

COMMUNITY ADVISORY -- Please share widely – October 17, 2016
Prepared by members of *Contempt of Court: Legal Clinic By and For Social Movements*

About Fingerprinting and Photographs for summary criminal charges



This past Friday (October 14, 2016), a Montreal Municipal Court judge issued an important decision concerning fingerprints. Essentially, the police and prosecutors can't compel fingerprints or photographs when prosecutors decide to proceed summarily for a criminal charge.

-> The court decision is linked here: www.solidaritycrossborders.org/wp-content/uploads/FingerprintDecision.pdf

According to paragraph 71 of the decision: "I conclude that a defendant cannot be compelled to give his fingerprints for a hybrid offence after the Crown has made an election to proceed summarily."

-> The original motion, by members of *Contempt of Court: Legal Clinic By and For Social Movements*, with more context to the origins of this decision, is linked here: www.solidaritycrossborders.org/wp-content/uploads/YouCantTakeMyFingerprints.pdf

The possibility is now open to more widely challenge the practice of fingerprinting and photographs, and to destroy fingerprints and photos that have been taken previously. That can happen if future defendants refuse to have their fingerprints or photographs taken when it's clear they're facing summary charges.

Members of *Contempt of Court: Legal Clinic By and For Social Movements* will be exploring various options to more substantively challenge all fingerprinting for summary criminal cases, which account for most criminal charges. We hope to produce more substantive information materials in the near future.

But, in the mean time, we would like to share the following basic information:

- If the prosecutor has already decided to proceed summary against you in court (all cases at Montreal's Municipal Court are summary cases), then the recent court decision confirms that your prints cannot be compelled. However, you or your lawyer will need to make the argument with other judges who are not familiar with the recent decision. If you need support in challenging having your fingerprints taken, get in touch with us: outrageautribunal@riseup.net
- We would like to challenge fingerprinting earlier in the arrest process; namely, we would like to support protesters who refuse to be fingerprinted at the police station after an arrest, if it's clear that the charge against you will be summary (or is scheduled for Montreal's Municipal Court). If you are willing to make this kind of challenge (the next time you might be arrested and charged), or would like support in knowing how to make this challenge, get in touch with us: outrageautribunal@riseup.net
- We would like to pro-actively force the police to destroy ALL previous fingerprints and photographs that were ever take in relation to summary offenses. We would like to explore options with our allies about how to make this happen, so that the onus on destroying the prints is on the police (with third-party verification) and not on the former accused to make a request. If you would like to help with this effort, contact us: outrageautribunal@riseup.net
- Finally, we would like to put pressure on all prosecutors, particularly prosecutors at Montreal's Municipal Court, to stop asking for fingerprints or photographs. If you would like to explore options with us, get in touch: outrageautribunal@riseup.net

You can also attend our next Legal Support Mutual Aid Evening, to take place on November 1st from 6:30pm to 8:30pm at 1500 de Maisonneuve West, #204. We will discuss together how to support each other in facing the legal system.

This is a basic, initial, community advisory. With more research, and collaboration with allies, we are hoping to be able to share more substantive information publicly. This advisory is prepared by members of *Contempt of Court: Legal Clinic By and For Social Movements*. We are not lawyers, and this advisory is not legal advice. Rather, we are part of social movements, and we share resources and knowledge, by and for our movements, and in opposition to police and the state.

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