



Report of the Internal Investigation into the Events of November 10, 2011

Professor Daniel Jutras, Dean of Law

15 December 2011



McGill

Executive Summary

MANDATE

I was asked by Principal Heather Munroe-Blum to conduct an investigation into certain events that took place on the downtown campus of McGill University on November 10, 2011. My task was to undertake a fact-finding exercise, to give an accurate account of the chain of events, and to make recommendations so as to avoid repetition of these events in the future. The terms of reference were contained in a letter addressed to me, dated November 11, 2011. The letter is appended to this report, along with a statement that I distributed to the McGill Community by email and presented to the McGill Senate on November 16, explaining how I intended to proceed.

This report is the fruit of the investigation.

The sequence of events presented in this report is a chronological factual account, based on information drawn from the sources to which I had access. The scope of my mandate did not – and indeed could not - include the power to compel testimony or the production of documents. Nonetheless, members of the community responded willingly to my call for submissions and factual accounts. I undertook to preserve the confidentiality of all communications made to me in that context, so as to benefit from the largest possible number of submissions. Over the past month, I conducted over forty-five hours of interviews with students (including, but not limited to, five individuals amongst the “fifth floor occupiers”), professors, administrators, staff, alumni, and security personnel. I received and read close to one hundred fifty written submissions. I consulted the factual accounts published in the public domain, including interviews and written submissions received by a student-led inquiry that was conducted independently of, but in parallel to, my own efforts. I reviewed hours of videotape from security cameras in and around the James Building, as well as from cell phones and cameras belonging to students and staff. I also reviewed a large number of videos of the events posted on YouTube and other websites. I listened to the audiotape of the communications of security personnel over the relevant period on November 10. I reviewed McGill’s

emergency policies and protocols, and spoke to representatives of the Montreal Police, as well as heads of security from other universities located in a downtown setting.

The investigation was not intended to replace or supersede other established procedures either within or outside the University. The process I conducted was not structured so as to meet basic guarantees of procedural fairness for those whose conduct may come under scrutiny, and as a result, I have been careful not to make any nominative assignment of blame or findings of wrongdoing.

CHRONOLOGY OF EVENTS

On November 10, 2011, twenty to thirty thousand students walked the streets of Montreal in protest of impending tuition increases announced by the Quebec government. The demonstration's final destination was the corner of McGill College Avenue and Sherbrooke Street, in front of Premier Charest's office and across from the main gates of McGill University's downtown campus. Late in the afternoon on that day, after at least a few days of advance planning, a group of fourteen individuals gained access to a secure area on the fifth floor of McGill's James Administration Building. Principal Heather Munroe-Blum's office is located in that secure area and the group intended to occupy that office. Some occupiers were wearing bandanas and hoods or hats; they flew a banner reading "10 Nov. Occupons McGill" from a fifth floor window; they moved from office to office in the secure area; they physically blocked two doors giving access to the Principal's area; and three occupiers entered the Principal's office. The Principal was not in her office at the time – nor at any time during the occupation – as she was on a flight from Toronto to Montreal.

In the three minutes following the occupiers' entry into the secure area, McGill Security received six calls from staff working on the fifth floor of the James Building, and a signal from the area's panic button. McGill Security dispatched agents to the scene and soon thereafter called the Montreal police for assistance. Four police officers from the neighborhood PDQ (Poste de Quartier) arrived on the scene thirty minutes later.

Within eight minutes of the occupiers' initial entry onto the fifth floor and well before the arrival of the police, McGill Security moved the occupiers out of the secure area and into the fifth floor reception area. Twelve occupiers were moved out of the secure area without the use of force. The remaining two – both of whom were in the Principal's office - were forcefully and physically removed by members of McGill's Security team. Thereafter, the fourteen occupiers remained in the reception area for an hour and twenty minutes, without further confrontation with security agents and without any contact with the police. During that period, the occupiers frequently communicated with the outside world through phone calls, text messages and tweets; an interview with CKUT also occurred with one of the occupiers during that time.

As the events were unfolding on the fifth floor, a group began to gather in front of and around the James Building. Individuals within this group received word via text messages, tweets and phone calls from the occupiers on the fifth floor that members of McGill's security team had assaulted them. The occupiers encouraged their contacts to come to the James Building to support the occupation. Many people outside James tried to enter the building, but the doors were locked and protected by members of the security team. People in the crowd formed human chains in front of the main doors of the James Building and demanded entry. Staff members working in the building were prevented from leaving. Some members of the crowd eventually made it past security and occupied an area on the second floor.

The crowd outside of the James Building – and the protest's intensity - grew over an hour-long period. Protesters gathered at the corner of Sherbrooke and McGill College were invited through megaphones to "occupy McGill." McGill Security restricted access to and exit out of many buildings around the main campus perimeter, but no general alarm message was sent to the McGill community. By late afternoon, the crowd of protesters in the James Square had grown to approximately one hundred twenty to one hundred fifty individuals. After a brief but intense confrontation between the crowd and a small group of police officers on bicycles, in front of the James Administration Building, the Intervention Group of the Montreal police (commonly referred to as the "riot police") forcefully dispersed the crowd from McGill campus using shields, batons and pepper spray. Some bystanders and observers, as well as students and staff walking across

campus were unwillingly caught up in the police action and removed from the area. This operation was conducted at the initiative of the Intervention Group without any request for assistance by McGill Security or McGill authorities with regard to the demonstration on campus. The only call from McGill to the Montreal Police or Emergency services on November 10 was made in the minutes following the occupiers' initial entry onto the fifth floor of the James Building.

The Provost of McGill University arrived on the fifth floor of the James Building after the ejection of the occupiers from the secure area and after the arrival of four police officers from the neighborhood PDQ. After a brief negotiation with the Provost and Deputy-Provost, in which the occupiers were given amnesty from disciplinary and criminal charges, the occupiers on the fifth floor left the premises, as did the occupiers on the second floor.

CONTEXT & RECOMMENDATIONS

In addition to the chronology of events, the report includes a brief description of the context in which the events of November 10 took place – the widespread phenomenon of occupation of public space in urban settings, the concomitant student protest on impending tuition increases, the strike of MUNACA employees at McGill and the general climate of governance at McGill. This is followed by a general description of the physical space in which the events of November 10 occurred and of the structure of Security Services at McGill. In addition, the report contains some recommendations arising from what is revealed in the factual account. In particular, the report advocates further efforts to clarify (i) the scope and meaning of free expression and peaceful assembly on campus; (ii) the nature and scope of security on campus; and (iii) the University's external relationships, with particular attention to the presence of police forces on campus.

Résumé

MANDAT

La principale Heather Munroe-Blum m'a demandé de mener une enquête relativement à certains événements qui se sont produits le 10 novembre 2011 sur le campus du centre-ville de l'Université McGill. Ma tâche consistait à rechercher des faits, à fournir un compte rendu exact de la chaîne des événements et à formuler des recommandations afin d'éviter que de tels événements se reproduisent à l'avenir. Les paramètres du mandat étaient décrits dans une lettre datée du 11 novembre 2011 qui m'était adressée. Cette lettre est jointe au présent rapport, de même qu'une déclaration expliquant la manière dont j'entendais procéder, que j'ai transmise par courriel à la communauté de McGill et communiquée au Sénat de McGill le 16 novembre.

Le présent rapport est le fruit de mon enquête.

La séquence des événements décrite dans le présent rapport est un compte rendu factuel chronologique qui repose sur des renseignements recueillis auprès des sources auxquelles j'ai eu accès. La portée de mon mandat n'incluait pas – et n'aurait pu inclure – le pouvoir de contraindre des personnes à témoigner ou la production de documents. Néanmoins, les membres de la communauté ont acquiescé de bonne grâce à ma demande d'exposés des faits et de comptes rendus factuels. Je me suis engagé à préserver la confidentialité de toutes les communications qui me seraient faites, dans l'espoir de recueillir un large éventail de comptes rendus factuels. Au cours du dernier mois, j'ai consacré plus de quarante-cinq heures à des entrevues avec des étudiants (y compris mais non de façon limitative, cinq personnes faisant partie des « occupants du cinquième étage »), des professeurs, des administrateurs, des membres du personnel, des diplômés et des membres du Service de sécurité. J'ai reçu et lu près de cent cinquante comptes rendus écrits. J'ai consulté les comptes rendus factuels publiés dans le domaine public, y compris des entrevues et des comptes rendus s'inscrivant dans une enquête étudiante indépendante qui a été menée parallèlement à la mienne. J'ai visionné des heures d'enregistrements vidéo provenant des caméras de surveillance à l'intérieur et autour du pavillon James, ainsi que de téléphones

cellulaires et d'appareils appartenant à des étudiants et à des membres du personnel. J'ai aussi regardé un grand nombre de vidéos des événements diffusées sur YouTube et d'autres sites Web. J'ai écouté la bande sonore des communications du personnel du Service de sécurité au cours de la période visée du 10 novembre. J'ai passé en revue les politiques et les protocoles de McGill relativement aux situations d'urgence et j'ai parlé à des représentants de la police de Montréal, ainsi qu'aux responsables de la sécurité d'autres universités établies en milieu urbain.

Le but de cette enquête n'était pas de se substituer ou de nuire à d'autres procédures établies à McGill ou ailleurs. Le processus que j'ai mené n'était pas structuré de manière à offrir les garanties fondamentales de l'équité procédurale pour les personnes dont la conduite pourrait faire l'objet d'un examen approfondi. Par conséquent, le présent rapport n'impute pas de blâme à qui que ce soit et ne confirme aucunement que des actes répréhensibles ont été commis.

CHRONOLOGIE DES ÉVÉNEMENTS

Le 10 novembre 2011, entre vingt et trente mille étudiants ont défilé dans les rues de Montréal afin de protester contre l'augmentation prochaine des droits de scolarité annoncée par le gouvernement du Québec. Le point de chute de la manifestation était l'intersection de l'avenue McGill College et de la rue Sherbrooke, devant le bureau du premier ministre Jean Charest et en face des barrières principales du campus du centre-ville de l'Université McGill. À la fin de l'après-midi du 10 novembre, après au moins quelques jours de planification préalable, un groupe de quatorze personnes a pénétré dans une zone d'accès réservé au cinquième étage du pavillon administratif James de l'Université McGill. Le bureau de la principale Heather Munroe-Blum se trouve dans cette zone et le groupe avait l'intention de l'occuper. Certains occupants portaient des foulards ou des chapeaux ou avaient rabattu leur capuchon. Ils ont déployé une bannière indiquant « 10 Nov. Occupons McGill » depuis une fenêtre du cinquième étage, circulé d'un bureau à l'autre dans la zone d'accès réservé et bloqué physiquement deux portes permettant d'y accéder. Trois occupants sont entrés dans le bureau privé de la Principale. Madame Munroe-Blum ne s'y trouvait pas, ni à ce moment ni à aucun moment pendant l'occupation, parce qu'elle était à bord d'un vol Toronto-Montréal.

Dans les trois minutes ayant suivi l'entrée des occupants dans la zone d'accès réservé, le Service de sécurité de McGill a reçu six appels de membres du personnel qui travaillaient au cinquième étage du pavillon James et un signal transmis par le bouton d'alarme de la zone. Le Service de sécurité a envoyé des agents sur les lieux et, peu après, a appelé la police de Montréal pour obtenir de l'aide. Quatre policiers du poste de quartier voisin sont arrivés trente minutes plus tard.

Dans les huit minutes suivant l'irruption initiale des occupants au cinquième étage, le Service de sécurité de McGill leur a fait évacuer la zone d'accès réservé en les dirigeant vers l'aire de réception du cinquième étage, et ce, bien avant l'intervention de la police. Douze occupants sont ainsi sortis sans le recours à la force. Les deux derniers occupants – qui se trouvaient dans le bureau de la principale – ont été délogés de force par des membres du Service de sécurité de McGill. Ensuite, les quatorze occupants sont restés dans l'aire de réception pendant une heure et vingt minutes, sans qu'il y ait affrontement entre ceux-ci et les agents de sécurité et sans aucun contact avec la police. Au cours de cette période, les occupants ont communiqué fréquemment avec l'extérieur en faisant des appels téléphoniques, en textant et en « tweetant »; un des occupants a également accordé une entrevue à CKUT.

Pendant que ces événements se produisaient au cinquième étage, une foule a commencé à se masser devant le pavillon James et autour. Des personnes au sein de ce groupe ont reçu des textos, des tweets et des appels téléphoniques des occupants du cinquième étage, qui disaient que des membres du Service de sécurité de McGill les avaient assaillis et qui encourageaient les manifestants à se rendre au pavillon James afin d'apporter leur appui à l'occupation. Plusieurs personnes se trouvant à l'extérieur du pavillon James ont tenté d'y pénétrer, mais les portes étaient verrouillées et gardées par des membres du Service de sécurité. Les manifestants ont alors formé des chaînes humaines devant les portes principales du pavillon James et ont exigé d'y entrer. Des membres du personnel qui travaillaient dans le pavillon ont été empêchés d'en sortir. Des manifestants ont finalement réussi à franchir la sécurité et à occuper une zone au deuxième étage.

La foule rassemblée à l'extérieur du pavillon James – et l'ampleur de la protestation – a augmenté sur une période d'une heure. Les manifestants réunis au coin de Sherbrooke et de McGill College ont été invités au moyen de mégaphones

à « occuper McGill ». Le Service de sécurité de McGill a limité l'accès à plusieurs pavillons se trouvant dans le périmètre du campus principal, mais aucun message d'alarme générale n'a été envoyé à la communauté de McGill. À la fin de l'après-midi, le nombre de manifestants était passé à environ cent vingt ou cent cinquante. Après un court mais intense affrontement entre la foule et un petit groupe de policiers à vélos devant le pavillon administratif James, le Groupe d'intervention de la police de Montréal (communément appelé « escouade antiémeute ») a dispersé avec force la foule se trouvant sur le campus de McGill au moyen de boucliers, de bâtons et de vaporisateurs de poivre. Des passants et des spectateurs, ainsi que des étudiants et des membres du personnel qui traversaient le campus, ont été pris contre leur gré dans cette intervention policière et repoussés hors du campus. Cette opération a eu lieu à l'initiative du Groupe d'intervention, qui n'avait reçu aucune demande d'aide du Service de sécurité de McGill ou des autorités de McGill concernant la manifestation sur le campus. Le 10 novembre, le seul appel fait par McGill à la police de Montréal ou aux services d'urgence l'a été dans les minutes suivant l'arrivée initiale des occupants au cinquième étage du pavillon James.

Le vice-principal exécutif de l'Université McGill s'est rendu au cinquième étage du pavillon James après l'éviction des occupants de la zone d'accès réservé et suivant l'arrivée des quatre policiers du poste de quartier voisin. Le vice-principal exécutif et le vice-principal exécutif adjoint ont conduit une brève négociation et assuré aux occupants qu'ils ne feraient pas l'objet de sanctions disciplinaires ni d'accusations criminelles; les occupants du cinquième étage ont ensuite quitté les lieux, tout comme ceux du deuxième étage.

CONTEXTE ET RECOMMANDATIONS

Outre la chronologie des événements, le présent rapport comprend une brève description du contexte dans lequel ces événements se sont produits – le phénomène très répandu de l'occupation d'un espace public en milieu urbain, la manifestation étudiante simultanée relativement à l'augmentation prochaine des droits de scolarité, la grève des membres de MUNACA à McGill et le climat général de gouvernance à McGill. Suivent une description générale de l'espace physique où les événements du 10 novembre sont survenus et une description générale de la structure du Service de sécurité de McGill. De plus, le rapport présente des recommandations découlant des faits cités dans le compte rendu factuel. Plus

particulièrement, le rapport préconise que des efforts supplémentaires soient faits pour clarifier i) la portée et la signification de la libre expression et des réunions pacifiques sur le campus; ii) la nature et la portée de la sécurité sur le campus; et iii) les relations de l'Université avec le monde extérieur, une attention particulière devant être portée à la présence de la force policière sur le campus.

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INTRODUCTION

Late in the afternoon of November 10, 2011, a group of fourteen individuals (“occupiers” or “fifth floor occupiers”) gained access to a secure area on the fifth floor of the James Administration Building (“James Building” or “James”) at McGill University (“McGill” or “University”). Principal Heather Munroe-Blum’s office is located in that secure area and the group intended to occupy that office. Within eight minutes of the occupiers’ entry, they had been moved out of the secure area – two forcefully so - and into James’ fifth floor reception area.

Also in the late afternoon of November 10, 2011, as the events were unfolding on the fifth floor, a crowd gathered in front of and around the James Building. The crowd – and the protests’ intensity - grew over an hour-long period. Some members of the crowd made their way into the building and occupied an area on the second floor. Eventually, the Intervention Group of the Montreal police (commonly referred to as the “riot police” or “riot squad”) forcefully dispersed the crowd. The occupiers on both the second and fifth floors of James eventually left the premises unharmed, after a brief negotiation with McGill authorities.

I was asked by Principal Munroe-Blum to conduct an investigation into these events. My task was to undertake a fact-finding exercise, to give an accurate account of the chain of events, and to make recommendations so as to avoid repetition of the events in the future. The terms of reference were contained in a letter addressed to me, dated November 11, 2011. The letter is appended to this report, along with a statement that I distributed to the McGill community by email and presented to the McGill Senate on November 16, explaining how I intended to proceed.

This report is the fruit of the investigation.

The scope of the investigation did not – and indeed could not – include the power to compel testimony or the production of documents. Nonetheless, members of the community responded willingly to my call for submissions and factual accounts. Over the past month, I conducted over forty-five hours of interviews with students (including, but not limited to, five of the fifth floor occupiers), professors,

administrators, staff, alumni and security personnel. I received and read close to one hundred fifty written submissions. I consulted the factual accounts published in the public domain, including interviews and written submissions received by a student-led inquiry that was conducted independently of, but in parallel to, my own efforts. I reviewed hours of videotape from security cameras in and around the James Building, as well as from cell phones and cameras belonging to students and staff. I also reviewed a large number of videos posted on YouTube and other websites. I listened to the audiotape of the communications of security personnel over the relevant period on November 10. I reviewed McGill's emergency policies and protocols, and spoke to representatives of the Montreal Police, as well as heads of security from other universities located in a downtown setting.

I have kept and will keep all submissions confidential. The content of all written submissions I have received, either electronically or in hard copy, has not been and will not be made public or disseminated or communicated to any person other than me, my legal advisor and my two assistants. I take this opportunity to express my deep gratitude to Ms. Kate Glover and Ms. Dia Dabby, both of whom are doctoral candidates in the Faculty of Law, who assisted me with the utmost care and diligence throughout the investigation and preparation of this report.

The investigation was not intended to replace or supersede other established procedures either within or outside the University. The process I conducted was not structured so as to meet basic guarantees of procedural fairness for those whose conduct may come under scrutiny, and as a result, I have been careful not to make any nominative assignment of blame or findings of wrongdoing.

Part 1 of the report provides some background information. I offer a brief description of the context in which the events of November 10 took place – the widespread phenomenon of occupation of public space in urban settings, the concomitant student protest on impending tuition increases, the strike of MUNACA employees and the general climate of governance at McGill. This is followed by a general description of the physical space in which the events of November 10 occurred and of the structure of Security Services at McGill. Part 2 presents the chronology of events of November 10, based on information drawn from the sources to which I have had access. Part 3 contains recommendations arising from

what is revealed in the chronology of events. Part 4 summarizes those recommendations.

In this report, I speak for no one but myself, and seek to serve no one but the University as a whole. I am a professor and a Dean at McGill, and in that sense my investigation is no more and no less independent than if any other member of the McGill community had conducted it. The investigation was independent in the sense that it was conducted at arm's length from anyone else in the McGill community. I hope that the content of the report shows that I have approached the investigation without any bias, with truth as my only objective.

Daniel Jutras
Dean of Law
December 15, 2011

1. BACKGROUND INFORMATION AND CONTEXT

1.1 Context

It is important to situate the events of November 10 in their larger context. I do not mean to suggest that there is a causal connection between this larger context and the specific events that took place on campus on that day. It would not be rigorous for me to draw this type of conclusion on the basis of the evidence I received in the context of my investigation. Nonetheless, the events on campus on November 10 did not occur in a vacuum. I wish to highlight here three elements of the context in which these events took place.

First, the events of November 10 took place within the larger context of popular movements re-claiming and occupying public space in all the major cities of North America and elsewhere. For several weeks before November 10, the news media were saturated with images of social activists young and old challenging established political structures through the physical occupation of highly symbolic space, from Wall Street in New York City to Victoria Square in front of the Montreal Stock Exchange. The Occupy Movement, to the extent that it can be said to project a single voice, expresses deep distrust of political and financial elites, highlights sharp inequities in the distribution of wealth, and proposes alternative models for democratic governance. In mid-November, after several weeks of peaceful occupation, many of these movements faced increasing pressure from political authorities and police forces. By late November, most occupations had ended, in some cases after violent confrontations with police forces across North America. While the occupiers of the fifth floor of the James Administration Building at McGill did not claim any intellectual or political affinity with the Occupy Movement, it is notable that their banner read "10 Nov. Occupons McGill," that they refused to express grievances or make demands to McGill staff or administration during their occupation, and limited themselves to the highly symbolic occupation of a primary space of University governance as a manifestation of their challenge to the existing power structures within the University.

Second, the events of November 10 took place on a day of extensive protests against impending tuition increases announced by the Quebec government. The demonstration brought together students from post-secondary institutions across the province, and twenty to thirty thousand of them marched on the streets of Montreal. They ultimately made their way to the corner of McGill College Avenue and Sherbrooke Street, across from McGill's Roddick Gates, where they assembled in front of the Montreal office of Premier Jean Charest. The demonstration remained peaceful until the late afternoon. After the bulk of the protesters had left, some of those remaining confronted the police, the demonstration grew more intense, and a few projectiles, including a fire extinguisher, were thrown at a police line protecting the entrance to Premier Charest's office. The specific context of this larger protest is not neutral in relation to what took place on campus on November 10. In addition to the political mobilization of scores of protesters and the collective energy drawn from a long day of protests, the events brought police forces, including the Montreal Police Intervention Group, to the vicinity of McGill University. Nonetheless, as is discussed in Part 2, it is clear that the fifth floor occupiers did not simply leave the protest to spontaneously stage an occupation of the Principal's office.

Third, the events of November 10 took place as the McGill community was in the third month of a strike of the members of the McGill University Non-Academic Certified Association (MUNACA). This unprecedented labour dispute put a strain on the morale of the McGill community, and gave rise to some dissension within and across the University's different constituencies. Everyone suffered from the absence of 1700 employees, and from the added burdens, delays and disruptions. Some students and professors voiced their opposition and distrust of the University's senior administration, some in the strongest language. Some people fiercely opposed an injunction obtained by the University in this context, which restricted the scope of picketing and demonstrations by MUNACA members. Some faculty and students saw the administration's position during the strike as evidence of the declining scope of free speech and peaceful assembly on campus, or as a manifestation of deeper problems within McGill's governance. The dissension was expressed in tense meetings at the University Senate over the fall of 2011, and in public statements in various media and Web-based fora on and off campus. This tension between different segments of the McGill community, as well as the change in the tone of debate and discourse that accompanied the labour

disruption of the fall of 2011, also serve as elements of the context in which the events of November 10 took place.

With this context in mind and in an effort to establish a common starting point for reading this report, I now turn to a brief description of the physical sites that are most relevant in this report.

1.2 Physical Space

The events of November 10 occurred primarily in and around the James Building. Outside, the key site is an area unofficially designated "James Square." The James Building is on the north side of the Square. To the east are Wilson Hall and the Milton Gates. These Gates open onto the intersection of Milton Street and University Street. To the west, up a gentle slope, are the Ferrier Building and Dawson Hall. The McConnell Engineering Building is to the south of the Square.

There are three primary doors to gain access to the James Building. The "Front door" is on James Square and leads to the building's ground floor. The "Back door" is on the opposite side of the building, and faces north. It leads to the back of the building's second floor. The "Southwest door" faces a small area between the Ferrier Building and the James Building, and was the door for the Student Service Point before that was moved to McTavish Street. The Southwest door leads to the front of the building's second floor. There are other entry points to the James Building in the connection to the "Annex," as well as through a loading dock located on the west side of the building, approximately ten meters north of the Southwest door.

Inside the James Building, there are two stairwells, one on the north side, which can be accessed from the vestibule of the Back door ("North stairwell"), and one on the south side ("South stairwell"). There are also two elevators, both located in the center of the building. The Principal and Provost's office suite is located on the fifth floor of the James Building, with windows facing south onto James Square. It can be accessed from three points of entry:

- (i) From the fifth floor landing of the South stairwell, one can enter directly into the Principal and Provost's Reception area ("the Reception area")

through double doors (“the Stairwell doors”). In the Reception area there is a desk, and three doors on card-only access, each leading to a different area. One door leads to offices of various members of the Principal’s staff. Another leads to the vestibule of the Principal’s office. The last door (with a glass panel) leads to the Provost’s suite (the “Provost’s door”). This last door – the Provost’s door - is the most relevant in this report. The space behind these three locked doors constitutes “the Secure area.” The offices in the Secure area are joined by communicating doors, so that it is possible to move unimpeded from the Provost’s suite to the Principal’s suite and to the back offices.

- (ii) One can also take the North stairwell to the fifth floor, walk across the building towards the South side and past the elevators and enter the Reception area through double glass doors (“the Hallway doors”).
- (iii) Finally, the Secure area is served by a fire exit towards the back of the James Building. This route is also controlled by card access.

As a final background matter, before turning to the chronology of events, I think it useful to briefly describe the structure of Security Services at McGill. I turn to this description now.

1.3 Security and Safety Organization at McGill

On its webpage, McGill Security Services defines its mission in the following terms:

Security Services is committed to supporting the goals and mission of the University by providing a safe and secure environment for all.

We achieve this through guidance, prevention and response.

We strive to work in partnership with the McGill community and other agencies to preserve the safety and security of people and assets of the University, and to provide superior service during normal operations and in times of crisis.

Operational and managerial authority for security intervention and response at McGill rests in the hands of a small team of McGill employees (“the operations management team”). These employees are responsible for prevention and security

concerns across campus and oversee the work performed by contract security agents provided by Securitas, a private agency. There are five members on the operations management team, all of whom work under the direct authority of Mr. Pierre Barbarie, the Associate Director of University Safety (Security Services). The members of this team do not wear a uniform. Among other things, the five members of this team are charged with the safety planning for University events on and off campus. In emergency situations, they also manage the operations of the responding security units, and intervene directly at the site of the emergency. In addition to this operations management team, two McGill employees in the Security Services sector are charged with community relations ("community relations team"). This team provides services that focus on prevention and safety awareness (such as instruction in self-defense, non-violent crisis intervention, and the provision of safety tips to various groups and individuals). The creation of the community relations team, a little over a decade ago, was intended to emphasize the prevention and community relations dimensions of Security Services' mandate, rather than the reactive and crisis management practices that prevailed in the past. While its primary focus is on prevention, safety awareness and partnership with the University community, the community relations team may also be called upon, in emergency cases, to participate in direct field responses. On November 10, all seven individuals (the five members of the operations management team and the two members of the community relations team) were directly involved in the intervention that took place. In this report, these seven individuals will be referred to collectively as members of the "Operations Management Group."

In addition to the Operations Management Group, security services are provided by security agents employed by Securitas, a private agency under contract with McGill. These agents remain employees of Securitas, and wear a uniform identifying them as Securitas agents, with the exception of a baseball cap with a McGill University crest. All Securitas agents answer ultimately to a Securitas Captain, who is under the direct authority of Mr. Chris Carson, the senior member of the Operations Management Group, himself working under the direct authority of Mr. Pierre Barbarie. This is not an unusual structure, and other universities also run their security services in this manner, bringing together a university-based management team and security agents from a private agency. At McGill, there is a core team of approximately sixty-five agents who only work shifts at the downtown campus. At any given moment, there are up to a dozen Securitas agents on the downtown

McGill campus. Of these twelve agents, two work inside the Ferrier Building's Security Operations Center (SOC), including the Controller who sits at the main console. The others are assigned to patrol on foot or by car, or to fixed locations on campus. In addition to the core group of regular Securitas agents, McGill retains from time to time the services of additional agents to address specific needs. For instance, at any given time, another fifteen to twenty agents are on duty on a temporary basis to secure the various construction sites on the downtown campus, protecting pedestrians from the risk of injury. Similarly, during the MUNACA strike, the number of Securitas agents working for McGill was increased by as many as twenty agents. On November 10, the number of additional personnel assigned to strike-related duties was only six agents.

In this report, all of the contracted security agents will be referred to collectively as "Securitas agents." Further, in this report, members of the Operations Management Group and the Securitas agents will be referred to collectively as "the Security Team."

The Security Team works within written Standard Operating Procedures (SOP), including procedures regarding labour disruption and civil disobedience. The McGill Security SOPs form part of the training of members of the Operations Management Group and Securitas agents. All Securitas agents working on the regular shifts at McGill receive on-site training in the specific operating procedures of McGill Security, ranging from sixty-four to one hundred forty-four hours depending on their position. In addition, all members of the Operations Management Group have been trained in non-violent crisis intervention, and two of them provide this training to other people on campus. Over the past six months, specific training addressing social diversity and equity issues has also been provided to members of the Operations Management Group.

All calls to the security number at McGill (#3000) go to the Security Operations Center and are addressed as the circumstances require, including through the dispatching of members of the Security Team to the relevant location. Calls made to 911 from a landline on campus are connected directly to the Montreal 911 Dispatcher, and monitored by McGill's SOC so as to coordinate the response of McGill security with outside emergency organizations.

In addition to ultimate oversight of the Security Team, Mr. Barbarie's mandate as Associate Director of Safety (Security Services) includes oversight of the University's Security System Technology. This technology serves to lock and unlock the premises on campus for which access is controlled centrally, particularly those doors on campus that operate on card access. Buildings where the system is effective can be put on either "card-only access," which enables people to go in and out using their access cards, or on "lock-down," which normally precludes both entry and exit.

In the University's organizational chart, Mr. Barbarie's Security Team answers to Ms. Louise Savard, Director of University Safety, and operates within the University Services portfolio headed by Associate Vice-Principal (University Services) Jim Nicell and ultimately by Vice-Principal (Administration and Finance) Michael Di Grappa.

2. CHRONOLOGY OF EVENTS

(The time of day is indicated in parentheses and is approximate.)

On the afternoon of November 10, a major protest against tuition fee increases in Quebec was underway in downtown Montreal (“tuition protest”). Twenty to thirty thousand protesters were marching peacefully through the streets of the city, with the Montreal office of the Premier of Quebec as their ultimate destination. Dozens of police officers were on duty to control the crowd, block the streets, and guarantee the safety of the protesters.

As this was happening, two of the fifth floor occupiers entered the James Building (15:00). They hid in a washroom for approximately one hour. Most or all of their colleagues assembled on the corner of University and Avenue des Pins, waiting for a signal that the tuition protest had reached the corner of McGill College and Sherbrooke, near Premier Charest’s office. Around 16:00, they received their signal and made their way to the Back door of the James Building. The Back door was not locked. They were met in the vestibule of the Back door by the two who had been hiding inside. The entire group of fourteen (twelve men and two women) then ascended the North Stairwell. It has been alleged that all the occupiers were McGill students, but I have been unable to verify this fact.

On the fifth floor, the group crossed to the South side of the building, and entered the Reception area. There was no one at the reception desk. Most of the occupiers assumed positions in the Reception area where they could not be seen by the staff who were inside the Provost’s door (16:06). Two or three occupiers, worried about being recognized or about the potential negative consequences of their actions, covered their faces with bandanas, and hoods or hats. One occupier, whose face was uncovered, carried a furred banner, which looked like a long stick with cloth attached to it. Another occupier, whose face was also uncovered, knocked on the window of the Provost’s door. As noted above, the Provost’s door is controlled by card access. A member of the Provost’s staff opened the door. The occupier announced that “this is a peaceful occupation” and put his body or foot in the doorway. The staff member tried to push the door closed. Several occupiers resisted and pushed the door open with their bodies. There was no direct physical

contact between the occupiers and the staff member, although the door hit the staff member as the occupiers entered the Secure area and she suffered a bruise on her arm. The occupiers did not physically touch any member of the Provost's or the Principal's staff.

Here, I note that the occupation of the fifth floor of the James Building was not a spontaneous event. While some accounts suggest that it was planned up to three weeks in advance, I have been unable to verify this fact. Nonetheless, two points clearly suggest some advance planning. First, the occupiers came to the fifth floor with a large banner, approximately 2.5 meters by 3.5 meters, secured to bamboo reeds. It read "10 Nov. Occupons McGill." This banner was made in advance for the specific purpose of being flown from a fifth floor window; it could not have been easily used as a sign in a walking protest. Second, at least one of the fifth floor occupiers, accompanied by one other person, came to the James Building on November 8, 2011 to scout the location. One of the occupiers also told me that they had seen floor plans of the Secure area in advance of the occupation.

I also note that, at the time of occupiers' forced entry into the Secure area, Principal Heather Munroe-Blum was not in her office – she had boarded a flight from Toronto to Montreal at 16:01. However, Susan Aberman (the Principal's Chief of Staff), three members of the Principal's staff, and two members of the Provost's staff, were working in the Secure area. Provost Anthony Masi, who is the chief academic officer (after the Principal) and whose office is in the Secure area, was chairing a meeting of the Academic Policy Committee ("APC") on the 3rd floor of James. Deputy Provost Morton Mendelson, the Provost's immediate deputy and whose office is on the sixth floor of James, was also in that meeting. Vice-Principal (Administration and Finance) Michael Di Grappa was in his office at the other end of the fifth floor. Vice-Principal (External Relations) Olivier Marcil was also in his office on the fifth floor. Pierre Barbarie, the Associate Director of University Safety (Security Services), was at the Roddick Gates with most of the operations management team, monitoring the progress of the tuition protest.

When the occupiers pushed open the Provost's door, at least ten entered the Secure area. Three or four remained in the Reception area. The last occupier to enter the Secure area was holding the banner. A few occupiers were wearing bandanas and hats or hoods; the others had no face coverings. No one sat down.

The ten occupiers in the Secure area moved from office to office, going from the Provost's office and suite to Susan Aberman's office. At least three occupiers entered the Principal's office at one point or another. One unconfirmed account suggested that an occupier in the Principal's office was seen going through the Principal's papers. Some occupiers opened a window at the front of the building and flew the banner they had brought. Some tried to move furniture for an unspecified purpose but quickly abandoned that plan. At least one occupier tweeted that the Principal's office had been occupied.

As they walked around, the occupiers repeated in loud voices that "this is a peaceful occupation" and that the staff was free to stay or leave. Collectively, they refused to discuss any grievances or demands with staff on the fifth floor. The occupiers placed a chair against the Provost's door to keep it open. They circulated between the Reception area and the Secure area and began to arrange the space. Three occupiers stood at the Hallway doors and placed their weight against them.

Within the span of three minutes, six calls were made to the McGill Security Operations Center (#3000) from different locations on the fifth floor (16:05-16:08). At least two calls came from members of the Provost's staff. One call came from a member of the staff of Vice-Principal Olivier Marcil. One call may have come from the Principal's staff. In one call, McGill Security was told that "there is a huge group, they are blocking doors, it is really an emergency." One member of the Principal's staff pressed the "panic button." This immediately lit up a signal in the Security Operations Center.

From the perspective of Security Services, a "panic button" signal calls for immediate security intervention. Two members of the Security Team who were inside the Ferrier Building were immediately dispatched to the fifth floor of James (16:06). The Controller informed Mr. Chris Carson, the senior member of the Operations Management Group, of the situation. From the fifth floor of the James Building, Susan Aberman called the Associate Director of University Safety (Security Services), Pierre Barbarie. Mr. Barbarie made his way from the Roddick Gates to the James Building with Mr. Carson and other members of the operations management team. The James Building was put on card-only access (16:08). One member of the Provost's staff tried to reach the Provost by email. The Provost did

not get the message as his cell phone was in his office and he was chairing the APC meeting on the third floor.

Vice-Principal Marcil and at least one member of his staff, having heard and seen the occupiers enter the fifth floor, went to the Hallway doors. Three occupiers were already using their weight to keep the doors shut and continued to block the doors. Vice-Principal Marcil could see that the occupiers had made their way into the Secure area. After knocking on the door and failing to gain access to the Reception area, Vice-Principal Marcil, his staff member and a member of the custodial staff entered the Secure area through the fire exit (16:08). Since the occupiers blocked the Hallway doors for much of the occupation, this fire exit was used several times by staff and security over the next hour to enter the Secure area.

At the same time, outside the James Building, a small group of protesters moved from the Roddick Gates to the James Building (16:08). There are indications that this movement and similar ones that followed were requested by the occupiers so as to build a demonstration on James Square while the occupation was taking place. The presence of protesters in front of the James Building may have been arranged with the fifth floor occupiers in advance of the occupation, but I have not been able to determine this with certainty. It is established that the fifth floor occupiers were in contact with protesters outside the James Building via cell phone and twitter throughout the late afternoon of November 10.

Inside the Secure area on the fifth floor, a staff member began to film the occupiers with his cellphone. The staff member ripped the hat off one occupier's head. This occupier (hereinafter Occupier A) was also wearing a bandana. Occupier A yelled that this was an assault (16:09). The staff member continued to film the occupiers inside the Secure area and the Reception area, taunting them and telling them that they should be worried about the consequences of their actions. Several occupiers covered their heads and faces or sought to avoid being filmed.

Members of the Security Team (the community relations team and three Securitas agents) came up the South stairwell and were met by occupiers at the Stairwell doors. Six or seven occupiers came out of the Secure area to block access to the Reception area. At least three occupiers were wearing bandanas and hats or hoods. Members of the Security Team informed the occupiers that they had received a

panic alarm and that they had to get into the Reception area. The occupiers physically blocked them access to the Reception area and repeated in loud voices that "it is a peaceful occupation" (16:10).

At this time, reports over the Security Team's radio channel indicated that more protesters were heading from the Roddick Gates towards the James Building (16:10).

Inside James, three members of the Operations Management Group arrived at the Hallway doors on the fifth floor. Three occupiers were still blocking these doors. The three members of the Operations Management Group tried to push their way into the Reception area, using force on the doors, without success. They decided to enter the Secure area through the fire exit (16:11). Meanwhile, Vice-Principal Michael Di Grappa met with Pierre Barbarie on the fourth floor of the James Building, where they discussed the situation (16:12).

One member of the Operations Management Group, now inside the Secure area, removed the chair holding the Provost's door, and tried to close the door. Several occupiers who were in the Reception area pushed their way back into the Secure area, forcing the Provost's door to remain open (16:12). From the fifth floor landing of the South stairwell, three members of the Security Team forcefully pushed their way past the occupiers blocking access from the Stairwell doors, and entered the Reception area. Most of the occupiers gathered in the Reception area; there was much yelling and tension in the room.

One member of the Security Team was watching the scene through the windows of the Hallway doors, along with two staff members. Upon hearing one of the staff members say that "the police should probably be called," the member of the Security Team called the Security Operations Center. He advised the Controller that the police should be called. The Controller called 911 and informed the police that there were fifteen to twenty protesters inside the James Building, that McGill Security was on site and that there may be more protestors coming (16:12). As far as I can ascertain, that was the only call for assistance to 911 or to police authorities that was made by any member of the Security Team or McGill authorities during the afternoon and evening of November 10.

Pierre Barbarie, still on the fourth floor of the James Building, was informed that the police had been called. He sent a Securitas agent to meet the police at the Milton Gates and gave instructions that the police were to wait outside of the James Building until he authorized them to enter (16:12).

Meanwhile, the Provost's door was closed by a member of the Security Team and automatically locked. Two members of the Security Team remained in the Reception area with twelve of the occupiers. At least five other members of the Security Team were inside the Secure area. Only two occupiers (Occupier A, as previously identified, and Occupier B, another occupier) remained inside the Secure area (16:12). While Occupier A was wearing a hat and a bandana, Occupier B was not covering his face. Occupier A ran inside the Principal's office and sat at her desk. Occupier B was also standing in the Principal's office. Both occupiers were told in a loud voice that they had to leave. Occupier B indicated that he has osteoporosis and warned in a loud voice that he was not to be touched. A member of the Security Team grabbed his jacket, pulled and pushed him out of the Principal's office, through the Provost's suite, and to the Provost's door. The other occupiers in the Reception area gathered at the Provost's door. There was a lot of yelling, pushing and shoving (16:13). Occupier B was pushed back into the Reception area, on his feet, and the Provost's door was closed again.

While Occupier B was being evicted from the Secure area, Occupier A refused to leave the Principal's office. He sat in the Principal's chair for sixty to ninety seconds. A member of the Security team then tipped the chair and Occupier A fell to the floor. One member of the Security Team pulled Occupier A by the arm and dragged him, on the floor, out of the Principal's office and through the Provost's suite. Occupier A managed to free himself from the grip of the security personnel, and sat against the wall in a location close to the Provost's door, but still inside the Secure area. At that time, three members of the Security Team lifted him up, one holding his back and two more holding his feet. The Provost's door was opened. Again, the occupiers gathered at the door. Again, there was much yelling, pushing and shoving (16:14). Three members of the Security Team carried Occupier A through the doorway. He grabbed the doorframe on the way out and forcefully resisted the eviction. Amid much commotion, Occupier A was put down in the Reception area, feet first, but he seemed to be out of balance and he fell forward

as if he was pushed from behind. The Provost's door was then closed. Occupier A remained on the floor for a few minutes, winded.

By 16:14, the occupation of the Secure area was over, having lasted eight minutes. I have found no convincing evidence of punching or kicking, either by the occupiers or by members of the Security Team. There was much pushing and shoving, and it is undeniable that members of the Security Team used force to remove two occupiers from the Secure area. One of the two was pushed out, on his feet. The other was carried out. I have found no evidence that any significant force was used against any of the other twelve occupiers. However, the Security Team did push its way into the Reception area, and the occupiers actively resisted this effort (at least one with his hands in the air). None of the fifth floor occupiers were touched by anyone after 16:14.

From 16:14 to 17:35, the fourteen occupiers remained in the Reception area. The community relations team was with them, standing by the reception desk. One Securitas agent stood next to the Stairwell doors. Three occupiers were still blocking the Hallway doors with the weight of their bodies. During this period, the occupiers were not told by anyone that they were detained, and none of the occupiers were physically restrained by anyone. One member of the Security Team told the group that they could and should leave. With three members of the Security Team in the reception area with them, it may have been ambiguous to the occupiers whether they were allowed to leave. I note that one of the occupiers later indicated to me he had not considered leaving the premises, by that point.

Be that as it may, in the thirty minutes that immediately followed the eviction of the two occupiers from the Secure area, several of the occupiers paced around the Reception area, communicating with the outside world. Multiple electronic messages were sent out and calls were made indicating that the Security Team was or had been violent, and was using or had used excessive force. One occupier tweeted "Students violently assaulted by security guards at OCCUPATION OF PRINCIPALS OFFICE." A phone call was made by one occupier, indicating that she was part of the occupation the fifth floor of the James Building, that security had been violent, and that the occupiers had been given the number for a live interview with CKUT. The interview did not take place at this time.

By 16:18, between twenty and thirty protesters were standing outside the Front door of the James Building. More protesters broke off from the main group at the Roddick Gates and headed towards James (16:19). Several protesters pulled on the locked Front door of the James Building and tried to force the magnetic lock. Up to thirty protesters were at the Back door of the James Building, also trying to get in (16:19).

One member of the Provost's staff tried two more times to reach the Provost (by email and by cellphone), but was unsuccessful (16:15, 16:19). Vice-Principal Di Grappa called Deputy Provost Mendelson's cellphone (16:19). Upon hearing about the occupation, Deputy Provost Mendelson left the APC meeting on the third floor of James. Provost Masi was not informed of the situation and continued to chair the meeting. Deputy Provost Mendelson made his way to the fifth floor and entered the Reception area from the Stairwell door (16:22). The occupiers were still standing, pacing around, phoning and texting. Only two or three occupiers were still covering their faces or heads. Deputy Provost Mendelson spoke with the occupiers until 16:28 and then left the Reception area. He then went down to the fourth floor, back up the North staircase and entered the Secure area using the fire exit.

At 16:24, a Securitas agent reported that a group of protesters had tried to enter the Leacock Building and confirmed that all doors at Leacock had been secured. Other reports indicated that protesters were trying to enter the James Building through the Southwest door. Others had jumped into the window wells of the ground floor of James (16:28). There was a lot of yelling outside each of the doors to the James Building and tension was building.

Inside, in the Reception area, the occupiers were still communicating with the outside world using their phones. Some were snacking. The mood appeared to be more relaxed (16:29-16:44). One occupier was interviewed by phone for CKUT (16:37-16:44). The interview was not broadcast until much later, around 17:50.

At the tuition protest at McGill College and Sherbrooke, people in the crowd invited others to "Occupy McGill." One security agent advised that a group of people, entering through the Milton Gates, had joined the group in James Square (16:30-16:35).

At the Roddick Gates, two police officers in a police car met with members of the Security Team, and indicated that they were responding to Security's 911 call (made approximately 20 minutes earlier). Accompanied by a member of the Security Team, the two police officers (one on foot and the other by car) made their way from Roddick Gates to the area in front of the McConnell Engineering Building, and then up to the East side of the James Building (16:36). They were met there by two other police officers who had just driven onto campus through Milton Gates, having called the McGill SOC to get directions. This second police car had been called as backup by the first police pair. One member of the Security Team took the four police officers to the Back door of the James Building. There, approximately thirty protesters blocked the door and formed a human chain to prevent access to the building. The police officers and the member of the Security Team entered James through the Annex, after one protester failed in his attempt to block this door. They made their way to the fifth floor and entered the Secure area through the fire exit (16:45). The police did not come into contact with the occupiers at this time.

Fearing a simultaneous occupation of multiple buildings, the McGill Security Team put Dawson Hall, the Leacock Building and the Redpath Museum on card-only access (16:37). At the front door of the James Building, angry protesters demanded to be let in, saying they had information that the fifth floor occupiers were being beaten up and held against their will by McGill Security. Tension was rising. At this time, it was estimated that approximately one hundred twenty protesters were gathered outside in the space between the Front door and the Southwest door. The three members of the Security Team standing at the Front door of James were pinned to their location. Approximately one dozen protesters were standing very close to the Front door, forming a human chain (16:43).

Inside James, one member of the Provost's staff went to the APC meeting and informed the Provost of the situation on the fifth floor (16:46). The Provost immediately left the meeting, went to the fifth floor through the North staircase, and entered the Secure area through the fire exit. He did not talk to or encounter the occupiers at this time. The four police officers were already inside the Principal's office, along with senior members of the Security Team, Susan Aberman, Vice-Principal Di Grappa, Vice-Principal Marcil and Deputy Provost Mendelson

(16:48). At some point in this discussion, the police officers informed the Provost that the police would be able to evict the occupiers if that was the University's wish. The Provost was adamant that the situation could be resolved without police eviction of the occupiers.

Around 16:45, members of the Principal's and Provost's staffs tried to leave through the Back door of the James Building, accompanied by a member of the Security Team, but all exits were blocked by protesters. The staff members returned to the Secure area (16:49). Many people working on all floors of the James Building, preparing to leave for the day, were confused about - or unaware of - what was happening inside and outside the building and did not know whether they should stay in their offices or attempt to leave. Those who did try to leave were not sure which exit, if any, was safe.

At the corner of McGill College and Sherbrooke, a person with a megaphone announced the occupation at McGill and invited protesters to participate in a rally of support. Large groups of protesters broke from the crowd and made their way onto campus. One person called McGill Security and asked, in French, "Where is the James Building?" (16:49).

At 16:49, having been told by people outside James that the police had entered the building, the occupiers on the fifth floor sat down in a circle and locked arms. The three occupiers who had been securing the Hallway doors since the beginning of the occupation left their post and joined the others in the circle.

At the same moment, a staff member who works in the James Building left through the Southwest door, despite the presence of a significant number of protesters outside. As he went out, he was insulted by protesters and hit in the neck by a small object. Once opened, the Southwest door - an automatic door - remained open long enough for a few protesters to get in. There was a brief struggle between them and a security guard who tried to keep the door closed. The guard was eventually overpowered and fell to the floor. Twenty to thirty protesters rushed into the area. One protester who was at the front of the group violently collided with a member of the Security Team who had just arrived to block further access to the second floor. The protester fell to the ground (16:49). The member of the Security Team stopped the progress of this group in the second

floor hallway. These protesters (“second floor occupiers”) sat on the floor (16:51). The group of protesters outside continued to grow in the space between the Front door and the Southwest door.

By this time, multiple buildings around the main campus perimeter had been put on card-only access. The McGill Security Operations Center was beginning to receive calls from members of the McGill community who were having difficulty entering or exiting various buildings. Several people reported being unable to get to their offices or labs. One person reported getting trapped in the stairwell between the Arts Building and the Ferrier Building, with no functional exit.

At roughly the same time (16:50), a group of ten to fifteen police on bicycles entered campus through the Milton Gates. From all of the information I have, I cannot, with certainty, explain the presence of this group of police on bicycles. One thing is certain: at this time, large contingents of police officers were already close to the McGill campus, as they were monitoring the tuition protest on the corner of McGill College and Sherbrooke. It is possible that the four police officers that responded to the 911 call regarding the fifth floor occupation relayed to their supervisor what they had seen on James Square. It is also possible – indeed that is the most likely explanation, on the basis of the information I have received – that the police saw the growing number of protesters on James Square as an offshoot of the tuition protest taking place on Sherbrooke and McGill College. In any case, I have found no evidence supporting the thesis that this group of police officers on bicycles was invited onto campus by members of the Security Team or by members of the University administration. This said, it is established that, upon the officers’ arrival, a member of the McGill Security Team spoke to them and described the situation as “15 occupiers on the fifth floor of James, and another 15-20 occupiers on the second floor of James”.

Six or seven police officers on bicycles moved in the direction of the crowd gathered in front of the James Building. The rest of the officers remained on the East side of the Square, close to Wilson Hall. Accounts diverge at this point. Some say these police officers went into the crowd and violently assaulted the protesters by putting their bikes upright and hitting protesters with their front wheels. The Montreal Police Service says, on the other hand, that one officer’s bicycle was grabbed and taken away by protesters during the confrontation. At least one

bicycle wheel was indeed later used by the crowd as a projectile. Although I need not decide this, I find somewhat unlikely that six or seven police officers violently charged their bicycles into a crowd of several dozen protesters, given the risk at which they would have put themselves in doing so. A third set of accounts say that the police officers with bicycles moved into the crowd of protesters, perhaps intending to get to the Southwest door. They were met with resistance and pulled their bikes upright as a defensive measure as they backed away, also using pepper spray to keep the protesters at bay (16:52). These accounts form the bulk of accounts that speak to this issue, and are confirmed by videos currently in the public domain which show the confrontation. These videos show that, as the police officers proceeded slowly into the crowd, the protesters chanted "human chain!", the volume of the crowd escalated, a blow horn sounded several times, some protesters yelled "pas de violence!", and other people in James Square ran towards the crowd. The police then backed away from the crowd with their bicycles pulled upright, while some protesters threw various projectiles in the direction of the police. The police officers on bicycles retreated down the slope, and then back to the Milton Gates. The crowd cheered, following them to the bottom of the slope. One witness described this moment as an "incredible boost of energy" for the protesters.

At 16:57, a member of the Montreal Police Service called the McGill SOC and informed the agent on duty that the police had information about protesters who were trying to occupy McGill premises, and advised McGill Security to be vigilant. The agent at the SOC replied that McGill security was aware of the occupation, that it had been ongoing for almost an hour, and that there were fifteen to twenty occupiers on the fifth floor, a small group on the second floor of James, and over one hundred and twenty protesters in the area around the James Building. The conversation ended without any request for assistance being made by McGill Security. As far as I can ascertain, the conversation went no further than this exchange between a police officer and the agent at the McGill Security Operations Center.

On the basis of the information I have received, it is highly likely that the initial confrontation with the police officers on bicycles was the trigger for the arrival of the Montreal Police Intervention Group. I have found no evidence whatsoever that its presence or its subsequent actions were requested by McGill Security or

University authorities. A few minutes after the police officers on bicycles retreated, a group of approximately twenty-five police officers wearing helmets and carrying shields and batons entered through Milton Gates. They hit their shields with batons, producing an intimidating sound. This sound was repeated over the next several minutes, each time signaling that the squad was moving forward. A police helicopter was flying overhead. Another group of approximately twenty-five to fifty police officers similarly equipped made their way up from the Roddick Gates towards the Macdonald Engineering Building and Dawson Hall (16:58). The first group of officers established a line perpendicular to the James Building and moved up the slope. When the line got to the Front door, police officers used pepper spray at close range to dislodge the protesters blocking the door. Three members of the McGill Security Team standing at the door were also sprayed. The crowd was pushed back towards the Ferrier Building and Dawson Hall. Some protesters were seen picking up construction materials and pallets in the construction sites around James Square (16:58). Projectiles were thrown at the police line. A number of protesters sat down close to the line. The police line stood still for a while and then advanced again, pushing protesters with shields and batons, slowly advancing step by step.

An officer behind the line asked a member of the Security Team whether McGill wanted the second floor occupiers evacuated. One senior member of the Team replied by radio that the police should hold off for now and that McGill Security was attempting to first resolve the situation on the fifth floor (17:02). The police line formed again at the top of the slope on the west side of James Square (17:06). A warning was heard on a megaphone used by the police. Approximately fifty to seventy-five members of the Police Intervention Group then pushed the protesters down the slope towards the East, again using shields, batons and pepper spray, advancing step by step. Observers, bystanders and people coming out of the McConnell Engineering Building were also pushed towards the Milton Gates. At least a handful of people reported being hit with a baton. Several reported being pepper-sprayed. A CKUT live report announced that “hundreds of riot police” were at the James Building and that occupiers on the fifth floor alleged to have been brutalized. The report encouraged all students to go to James Square and support the occupation (17:09). In James Square, amidst profanity and insults hurled at the police, several protesters could be heard saying they were peaceful. Others were calling for water after having been pepper-sprayed. Some were holding their

hands up in the air as the crowd was pushed back down the steps of James Square, towards Milton Gates. The McConnell Engineering Building was put on lock-down by McGill security.

Inside James, the second floor occupiers who had been sitting down in the hallway got up and moved to the vestibule area between the two doors, blocking access to the building (17:07). A group of them remained there for more than twenty minutes.

Despite the lockdown, many people made their way into the McConnell Engineering Building. Some were looking for a place to wash the pepper spray from their face and eyes. The porter reported that people were holding the building doors open and that he could not secure the space (17:14). The Police Intervention Group then blocked entry into the McConnell Building (17:14).

Following the police action to clear James Square and the surrounding areas, a large dense crowd had formed at the bottom of James Square. A police line briefly charged towards the crowd and moved it past the Milton Gates.

Back at the Southwest door of the James Building, a police officer asked a member of the Security Team whether the second floor occupiers (now standing in the space between the two doors) should be evacuated. A senior member of the Security Team replied by radio that the focus remained on the fifth floor occupiers, and that this situation had to be addressed first (17:17). Police on the fifth floor and police outside the Southwest door communicated using cell phones belonging to two members of the McGill Security Team.

At 17:20, Provost Anthony Masi and Deputy Provost Morton Mendelson entered the Reception area on the fifth floor. The occupiers had been sitting in a circle with locked arms for the past 30 minutes. They asked the occupiers how they wanted the occupation to end. The occupiers replied that they wished to leave the building unharmed and without facing criminal or disciplinary charges. The Provost and the Deputy Provost left the Reception area to consider this request (17:23). One occupier tweeted "Attempting to secure release." A senior member of the Security Team on the fifth floor informed a member of the Security Team on the second floor that the fifth floor occupiers would likely leave on their own (17:23).

Outside, the police moved the crowd onto Milton. They threw what appeared to be a rubber ball blast grenade, which produced a loud noise and released an irritant. At the corner of University and Milton, the police established a line and held it (17:25). The crowd of protestors was gathered in front of the line. Some protesters were sitting or kneeling directly in front of the line, while others were standing and milling about. The police announced in English and in French that the crowd must disperse immediately. Members of the crowd chanted and yelled. The police announced, again, through a megaphone, that they would give no further chances and would use all necessary force to disperse the crowd. Members of the crowd continued to yell and chant.

At 17:29, Provost Masi and Deputy Provost Mendelson returned to the Reception area and confirmed that the occupiers would be given "one free pass" – no criminal charges or disciplinary charges would be laid against them. The fifth floor occupiers requested the same amnesty for the second floor occupiers. After a brief deliberation, the Provost and Deputy Provost agreed to these terms. At the same time, a member of the Security Team read an eviction notice, in French and in English, to the second floor occupiers. All the second floor occupiers then left the building (17:30). On the fifth floor, all the occupiers got up and left the building accompanied by Provost Masi, Deputy Provost Mendelson, four police officers and a few members of the Security Team. They went down the North staircase to the second floor. In the second floor vestibule, they encountered a line of police officers. Seven or eight of the occupiers had their faces covered. They exited the James Building through the Back door, unharmed (17:35).

A moment earlier, at the corner of University and Milton, the Intervention Group charged at the crowd on Milton and chased the protesters until Durocher Street, stopping at each block between University and Durocher. The pursuit lasted until 17:39. By 17:45 the crowd had dispersed, and the Intervention Group, with four police on horses, moved back through campus and towards the Roddick Gates. Many protesters who had clashed with or been confronted by the Intervention Group on James Square gathered in the various offices of student organizations across campus, and received support and assistance throughout the evening.

Also, at 17:45, the Principal's flight had landed in Montreal and she communicated with her office. The Principal learnt of the attempted occupation of her office that began as she was boarding the plane and of the sequence of events that took place thereafter. By speakerphone, she discussed the events with the senior administrators gathered in her office.

Around this time, access to buildings around the main campus perimeter was slowly reinstated, except for the James Building and the McConnell Engineering Building. Several staff from the James Building reported being able to leave as of 17:45. Students trying to get into the Leacock Building for exams or classes were required to show their ID cards. Some had been turned away earlier. Organizers of a disabilities studies conference in the Leacock Building – scheduled to start at 18:00 - were initially prevented from accessing the building and people trying to attend the conference were reportedly turned away, told the conference was cancelled or told to come back later. The transport of people with disabilities who were trying to attend this conference was also disrupted.

At 18:15, the campus was quiet again.

3. RECOMMENDATIONS

The terms of reference for this investigation provide that I should make “whatever recommendations [I] judge appropriate regarding practices, processes and policies within McGill University’s control and jurisdiction.” The goal is to “allow McGill to learn from the events of November 10, 2011 and to take steps that would reduce the likelihood of a recurrence.” As I noted earlier, my gaze is forward-looking.

In accordance with the mandate I was given, I have sought to focus my recommendations on the type of events that occurred on November 10 and the measures that may be envisaged to avoid their repetition. In the spirit of lessons learned, in the paragraphs that follow, I first set out some guiding comments and principles and, second, set out specific recommendations that address the following broad areas: (i) the scope and meaning of free expression and peaceful assembly on campus; (ii) the nature and scope of security on campus; and (iii) the University’s external relationships, with particular attention to the presence of police forces on campus.

3.1 Guiding Comments & Principles

Over the course of the past month, I have received written and oral submissions expressing concern, distrust, discomfort, fear, grief and outrage. Some of these submissions referred specifically to the events of November 10, while others referred to broader contextual matters, including those I mentioned in Part 1 of this report. Now that the chronology of the events of November 10 is clarified in this report, members of the McGill community can make their own assessment of the causal connections, if any, between the larger contextual matters and what unfolded on that day. It is beyond the scope of my mandate to make recommendations directed towards these larger contextual issues.

That said, it is clear that the events of November 10, whatever their proximate or remote causes, have left some wounds that must be healed. The submissions I received reveal that some catharsis within the University is required in order to respond to the experiences and sentiments of so many people. This process began in the days after November 10, engaging students, staff, faculty and senior

administrators in a public dialogue about the nature, consequences and meaning of these events. Moreover, for some interlocutors, their participation in this investigation and/or the student-led inquiry, and the opportunity to articulate and contribute a personal account of the events of November 10, may have been part of this ongoing process. In addition, I hope that the publication of this report will provide further opportunities for open, frank and productive discussions that aim to rebuild the mutual trust between all constituencies of the McGill community that may have been damaged as a result of the events of November 10.

Other substantive and symbolic gestures to rebuild this mutual trust may be envisaged. Some submissions I received emphasize the social construction of space within the University campus. They draw attention to the fact that, since the move of the Student Service Point from James to McTavish Avenue, the James Building no longer houses many student services, and has become primarily – if not exclusively – an Administration building. Consideration should be given to the ways in which the physical space of the James Building can be re-appropriated by the community in positive and constructive ways, perhaps through making the renovated third-floor facilities accessible to student and community organizations for appropriate events. Others have suggested that the area in front of the James Building be named in a manner that recognizes the connectedness between the administration and the rest of the McGill community. Those proposals are worthy of serious consideration as part of a general effort to rebuild the mutual trust and respect that must exist between the different constituencies of the University.

The recommendations that I set out below have a sharper focus. The broad themes that underlie what I propose are clarity and community. The events of November 10 reveal that there is much uncertainty both within and between sectors of the University community when it comes to matters related to the modes, mechanics and consequences of civic protest on campus. Many among those who communicated with me are seeking clarity from others. Several students and faculty call for an unambiguous recognition of the broadest possible scope for free speech and assembly on campus. Others express the hope that civic protests take a form consistent with the spirit of reasoned debate and mutual respect that is critical to university life. Members of the security team request clarification of their role and of the community's expectations whenever protests or demonstrations disrupt or impede University activities. Senior administrators look for the

appropriate balance between fostering free speech on campus and ensuring that University activities are not interrupted unduly. Staff and administrative personnel want to be reassured that their safety is guaranteed on campus through clear communication in emergency situations. Montreal Police authorities seek a better understanding of the needs and values of this University's community, and of the meaning attached to police presence on campus. Most of my recommendations invite dialogue and clear articulation of each constituency's expectations for the benefit of the McGill community as a whole and the individuals and groups within it.

3.2 Recommendations

3.2.1 The Meaning and Scope of Free Expression and Peaceful Assembly on Campus

Recommendation 1: University authorities should provide and participate in a forum open to all members of the University community to discuss the meaning and scope of the rights of free expression and peaceful assembly on campus.

In one of the open letters sent to the Principal in the aftermath of November 10, a group of professors described the University as "a site for the development of independent, ethical and engaged participation in public life and ideas". This sentiment is broadly shared within the community, and has been reaffirmed in public statements from around the University. Indeed, part of this sentiment is, at least with respect to student rights, enshrined – and very broadly so – in Article 25 of the *Charter of Students' Rights*, which provides that "Every student enjoys within the University the freedoms of opinion, of expression, and of peaceful assembly."

Broad as they are, the rights to free speech and peaceful assembly are often regulated through reasonable administrative procedures. Many universities in Canada – McGill among them – have established procedures through which events, demonstrations and protests can be planned in advance with the administration and security services, so as to ensure that they take place in a safe environment, without interfering unduly with university activities. As effective and well

intentioned as they are, there are inherent limits to these event-planning procedures. Some demonstrations, occupations and protests are spontaneous. Some events, while orchestrated in advance, rely on the element of surprise or subversion and are therefore deliberately planned outside of official notification channels. Further, some members of the community do not wish to subject their civic protests and assemblies to any form of *a priori* control by authorities. The failure to participate in advance planning with University authorities does not, in and of itself, undermine the legitimacy of an event, protest or demonstration.

Furthermore, protests and demonstrations may need to take place in a manner that takes account of countervailing interests. Many universities – again, McGill among them – have established principles that seek to protect the core activities on campus from excessive interference from civic protests. At McGill, Article 5 of the *Code of Student Conduct* provides that “No student shall, by action, threat or otherwise, knowingly obstruct University activities. University activities include but are not limited to, teaching, research, studying, administration, public service.” The same provision adds that “Nothing in this Article or Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit free speech.” As a result, at McGill, a peaceful assembly or demonstration could conceivably obstruct University activities without being treated as a disciplinary offence for students.

Even if free speech and peaceful assembly are broadly defined at McGill, the limits on those rights – and the justifications for those limits – remain uncertain. The scope of what constitutes a peaceful assembly, which lies in the balance of potentially conflicting rights and responsibilities, is unclear. Some parameters are obvious and already articulated: for example, conduct that involves damage to property or explicit threats of harm to persons will never be consistent with the notion of peaceful assembly (see the *Code of Student Conduct*, articles 6, 7, 8, 13). Beyond that, the line is not so clear. In the heat of the moment, determining whether a group of persons are loud demonstrators or threatening intruders may not always be easy. Clear signals from protesters, in words and in deed, may reduce the risk of confusion and subjective fear. The events of November 10 and the larger context of direct action and contemporary practices of social activism suggest that the University community could benefit from an open and frank dialogue about what free expression and peaceful assembly mean, and how they should be

understood and protected at McGill. A number of questions are worth considering, in this respect:

- Can peaceful assembly take place in any location on campus? Are there areas in which demonstrations or occupations should not be allowed to take place? In what circumstances, if any, should concerns of safety and security for the demonstrators and other members of the community be relevant (e.g. the risk presented by hazardous materials in some labs)? In what circumstances, if any, are considerations of privacy, confidentiality and governance relevant (e.g. the occupation of the personal office of a senior administrator; disruption of Senate or Board of Governors proceedings)? When, if ever, should the protection of valuable property be a concern (e.g. a demonstration in a rare book collection area, or in a lab with fragile and expensive instruments or materials)?
- Is the deliberate concealing of one's identity (with bandanas, hoods, or masks) in a protest or demonstration consistent with the notion of peaceful assembly? Does the contemporary culture of pervasive recording of any and all public events inevitably entail that some demonstrators will cover their faces?
- Are there any time restrictions to peaceful assembly? Should the University countenance as a peaceful assembly an occupation or sit-in that impedes its activities over an extended period?
- Are there other justifiable limits to the rights of free expression and peaceful assembly in the context of demonstrations, protests and occupations on campus?

It would be naïve to assume, expect or recommend that such dialogue generate a consensus as to the definition of "peaceful assembly," or as to normative statements that would be viewed as binding by all members of the University community. It would also be naïve to expect that the boundaries of peaceful assembly can be set in stone in advance, thereby obviating the need for a case-by-case assessment of the circumstances of each demonstration or protest. Nonetheless, such a dialogue would help the University community to clarify what is acceptable, what is tolerable, and what should be sanctioned or prohibited. In particular, it would help the University authorities clearly articulate the University's position on the breadth of free expression and peaceful assembly and the terms of its response to different forms of demonstrations, protests and occupations. I turn

to this latter issue - a significant one in the wake of November 10 - in the following sections.

3.2.2 The Nature and Scope of Security on Campus

Recommendation 2: University Authorities should revisit the standard operating procedures of McGill's Security Services, with a view to articulating clear directives or frameworks in relation to demonstrations, protests and occupations on campus.

One of the consequences of the November 10 events is that members of McGill's Security Services sector do not feel confident about what is expected of them in relation to protests, demonstrations, occupations and other forms of direct action on campus. Mixed messages are coming from senior administrators, faculty, staff and students. Some security personnel may now feel reluctant to intervene or call for external assistance in explosive situations. This state of affairs is potentially dangerous and must be addressed promptly.

The University's current Emergency Management Plan provides "the fundamental framework for response to incidents ranging from small-scale emergencies to crisis and disaster situations." It contains clear delineation of responsibilities, lines of authority for planning and operational decisions, response plans and operational procedures, and steps for recovery for every incident from widespread computer failure to floods, from electrical outage to missing persons, and from winter storms to hostile intruders. It does not address protests on campus other than in reference to "Animal Rights Events." Leaving aside the oddity of this specific reference, the silence of the Emergency Management Plan is consistent with the sense that a demonstration, occupation or civic protest is not an "incident," a "crisis" or an "emergency" within a University committed to free expression and the right to peaceful assembly. It may thus be inappropriate to include within the University's Emergency Management Plan the response that is expected of Security Services when such events arise.

McGill's Security Services have established distinct Standard Operating Procedures (SOP) for Labour Disruptions and for Civil Disobedience. The SOP regarding Civil Disobedience is still in draft form, and replicates most of the content of the Labour

Disruption SOP. Both documents remain very general, and do not provide specific guidelines governing security planning and response in respect of demonstrations or occupations. The events of November 10 suggest that it would be beneficial to revisit and finalize a distinct protocol for dealing with demonstrations, occupations and other forms of civic protest on campus.

Developing and implementing a distinct protocol or framework for dealing with civic protest on campus would signal the qualitative difference between this type of event, on the one hand, and threats to the safety of people and property, on the other. Other universities have established such protocols outlining what types of demonstrations and protests will not be treated as peaceful assemblies. Conversely, such protocols make it easier for security teams to determine the circumstances in which they should refrain from intervening in what faculty, students and the rest of the university community construe as a peaceful assembly. Moreover, when such protocols are in place, organizers of demonstrations, protests and occupations, as well as the participants in such events, know what to expect in light of the intentions and operations of their event.

The protocol or framework should be developed by those with expertise to address safety and security measures, in consultation with other constituencies in the University community. It should be reviewed by the University's Legal Services, and approved by the University's senior administration. Ideally, this protocol would flow from a clear and public statement of policy as to the University's position on protests, demonstrations and occupations on campus. The protocol could also be a public document, although portions of it could remain confidential when necessary to protect the operations of McGill Security. It would clarify the respective roles of security and senior administrators in deciding when to tolerate or stop a protest; who should speak to or negotiate with protesters or occupiers; whether cameras should be used and if so, under what circumstances; how escalated situations would be dealt with; when force should be used and by whom; what type of force should be used; the triggers of physical intervention; under what conditions the assistance of police authorities can and should be requested; the proper procedures and allocation of resources if there are multiple sites of protest on campus; and the role that the Security Team should assume if the police have intervened.

This protocol should not exist in a policy vacuum and thus should take into account the general McGill policies on emergency intervention, evacuation measures, first aid and other assistance, as well as building access. It should also provide an appropriate framework for planning the University's response to anticipated or foreseeable demonstrations and occupations on campus or in its immediate vicinity, including risk assessment, contextualization, operational planning, and post-event evaluation. Finally, the protocol should be addressed as part of the training of all security personnel, including contract security agents working at McGill.

Recommendation 3: Security Services should intensify its community partnership activities and establish fixed lines of communication with the different constituencies on campus, particularly with student groups and University community organizations. University Authorities should revisit the lines of authority, chain of command and channels of communication between senior administration and Security Services.

McGill University's Safety and Security Service is justifiably proud of its efforts to improve prevention and safety awareness on campus, and of the assistance it provides to community members in the planning and management of a range of special events. Its commitment to ensuring the health, safety and welfare of the McGill community is undeniable. Over the past decade, it has met on a regular basis with groups and individuals to provide much needed advice on event planning, safety awareness, crisis intervention, self-defense, and a broad range of security and safety issues.

Nonetheless, the events of the past months have taken a toll on the public image of McGill's Security Services. While a decade ago many members of the McGill community complained that security was not sufficiently visible on campus, the pendulum appears to have swung the other way. I have received a number of submissions demanding an end to the "securitization of campus." The presence of an unusual number of security agents overseeing construction sites on campus may have contributed to this perception. It is clear that the context of the MUNACA strike also played a significant role in shaping this perception. Members of the security team were, at the direction of University authorities, visible everywhere on campus, monitoring picket lines and in some cases filming and collecting evidence

of demonstrations and other actions by MUNACA members in relation to the injunction obtained by the University during this labour disruption.¹ In so doing, members of the Security Team inevitably filmed faculty and students who were participating in peaceful demonstrations in support of the union, contributing to the perception of securitization of campus. For some people on campus, security agents were the outward manifestation of the injunction. In this role, the security team may have appeared to be diverted from its primary mission: protecting the health and safety of the McGill community, its visitors and the University's physical resources, through appropriate "guidance, prevention and response."

Security Services and the different constituencies across campus should work towards rebuilding the reciprocal relationships of trust that existed in the past, and emphasizing the commitment to prevention and safety awareness that is a central feature of the mandate and activities of Security Services. University authorities should continue to provide resources to support and enhance this crucial mandate of Security Services. Security Services should also continue to work hand in hand with student groups and University community organizations in planning demonstrations and civic protests in advance, to ensure that the campus remains a safe space for free expression.

In addition to establishing fixed lines of communication with the community, particularly with student groups and University community organizations, Security Services should consider the possibility of providing contract security agents with a uniform that more clearly marks their connection to McGill, subject to the legal constraints that may be imposed by their status as employees of an independent contractor. At present, some members of the community view those agents as temporary individuals sent to the McGill campus by a private security agency. The fact that they wear a private agency uniform underlines their status as contract security agents and may stand in the way of their inclusion in the McGill community.

¹ The original version of the report referred to "demonstrations and other actions by MUNACA members in violation of the injunction obtained by the University during this labour disruption." It was corrected on December 20, 2012.

The events of November 10 also suggest that some attention must be paid to the involvement of senior administrators in emergency response, and to the interaction between the Security Team and administrators at different levels within the University. In particular, relevant University authorities should determine who in the administration has the authority to give instructions and directions to members of the Security Team in the context of a specific incident. University authorities should also revisit and clarify: the degree of autonomy of McGill's Security Services; the weight to be given to its views and expertise in matters of safety and security; and the respect that is owed to the Security Team's hierarchical channels and command structure.

Recommendation 4: University authorities should review their immediate response to the events of November 10 from the point of view of emergency management, and publicly address any concerns that may emerge from this review.

On November 10, some staff members experienced fear or confusion as protesters surrounded their building and McGill Security precluded entry as well as exit. Furthermore, whatever the causes of the arrival of the Montreal Police Intervention Group on November 10, it is clear that its presence on campus constituted a risk for the safety of those who found themselves in James Square and in its immediate vicinity at the time. In this respect, relevant University authorities should assess their immediate response to the events of that day from the point of view of emergency management practices. Was the response of the different emergency units optimal, in view of the disruption and increased risk to personal safety that resulted from the escalation of intensity of the protest and the eventual confrontation between the police and the crowd on James Square? This question needs to be addressed on at least three levels.

The first level relates to communication. The events of November 10 suggest that there may be some shortcomings in the University's protocols for communicating with members of the community, whenever access to and egress from their building is restricted by reason of an emergency. Many staff members with offices on the south side of the James Administration Building could see and hear that a protest was growing in intensity. Others in the building indicated they had no idea what was going on the fifth floor, or on James Square. Very few staff members who communicated with me feel they were given clear directions as to whether

they should stay put or leave the premises, and how. It appears that many faculty, students and staff in perimeter buildings that were put on lock-down or card-only access were not notified of the reasons for this measure, resulting in several confused calls to the Security Operations Center. Classes, conferences and examinations were disrupted, and it is unclear whether academic authorities were informed in a timely manner of the lockdown that was in effect so as to be able to disseminate instructions in this respect. Although the University does rely on a campus-wide Automated Emergency Notification System, it does not appear to have effective ways to reach the people on a building-specific basis, other than a "listserv" controlled by each building director. This is a concern that should be addressed and remedied.

As for the Automated Emergency Notification System, it was not activated on November 10 to warn the McGill community that the situation in James Square had escalated to a potentially violent confrontation. The administrators of this system gave significant weight to the risk that many more protestors, including some from outside of the McGill community who might have been inclined to engage in violence, might come to McGill if the riot police's presence on campus was publicized. If this was a genuine risk, and I have no reason to conclude otherwise, then alternative modes of communication with the community should be explored for those kinds of circumstances.

The second level of concern relates to the control of access to buildings. My review of the communications between members of the Security Team on November 10, as well as recordings of calls made to the Security Operations Center (#3000) at the time, suggests that the effectiveness and safety of putting perimeter buildings on lockdown or card-only access needs to be reviewed. The decision to restrict access to the buildings was intended to prevent simultaneous occupations in a plurality of buildings around the perimeter of the downtown. Whether or not that risk was genuine, people were coming in and out of some buildings that were supposed to be secure. This included the McConnell Engineering Building as well as the James Administration Building. The difference between a lockdown and card-only access does not appear to have been clearly understood or activated. Conversely, the lockdown created several problems for people in more remote buildings, including the Leacock Building, and prevented access for people who were seeking assistance after having been pepper-sprayed. There appears to be a lack of clarity as to the

meaning of the different categories of restriction of access, and what each entails for building directors, porters, and security agents guarding the doors.

The third level of concern relates to the level of assistance that should be provided to members of the McGill community in order to curtail or remedy the immediate consequences of a confrontation with the Montreal Police Intervention Group. Again, whatever the causes of the confrontation, several community members were unwittingly passing through James Square or coming to Milton Gates at a dangerous time. It is unclear whether Security Services were able to protect them from the risk of harm by securing the perimeter. Indeed, there may not have been enough agents on duty to cover such a large site. Similarly, it is unclear whether Security Services was able to provide first aid and assistance to people who were pepper-sprayed or otherwise subjected to force on campus, or whether such offer of assistance would have been accepted under the circumstances. More broadly, the University should assess its own response to the events of November 10 in terms of providing counseling and care to faculty, staff and students in the days that followed.

3.2.3 The University's External Relationships and the Presence of Police Forces on Campus

Recommendation 5: University authorities should establish clear guidelines allocating authority to call for police assistance in the specific context of demonstrations, occupations and other forms of civic protest.

The presence of police officers on campus is inevitable – and desirable - in the context of crimes in progress, continuous pursuit of criminal offenders, or response to and investigation of allegations of criminal behaviour on campus. It is unrealistic, and also dangerous, to imagine the campus as off-limits to any form of police intervention. It is also unrealistic and dangerous to suggest that the Montreal Police should only be allowed on campus on a specific call for assistance from a high-ranking senior academic administrator. There are innumerable occasions in which decisions to call for police assistance must be made quickly and without extensive deliberation. Indeed, McGill University's Emergency Management Plan and Standard Operating Procedures allocate authority to the

Security Team to call for the assistance of the police or other external emergency bodies in the case of a broad range of crises. Furthermore, any person on campus can call 911, which may result in the welcome presence of the police on campus in responding to emergencies.

Nonetheless, the context of demonstrations, occupations, and other forms of civic protest on campus is distinct. A University request for police assistance in this context should be addressed differently, particularly when the protest or demonstration involves students, faculty or other members of the university community. At other universities, special protocols are in place to ensure that whenever possible, the decision to call for police assistance in the context of a protest or demonstration is made either by, or in close consultation with, senior university administrators. This allocation of authority should be addressed specifically in a distinct Standard Operating Procedure for civil disobedience, protests and demonstrations, as proposed above under Recommendation 2. The Operating Procedure should take account of the need for rapid or immediate response in emergency situations, and provide security personnel with enough flexibility to make contextual decisions. The protocol should be clearly communicated to all members of the Security Team.

Recommendation 6: McGill senior administrators and Security Services should continue to develop a working relationship with the authorities of the neighborhood police stations (Postes de Quartier) and the authorities of the SPVM, with a view to establishing a shared understanding of the role to be played by the police, particularly its Intervention Group, in the context of demonstrations, occupations and other forms of civic protest on campus.

The downtown campus of McGill University is enclosed, and the open space within it belongs to the University. Many of the perimeter buildings on campus do not sit on a public thoroughfare. The presence of the Police's Intervention Group within this perimeter acquires a symbolic significance that may not be replicated in other downtown settings. In this context, McGill has a proprietary as well as a moral interest in ensuring that the presence of squads of the Police's Intervention Group on campus occurs only under conditions that conform to its values and concerns. Furthermore, given its geographical location, in the downtown core of the City of Montreal, close to its business, cultural and social centers, the downtown campus is

an area that can easily become the site of a civic protest. These factors point to the necessity of a close coordination and collaboration with the police authorities.

My investigation into the events of November 10 suggests that this level of coordination and collaboration can only be attained through sustained and regular contacts with police authorities. McGill authorities should seek to obtain from police authorities a better understanding of the conditions that, from their perspective, led to the presence of the Intervention Group on campus on November 10. McGill authorities should also communicate with police authorities to clarify McGill's values in relation to demonstrations and civic protest. Security Services should continue to develop a close collaboration with the commanders of the Poste de Quartier and the Intervention Group, so as to be able to interact with them in the context of a demonstration that has ceased to be peaceful. McGill senior administrators and officials of McGill's Security Services should continue to foster this relationship and find opportunities to set the terms of this collaboration, keeping in mind that, ultimately, the Montreal police authorities set their own policies and practices.

4. SUMMARY OF RECOMMENDATIONS

It is clear that the events of November 10, whatever their proximate or remote causes, have left some wounds that must be healed. The submissions I received reveal that some catharsis within the University is required in order to respond to the experiences and sentiments of many people. The recommendations I set out below have a sharper focus. The themes that underlie what I propose are clarity and community. The events of November 10 reveal that there is much uncertainty both within and between sectors of the University community when it comes to matters related to the modes, mechanics and consequences of civic protest on campus. Most of my recommendations invite dialogue and clear articulation of each constituency's expectations for the benefit of the McGill community as a whole and the individuals and groups within it.

In accordance with the mandate I was given, I have sought to focus my recommendations on the type of events that occurred on November 10 and the measures that may be envisaged to avoid their repetition. I set out specific recommendations that address the following broad areas: (i) the scope and meaning of free expression and peaceful assembly on campus; (ii) the nature and scope of security on campus; and (iii) the University's external relationships, with particular attention to the presence of police forces on campus.

***Recommendation 1:** University authorities should provide and participate in a forum open to all members of the University community to discuss the meaning and scope of the rights of free expression and peaceful assembly on campus.*

***Recommendation 2:** University Authorities should revisit the standard operating procedures of McGill's Security Services, with a view to articulating clear directives or frameworks in relation to demonstrations, protests and occupations on campus.*

***Recommendation 3:** Security Services should intensify its community partnership activities and establish fixed lines of communication with the different constituencies on campus, particularly with student groups and University community organizations. University Authorities should revisit the lines of*

authority, chain of command and channels of communication between senior administration and Security Services.

Recommendation 4: *University authorities should review their immediate response to the events of November 10 from the point of view of emergency management, and publicly address any concerns that may emerge from this review.*

Recommendation 5: *University authorities should establish clear guidelines allocating authority to call for police assistance in the specific context of demonstrations, occupations and other forms of civic protest.*

Recommendation 6: *McGill senior administrators and Security Services should continue to develop a working relationship with the authorities of the neighborhood police stations (Postes de Quartier) and the authorities of the SPVM, with a view to establishing a shared understanding of the role to be played by the police, particularly its Intervention Group, in the context of demonstrations, occupations and other forms of civic protest on campus.*

Appendix A

(Le message en version française est reproduit ci-dessous)

To all members of the McGill Community.

Following events in and around the James Building on November 10, 2011, I have been asked to conduct an independent internal investigation to review what happened and to make appropriate recommendations regarding practices, processes and policies within McGill University's control and jurisdiction. The terms of reference for this investigation are contained in a letter from Principal Heather Munroe-Blum, dated November 11, 2011, that is attached herewith.

I wish to clarify the aim of this investigation, and to explain the process by which I intend to carry it out.

The ultimate purpose of this internal investigation is to allow McGill to learn from the events of November 10, 2011 and to take steps that would reduce the likelihood of a recurrence. Thus the task is a fact-finding exercise that is primarily forward-looking. The final report will describe the events of November 10 and will gather relevant information explaining how they came about. Principal Heather Munroe-Blum has undertaken to make it public as submitted to her on or before December 15th, 2011.

The report will not include any nominative assessment of individual conduct or responsibility. There is good reason for this. In a society governed by due process and the rule of law, the allocation of blame for wrongdoings of any sort is subject to strict procedural safeguards. Those procedural safeguards ensure that the rights of victims, complainants or witnesses are protected by competent authorities with full jurisdiction to address their situation. The same procedural constraints ensure that those who might be suspected or accused of wrongdoing by competent authorities are presumed innocent and are given a full opportunity to respond to any allegations made against them.

None of these procedural constraints and safeguards applies in the context of an internal investigation such as the one I have agreed to conduct. I have no power to compel testimony or order the production of documents – indeed there is no legal basis to grant me such powers. As a result, I will not necessarily receive representations from all sides of every issue. I have no authority to determine whether any persons committed wrongdoings or offences of any kind. There are established procedures for such determinations within the University with regard to students, staff and university officials. Further, I have no authority to assess the conduct of the police on campus and will not do so. Jurisdiction for such determinations lies outside the University.

This will be the scope of my investigation. I will proceed with care and integrity. I ask for the goodwill of all members of the McGill community to assist me.

In this spirit, I invite written submissions from all members of the McGill community concerning the events of November 10, 2011.

Written submissions must be received by me **before November 25, 2011**. Submissions can be made by reply to this electronic message, at djutras@mcgill.ca . Submissions may also be delivered in a sealed envelope marked **confidential** to my attention at the following address:

Daniel Jutras, Dean
Faculty of Law, McGill University
Room 15, Old Chancellor Day Hall
3644 Peel Street
Montreal, Quebec
H3A 1W9

I will keep all submissions confidential. The content of all written submissions received, either electronically or in hard copy, will not be made public or disseminated or communicated to any person other than me, my legal advisor and my assistants.

I may solicit interviews with members of the community who have sent me information or who can shed light on the events of November 10. Interviews will not be recorded or transcribed. I will take personal notes to assist with the preparation of my report, but these notes will not be made public, or disseminated, or communicated to any person other than me, my legal advisor, and my assistants.

Members of the McGill community may also send me photos or videos of the events of November 10 by electronic mail, at djutras@mcgill.ca . I also intend to review relevant documents, written policies and other logs that may shed light on the events of November 10, 2011.

I have retained Me Giuseppe Battista as my legal advisor, and Ms. Kate Glover and Ms. Dia Dabby, two doctoral students in the Faculty of Law at McGill, who will provide me with logistical support.

I sincerely hope all members of the McGill community will cooperate in this effort.

Daniel Jutras
Dean of Law

À tous les membres de la communauté de l'Université McGill.

Dans la foulée des événements qui sont survenus sur le campus de McGill le 10 novembre dernier, j'ai reçu le mandat de mener une enquête interne indépendante visant à déterminer les faits, et à faire, le cas échéant, des recommandations appropriées concernant les pratiques, processus et politiques qui relèvent de l'Université McGill. Les paramètres de cette enquête sont fixés dans la lettre que j'ai reçue

de la Principale Heather Munroe-Blum, portant la date du 11 novembre 2011. Cette lettre est jointe au présent message.

Je souhaite expliquer ici la finalité de cette enquête, et expliquer les moyens que j'entends prendre pour la réaliser.

L'objectif ultime de cette enquête interne est de permettre à l'Université McGill de tirer les leçons qui s'imposent des événements survenus le 10 novembre afin qu'elle puisse réduire le risque que de tels événements se reproduisent à l'avenir. En ce sens, la recherche des faits par le biais de cette enquête sert des fins d'abord prospectives. Le rapport final décrira les événements du 10 novembre, et rassemblera les éléments permettant d'expliquer comment ils sont survenus. La Principale Heather Munroe-Blum s'est engagée à rendre public ce rapport dans la forme dans laquelle je le soumettrai, le ou avant le 15 décembre 2011.

Le rapport ne comportera pas d'évaluation nominative de la conduite des individus ou de leur responsabilité. Il y a de bonnes raisons pour qu'il en soit ainsi. Dans une société régie par primauté du droit et par les impératifs de l'équité procédurale, l'attribution d'un blâme pour des fautes de quelque nature que ce soit doit se faire à l'intérieur d'un cadre procédural strict. Ce cadre procédural garantit que les droits des victimes, des plaignants ou des témoins sont protégés par les autorités compétentes qui ont toute juridiction pour traiter leur situation. Le même cadre procédural assure aux personnes qu'une autorité compétente pourrait soupçonner ou accuser d'avoir commis une faute qu'elles seront présumées innocentes, et qu'elles auront l'occasion de se défendre pleinement contre les allégations qui seraient faites contre elles.

Aucune de ces garanties procédurales n'est disponible dans le cadre d'une enquête interne comme celle que j'ai accepté de mener. Je n'ai pas le pouvoir de contraindre une personne à témoigner, ni le pouvoir d'ordonner la production de documents – d'ailleurs, il n'y a pas de règle juridique qui permette de m'accorder ces pouvoirs. Par conséquent, je ne recevrai pas nécessairement de témoignages couvrant toutes les perspectives sur chacun des enjeux. Je ne suis pas l'autorité compétente pour déterminer si des personnes ont commis des fautes ou des infractions. Il y a une procédure établie au sein de l'Université pour traiter de ces questions à l'égard des étudiants, des employés et des officiers de l'Université. Par ailleurs, je ne suis pas l'autorité compétente pour juger du comportement de la police sur le campus, et je ne le ferai pas. Ce pouvoir relève d'institutions extérieures à l'Université.

Voilà la portée de cette enquête. Je ferai en sorte qu'elle soit réalisée avec soin et intégrité. Je compte sur la coopération de tous les membres de la communauté de l'Université McGill pour m'assister dans cette tâche.

J'invite donc les membres de la communauté de l'Université McGill à me transmettre par écrit les informations dont elles disposent quant aux événements du 10 novembre 2011.

Ces informations devront me parvenir par écrit avant **le 25 novembre 2011**. Elles peuvent m'être transmises par messagerie électronique à l'adresse djutrasmcgill.ca. Elles peuvent aussi m'être livrées dans une enveloppe scellée, marquée « **confidentiel** », à l'adresse suivante :

Daniel Jutras, doyen
Faculté de droit, Université McGill
Bureau 15, Pavillon Chancellor Day
3644 rue Peel
Montréal, Québec
H3A 1W9

Les communications que je recevrai seront gardées confidentielles, qu'elles me soient transmises par voie électronique ou en format papier. Leur contenu ne sera pas rendu public, ni distribué ou communiqué à quiconque, en dehors de moi, de mon conseiller juridique et de mes assistantes.

Je pourrai solliciter une entrevue avec des membres de la communauté de l'Université McGill qui m'auront transmis des informations ou qui pourraient faire la lumière sur les événements du 10 novembre. Les entrevues ne seront pas enregistrées ni transcrites. Je prendrai des notes personnelles pour m'aider dans la préparation du rapport final, mais ces notes ne seront pas rendues publiques, ni distribuées ou communiquées à quiconque, en dehors de moi, de mon conseiller juridique et de mes assistantes.

Les membres de la communauté de l'Université McGill peuvent aussi m'envoyer des photos ou des vidéos des événements, par messagerie électronique, à l'adresse djutrasmcgill.ca. Je compte aussi consulter les documents, politiques écrites et autres registres qui pourraient m'aider à faire la lumière sur les événements du 10 Novembre 2011.

Pour m'assister dans cette tâche, j'ai retenu les services de Me Giuseppe Battista, qui agira comme conseiller juridique, et ceux de Mesdames Kate Glover et Dia Dabby, toutes deux étudiantes au doctorat en droit à McGill, qui m'offriront le soutien logistique requis.

J'exprime le souhait que tous les membres de la communauté de l'Université McGill apporteront leur soutien à cet effort.

Daniel Jutras
Doyen de la Faculté de droit.

Appendix B



McGill

Heather Munroe-Blum, O.C., O.O., Ph.D., F.R.S.C.

Principal and Vice-Chancellor
Professor of Epidemiology and Biostatistics
McGill University
James Administration Building
845 Sherbrooke Street West
Montreal, QC, Canada H3A 2T5

Principale et vice-chancelière
Professeure d'épidémiologie et biostatistique
Université McGill
Pavillon James de l'administration
845, rue Sherbrooke Ouest
Montréal (Québec) Canada H3A 2T5

November 11, 2011

Professor Daniel Jutras
Dean, Faculty of Law
McGill University

Dear Professor Jutras,

I write to ask you to undertake an independent internal investigation of the events of November 10, 2011 on our campus in and around the James Building and adjacent areas, and to submit a report to me no later than December 15, 2011. I plan to make the report public after receiving it. Your mandate is to serve the McGill community by reviewing what happened and making whatever recommendations you judge appropriate regarding practices, processes and policies within McGill University's control and jurisdiction.

You should determine your own procedures and retain whatever assistance you require. I ask that in the course of your investigation you invite submissions from members of the McGill community, and, as may be appropriate, interview individuals you judge can assist you in determining what happened, consult with interested individuals, and otherwise investigate the incident.

By making this letter to you public, I am asking all members of the McGill community - faculty, students and administrative and support staff - to cooperate with your work in any way you may ask. Further, I commit to you that all members of the senior administration will cooperate with your work as you may request of them. You should proceed with your investigation guided by this letter and your judgment alone and take instructions from no member of the McGill community including myself.

The purpose of your internal investigation and recommendations is to allow McGill to learn from the events of November 10, 2011 and implement changes that would reduce the likelihood of a similar incident occurring in the future. Your investigation should remain entirely separate from established University processes for complaints, discipline and other sanctions and remedies. Further, your investigation should not prejudice or supplant processes for complaints, discipline or other sanctions and remedies established by bodies external to McGill University. You should not make findings about or assign blame to specific individuals. Any such actions pertaining to specific individuals must only occur through established procedures. You should grant confidentiality to all submissions you receive so that members of the McGill community are free to speak with and write to you without fear of sanction or favour.

I also ask that you advertise publicly on campus these terms of reference and how individuals can communicate with you in confidence.

Professor Daniel Jutras
November 11, 2011

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I am grateful to you for accepting this assignment and am confident the University will be well served by your internal investigation and report. Thank you for your willingness to serve.

With kind regards,

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Munroe-Blum', with a long horizontal flourish extending to the right.

Professor Heather Munroe-Blum