presented at the Charbonneau Commission related to Montréal

Lino Zambito, a former construction contractor, became a star whistleblower at the Charbonneau Commission.



- In Montréal, the contracts regarding the refurbishment of sewers, the construction of sidewalks and the paving of roads were divided among selected contractors, who were taking turns obtaining the contracts.
- This cartel paid a percentage of the value of these contracts to the Montréal Mafia and to the municipal political party in power.
- Municipal officials were bribed to inflate the estimates and to approve the billing of false extras to the city.



Evidence presented at the Charbonneau Commission related to Montréal

RCMP, Project Colisée - Exhibit 12P-154: Video recorded on August 5, 2005 by the RCMP at the Consenza showing Nicolo Rizzuto, the patriarch of Montréal's mafia, receive money from a contractor.





Evidence presented at the Charbonneau Commission related to Montréal

Contractors from outside of Montréal were not allowed to bid on the city's public contracts.

A Québec City-based contractor told the Charbonneau Commission he received threats after trying to bid on contracts in Montréal. He first received a phone call from a competitor asking him to withdraw his bid on a ceramic tile project. He refused and got the contract.

He later received another phone call from Francesco Del Balso which was wiretapped. Del Balso called the contractor and said:

“You did work in ceramics in Montréal?”, Del Balso asked

“Yes”, replied the contractor.

“We'd prefer if you didn't work here any more.”

“Who are you?”

“Never mind who I am, next time you come here you won't leave. You have been warned.”



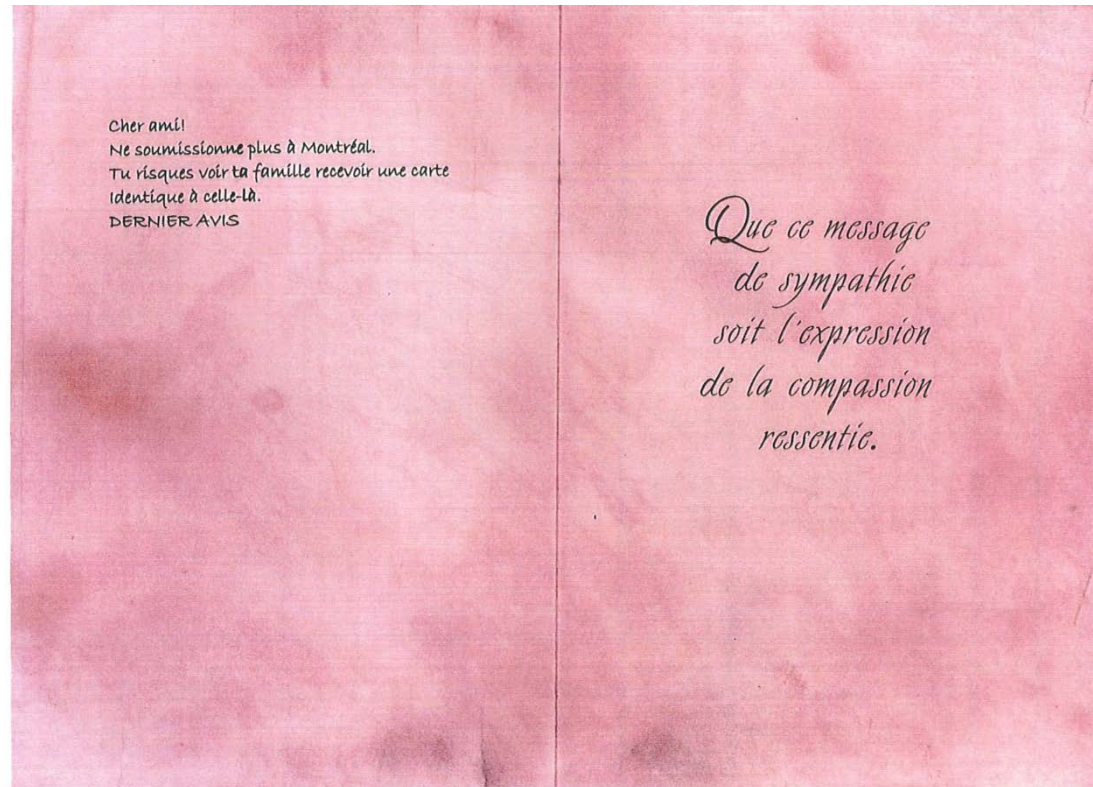
Francesco Del Balso one of the leaders of the Rizzuto organization arrested in Project Colisée





Evidence presented at the Charbonneau Commission related to Montréal

The contractor also received a sympathy card (Exhibit 21P-254) that was delivered to his office. It read: "Dear friend! Do not bid in Montréal anymore. You risk having your family receive a card identical to this one. FINAL WARNING."





Evidence presented at the Charbonneau Commission related to Montréal

Michel Lalonde, president of the engineering consulting firm Génius Conseil, testified in 2013. He revealed that:

- his firm, along with 6 other engineering giants, colluded between 2005 and 2009 to secure contracts from the city of Montréal;
- a 3% kickback was given to Union Montréal, the party of Gérald Tremblay, then mayor of the city;
- he was the “spokesman” for the group of engineering firms and coordinated the sharing of contracts between the firms’ executives, deciding who would bid on which contracts.



His testimony was corroborated by several representatives of engineering firms who made devastating allegations.



Evidence presented at the Charbonneau Commission related to Montréal

Gilles Surprenant, a retired engineer working for the city of Montréal, confessed that he accepted over \$700,000 from construction contractors for being part of the system of collusion.

His role: to artificially inflate the estimates of contracts involving sewers and waterworks, thus allowing contractors to submit bids that were much higher than the actual cost of the work.

He declared that the average cost of sewer, water main, paving and sidewalk contracts in Montréal jumped by at least of 20% - in some cases it even doubled.





Evidence presented at the Charbonneau Commission related to Montréal

Luc Leclerc, an another engineer working for the city of Montréal, confirmed that he accepted around \$500,000 as cash kickbacks. The amount of money he received usually represented 25% of the total value of false extras added to the contracts.

His role: to help inflate the value of extras and get his superiors approve them.

He also said that construction bosses offered to build his home for free and showered him with gifts.





Resignation of the mayor of Montréal

On November 5, 2012, Montréal mayor Gérald Tremblay resigns as a direct result of the revelations made at the Charbonneau Commission.





New mayor arrested

Interim mayor Michael Applebaum took office after Gérald Tremblay's resignation. He portrayed himself as a reforming white knight and promised to tackle corruption. When he became interim mayor of Montréal, he said:

"I solemnly vow that I will erase this stain on our city."

He was arrested on June 17, 2013 by the Provincial Police and faced a multiple corruption-related charges.

On March 30, 2017, he was sentenced to a 12-month prison term followed by two years of probation.





Creation of the position of Inspector General for Montréal

2013 Municipal Elections

In May 2013, Denis Coderre launched his political campaign to become mayor of Montréal. He promised that he would restore the confidence that the citizens of Montréal had in their city, and that, if elected, he would create, within the first 100 days of his election, an independent position of Inspector General similar to the existing models in the United States.

Denis Coderre was elected mayor on November 3, 2013 and on February 24, 2014, the first Inspector General was appointed by the City Council.





Appointment and Independence

Appointment, dismissal and suspension of Inspector General needs a **two-thirds majority vote of the members of City Council.**

Independence:

- The Inspector General is appointed for a non-renewable **five year term.**
- **The Mayor and the director general of the City have no authority over the Inspector General.** The Inspector General reports directly to Montréal's City Council.
- The Inspector General benefits from a budget that must be equal to **0.11% of the City's budget for operating expenses.** Budget for 2018: \$ 5,604,200*

* Including a budget of 247 700 \$ for Montréal's Complaint Hotline.



Mandates

Oversee the awarding and the carrying out of contracts by the City or any related legal person.

Recommend to the council any measure aimed at preventing a breach of integrity in the making of contracts by the City or the carrying out of such contracts.

Recommend to the council any measure designed to foster compliance with the applicable legal provisions and the City's requirements regarding contracting or the carrying out of contracts.

Verify, within the City, the implementation of such measures adopted by any council.

Train the members of the councils as well as the officers and employees to recognize and prevent any breach of integrity or of the applicable rules in the making of contracts by the City or the carrying out of such contracts.



Jurisdiction

- The City
- Officers and employees
- Elected officials and members of their cabinet
- A person that has a contractual relationship with the City and subcontractors
- Legal persons related to the City (approximately 20 agencies)



Parc Jean-Drapeau



CONSEIL DES ARTS DE MONTRÉAL





Investigative Powers

The Inspector General conducts administrative investigations and has the following powers:

- **Examine and make copies** of any book, register or record or **obtain any information** relevant to the mandate of the Inspector General.
- **Enter**, at any reasonable hour, a building or on land to conduct the examination of any book, register or record.
- **Use** any computer or material or any other thing found on the premises visited to access data relevant to his or her mandate and contained in an electronic device, computer system or other medium or to inspect, examine, process, copy or print out such data.
- **Require** the owner or occupant and any other person on the premises visited to give him or her reasonable assistance.



Intervention Powers

At the end of an investigation, the Inspector General may:

- **Issue a decision cancelling** any contracting process, **rescinding** any contract or **suspending** the carrying out of any contract when the following conditions are met:
 - any of the requirements specified in a document of the call for tenders or a contract has not been met or the information provided in the contracting process is false; and
 - the seriousness of the breach observed justifies the cancellation, rescinding or suspension.
- **Issue a recommendation report** presenting his findings or recommendations that warrant being brought to the attention of any council of the City.
- Possibility to recommend debarment of contractors from City's contract.



Non-compellability and immunity

The Inspector General, the employees under his or her direction

- **may not be** compelled to give testimony relating to any information obtained in the performance of their **duties or to produce any document** containing such information.
- **may not be prosecuted** for any act or omission **in good faith** in the performance of their duties.

No civil action may be instituted for the publication of a report of the Inspector General or the publication in good faith of an extract or summary of such a report.



Whistleblowers

Any person may communicate any information to the Inspector General that is relevant to his mandate.

The Inspector General **must take all necessary measures to protect the identity of persons who have communicated with him.** Nonetheless, he may communicate the identity of such persons to **Montréal's police service (SPVM)** or to the **Anti-Corruption Commissioner (UPAC).**

It is **forbidden to take a reprisal** against a person who has communicated with the Inspector General **or to threaten** to take a reprisal against a person so that he or she will abstain from communicating with the Inspector General.

Any person who contravenes this section **is guilty of an offence and is liable to a fine that can go up to \$20,000** in the case of a natural person or up to **\$250,000** in other cases. For any subsequent offence, the amounts are doubled.



Disclosure of information to other agencies

- Obligation to disclose, **without delay, to the Anti-Corruption Commissioner** when a federal or Québec law / by-law / regulation may have been contravened. The contravention must pertain to: **corruption, malfeasance, collusion, fraud or influence peddling.**
- Obligation to disclose to the **Financial Markets Authority** any information that may be relevant to its decision to issue authorizations for public contracting.
- Other information-sharing agreements made with other law enforcement agencies.



Results of working together with other agencies

- **The example of the investigation on the snow removal industry**
 - In 2013, the Auditor General of the City filed a report underlining several indications of collusion in the snow removal industry. He recommended that his report be transmitted to the Inspector General to allow him to confirm or set aside his concerns.
 - Most of the contractors interviewed reported that the market was under the influence of a small group of contractors.
 - Several snow removal sectors were perceived as historically “belonging” to certain contractors just because the contracts were awarded to them in the past.
 - Contractors described their fear of reprisal (threats, intimidation and vandalism of equipment).
 - Contractors would avoid submitting a tender on their competitors’ territory or would bid at a high rate to ensure they wouldn’t win.



Results of working together with other agencies

- The Inspector General was able to confirm the concerns of the Auditor General.
- The objective was not to re-do his analysis but to serve as a complementary tool for the decision-making authorities based on an investigation conducted with a different mandate and different tools.
- The investigation of the Inspector General allowed the City of Montréal to rethink its procurement strategy in the snow removal industry.
- It also allowed the Inspector General to cancel a bidding process when a contractor voluntarily gave an investigator the recording of a phone call he received from a competitor asking him to conclude a collusive scheme.
- Because violations of the Competition Act may have been committed by certain contractors, the Inspector General denounced these violations to the Permanent Anti-Corruption Unit and to the Commissioner of Competition.



Added value of an Inspector General

- **The example of the investigation on the towing industry**
- Similarly, the Inspector General conducted a comprehensive investigation on contracts awarded by the City in the towing industry.
- With respect to contracts awarded for the rental of tow trucks intended for snow removal operations, the Inspector General found the same kinds of collusive schemes than in the snow removal industry.
- As for the towing of cars involved in accidents, the Inspector General noticed the absence of contracts awarded by the City, which opened the door for contractors to collude with each other and share the sectors. Even worse, the absence of contracts created the opportunity for criminal organizations, including the Mafia and the Hell's Angels, to take control of this market.
- The Inspector General recommended that a new procurement strategy be adopted by the City and that measures intended to clean up the industry and eliminate its ties with organized crime be implemented (use of background investigations).



Added value of an Inspector General

- Faced with clear evidence of collusion in contracts underway for the rental of tow trucks intended for snow removal operations, the Inspector General also issued a decision rescinding these contracts and recommending the debarment of 3 contractors.
- Because the contractors later tried to bypass their exclusion from City contracts by making arrangements with 3 other contractors to bid on contracts, the Inspector General issued a second decision. He unveiled the fraudulent tactics, rescinded the contracts obtained by the 3 new contractors and recommended their debarment.



Impacts

- Since its creation, the Office of Inspector General has been critically important in the fight against collusion.
- The investigative powers as well as the intervention powers of the Inspector General proved to be necessary to uncover and expose the sophisticated schemes used by contractors to circumvent the rules and measures put in place.
- The Inspector General is an additional measure to foster the compliance with the rules applicable to public markets. Because he carries out administrative investigations, he is given broad investigatory powers and he can intervene directly in a bidding process or in the course of a contract to put an end to collusive schemes.
- The Inspector General does not act in a vacuum.



Questions?
