Directeur
des poursuites
criminelles et pénales
Québec

FACTUM PRESENTED BY THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS TO THE NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

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Mtre. Anny Bernier
Criminal and Penal Prosecuting Attorney
Director of Criminal and Penal Prosecutions
Bureau du service juridique
Complexe Jules-Dallaire, tour 1, bureau 500
2828, boulevard Laurier
Quebec (Quebec) G1V 0B9

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INTRODUCTION

1. On August 3, 2016, in response to the high number of deaths and disappearances of Indigenous women and girls in the country, the Government of Canada announced the implementation of the National Inquiry into Missing and Murdered Indigenous Women and Girls (hereinafter the "Inquiry commission").[1]

2. In support of those steps, on August 9, 2016, the Quebec Government adopted Order 711-2016[2] for the purpose of constituting the National Inquiry into Missing and Murdered Indigenous Women and Girls[3] in Quebec, in accordance with section 1 of the *Act respecting public inquiry commissions* (chapter C-37).

3. The Director of Criminal and Penal Prosecutions (hereinafter the "DCPP") is aware of the importance of that work and wishes to support the prevention of violence against Indigenous women and girls. The DCPP has offered to cooperate fully with the Inquiry commission and took part in the various community hearings held in Quebec, as well as in the institutional hearings and the hearings of experts and knowledge keepers held throughout the country. We wish to thank the Inquiry commission for granting us the status of participant to these efforts which enabled us to identify the various issues affecting our organization and allows us to find concrete solutions in a proactive manner. The DCPP also wishes to thank all the witnesses who shared their experience and knowledge at the various hearings

4. Among the many highly important issues raised at the hearings, we noted, in particular: (1) the need of communication between the various players in the judicial process and the victims; (2) the need to improve knowledge of Indigenous realities and historical, cultural

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[1] *Inquiry into Missing and Murdered Indigenous Women and Girls.*
[2] *GAZETTE OFFICIELLE DU QUÉBEC*, August 31, 2016, 148th year, No. 35, Order 711-2016, August 9, 2016.
[3] See the mandate provided in the provincial order in Appendix 1 of this factum (in French).

and societal specificities;[4] (3) the fact that Indigenous peoples are over-represented in the justice system; and lastly, (4) the lack of consistency in the application of the Gladue report. In this factum, we will attempt to provide as much relevant information as possible regarding those issues.

5. The DCPP acknowledges the importance of the work of the Commission of Inquiry and hopes, in addition to contribute to guide the Commissioners' understanding and recommendations, to demonstrate its support in advancing this important societal project.

PART I – BETTER COMMUNICATION BETWEEN THE VARIOUS PLAYERS IN THE JUDICIAL PROCESS AND THE VICTIMS

1. THE INSTITUTION OF THE DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

6. During the testimony made at the hearings of the Inquiry commission, we noted that our role and obligations were perhaps not well understood by, or sufficiently explained to, Indigenous communities and the Canadian population in general. Hence, we would like to begin with a brief presentation of our institution.

7. Under the *Act respecting the Director of Criminal and Penal Prosecutions*[5] (hereinafter the "ADCPP"), the DCPP directs all criminal and penal prosecutions in Quebec on behalf of the State. The DCPP is an independent prosecution service with more than 650 prosecutors. Under the ADCPP, the Director of Criminal and Penal Prosecutions (hereinafter the "Director") and the prosecutors under her authority are the "lawful deputies of the Attorney General of Quebec within the meaning of the *Criminal Code*".

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[4] In this text, "Indigenous" refers to First Nations communities as a whole, including Inuit and Métis communities.

[5] *Act respecting the Director of Criminal and Penal Prosecutions*, CQLR, c. D-9.1.1, which came into force on March 15, 2007.

8. The DCPP acts as prosecutor in all proceedings under the *Criminal Code* (hereinafter the "CC")[6], the *Code of Penal Procedure*[7] and the *Youth Criminal Justice Act* (hereinafter the "YCJA")[8], among other statutes. Each year, the DCPP manages over 110 000 criminal prosecutions and over 500 000 penal cases. The DCPP performs all day-to-day operations in those matters, including advising the police in their investigations, authorizing prosecutions, making the required representations during trials and sentencing, and instituting appeals.

9. DCPP prosecutors exercise their functions at 36 service points throughout the province's 50 judicial districts. Certain prosecutors also provide services on an itinerant basis, more particularly in the many Indigenous communities across Northern Quebec and the Basse-Côte-Nord territory.

10. Thus, criminal and penal prosecuting attorneys exercise a quasi-judicial function that requires them to objectively present admissible and reliable evidence to the Court for the purpose of assisting it in its search for truth and justice, rather than to get a conviction. Prosecutors have an obligation to act independently, objectively and impartially. Therefore, they must be free from any undue influence, partisan political considerations or other illegitimate motivations, both in fact and in public perception.

2. New Directives for DCPP prosecutors

11. The DCPP is aware of the problems faced by its prosecutors on a daily basis. It wishes to ensure that all offenders are treated fairly, while ensuring the protection of society, in keeping with public interest and the legitimate interests of the victims. To that end, the DCPP

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[6] *Criminal Code*, R.S.C. (1985), ch. C-46.
[7] *Code of Penal Procedure*, CSRQ c. C-25.1.
[8] *Youth Criminal Justice Act*, S.C. 2002, c. 1.

has fully reviewed its directives. This made it possible, in particular, to take Indigenous realities into consideration at every step of the judicial process.[9]

12. The new directives, which are scheduled to come into force on November 16, 2018,[10] allow for some flexibility in assessing each case in light of its specific circumstances and in adapting interventions to local and geographical realities, particularly where the offender or the victim is a member of an Indigenous community or has ties to an Indigenous community.

13. Of course, the directives are not intended to be applied automatically and must not replace the discernment and judgment expected from prosecutors. Rather, they establish guiding principles and general factors that prosecutors must take into consideration to make appropriate decisions.

14. In addition to incorporating the Guidelines and measures of the Minister of Justice in criminal and penal matters (hereinafter "Guidelines and measures"),[11] the new directives focus on every aspect of the treatment of victims and witnesses, particularly as regards meetings, communications, victims' rights, vertical prosecutions and priority judicial processing.

15. The DCPP is aware that being involved in the justice system as a victim or witness can be difficult. However, the contribution of victims is essential to DCPP prosecutions before the courts, particularly in order to ensure the protection of society.

16. During the review process, several measures related to the treatment of victims, including Indigenous victims, were proposed by the DCPP to ensure that, in criminal and penal proceedings, the legitimate interests of victims are taken into consideration and witnesses are respected and protected.

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[9] It is important to point out that the offender or victim must voluntarily identify as Indigenous so that prosecutors can apply the relevant measures of the new directives.

[10] **Note that the footnotes concerning the directives include internet links, which will be active when the new directives come into force on November 16, 2018**.

[11] *Guidelines and measures of the Minister of Justice in criminal and penal matters*, M-19, r. 1.

17. As mentioned earlier, the new directives will be available on the website of the DCPP, at www.dpcp.gouv.qc.ca, when they come into force. Nevertheless, we wish to draw your attention to certain passages that, in our opinion, will particularly contribute to improving certain problems raised at the hearings of the Inquiry commission.

a) New directive on the treatment of victims and witnesses

18. A directive dedicated entirely to the treatment of victims and witnesses was introduced.[12] It states the principles that must guide prosecutors in their relations with victims. It provides some indications regarding the implementation of the rights conferred by the *Canadian Victims Bill of Rights*[13] and how to conduct oneself with victims. It also addresses certain factors that must be taken into consideration by prosecutors with regard to witnesses, in particular, people skills and know-how.

19. The new directive also defines vulnerable situations that prosecutors must take into consideration in analyzing a case to determine whether a prosecution should be instituted, and at every step of the judicial process. Prosecutors must pay attention to the fact that some victims or witnesses may be in a vulnerable state, particularly in the following situations : (a) an offence committed in a context of conjugal violence; (b) an offence of a sexual nature; (c) an offence committed against a child; (d) an offence committed in a context of elder abuse; and, (e) a case where the particular nature or circumstances of the offence, the personal characteristics of the victim or witness, or the nature of the relationship with the offender indicate that the person may be in a vulnerable situation, fears for his or her safety or cannot act freely.

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[12] VIC-1 – Treatment of victims and witnesses – statement of principles).
[13] Canadian Victims Bill of Rights, S.C. 2015, c. 13, s. 2.

20. In particular, a person could have health problems or physical or mental disabilities or impairments, be the victim of an honour crime, have a precarious status (for example, an immigrant), live in a sectarian environment or a small isolated community (for example, an Indigenous community), be homeless or extremely poor, offer sexual services in exchange for compensation, or be sexually exploited (for example, human trafficking, procuring).

21. The directive also provides that prosecutors must encourage victims to prepare a statement on the impact of the crime, inform them of their right to present that impact statement to the Court, and inform them of the various ways to do so in accordance with section 722 CC[14]. When the decisions that prosecutors make are likely to have an impact on the victims' rights, prosecutors must take into consideration the victims' viewpoints and concerns regarding those decisions. In addition, during representations on sentencing, prosecutors must take the necessary steps to ensure that the legitimate interests of the victims are taken into consideration and that their viewpoints and concerns are presented.[15]

22. The new directive also provides that, when communicating with victims and witnesses, prosecutors must reassure them that they will be treated fairly throughout the judicial process, regardless of their race, ethnic origin, Indigenous status, sex or sexual orientation.[16]

b) Meeting with the victim before authorizing a prosecution

23. Where an offence is committed against a person who may be in a vulnerable situation within the meaning of directive VIC-1, the prosecutor meets with the victim before authorizing a prosecution, if warranted by the circumstances.[17] In cases of an offence of a sexual nature

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[14] VIC-1, supra, note 12, paras. 18 to 20.
[15] PEI-3 – Plea bargaining and sentencing.
[16] VIC-1, supra, note 12, para. 6.
[17] ACC-3 – Charge – Decision to institute and continue a prosecution, para. 16.

or an offence committed against a child, the prosecutor must meet with the victim before authorizing a prosecution, except if it is impossible to do so in the circumstances (for example, if the offender is detained or there is a long distance to cover within the allotted time).[18] The main purpose of the meeting is to develop a bond of trust with the victim, explain to him or her how the prosecution will unfold and what role he or she will play in it, find out his or her expectations and concerns regarding the judicial process, inform him or her of the assistance and protection measures available and, if applicable, clarify certain aspects of the evidence.

c) Elements to consider when instituting a prosecution

24. If the circumstances allow, when assessing whether to institute a prosecution, the prosecutor must favour alternative measures[19], such as the Alternative Measures Program for adults in Indigenous communities.[20]

25. When assessing whether to institute a prosecution in keeping with public interest, the prosecutor must take into consideration, in particular, local and geographical realities, particularly where the offender or the victim is a member of an Indigenous community or has ties to an Indigenous community.[21]

d) Reasons for refusal to institute a prosecution

26. In the case of an offence committed against a person who may be in a vulnerable situation within the meaning of directive VIC-1, when the circumstances justify it, the prosecutor must,

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[18] Parameters defined in directive AGR-1 – Sexual Offenses Against Adults, para. 6.

[19] Such as the Alternative Measures Program for Adults in Aboriginal communities, the Non-Judicial Treatment Program for certain criminal offences by Adults (see Appendix 2 enclosed, in French), the General Alternative Measures Program for Adults and the Extrajudicial Sanctions Program authorized by the Minister of Justice and the Minister of Health and Social Services in respect to the YCJA.

[20] ACC-3, supra, note 17, paras. 3, 12(l) et 28.

[21] *Ibid.* at para. 12 (l).

at meeting or by a telephone call, explain to the victim the reasons for refusal to institute a prosecution.[22]

27. In the case of offences of a sexual nature, offences committed against a child or offences resulting in death or serious injury, the prosecutor must, at a meeting or by a telephone call, explain the reasons why a prosecution will not be instituted to the victim, the parent or tutor of the child victim, or the relatives of the deceased or seriously injured victim, as applicable.

e) Interim release

28. At the various hearings of the Inquiry commission, several witnesses mentioned that it is more difficult for Indigenous persons to obtain an interim release before trial, since the relevant criteria are detrimental to them.[23] Hence, as part of the review of its directives, the DCPP invites prosecutors, when assessing the elements related to the interim release of an Indigenous offender, to take into consideration the offender's role and involvement in his or her community, the consequences that temporary detention could have on the community, the ancestral practices of the region's inhabitants, and the specific realities of the community's geographic location and social problems. [24]

f) Pre-trial meeting

29. At the earliest opportunity after the laying of charges and before the day of the hearing, the prosecutor shall meet with the victim to inform the victim of the trial, of his or her participation, of his or her rights and the measures to facilitate the testimony. The prosecutor answer the

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[22] *Ibid*, para. 42.

[23] According to Statistics Canada's Table 35-10-0016-01, Adult custody admissions to correctional services by aboriginal identity in Québec for the years 2016-2017, 6.5% of remand prisoners were identified as Indigenous persons (1871 out of 28 625). See also table 12 of the document *Profile of Indigenous persons admitted to correctional services in 2015-2016* (in French), Direction générale des services correctionnels, Québec, ministère de la Sécurité publique, 2018, Bernard Chéné.

[24] ACC-3, supra, note 17, para. 28.

victim's questions, address his or her concerns and prepares the victim for the hearing before the Court. [25]

30. The meeting makes it possible to maintain the bond of trust with the victim, encourage the victim to participate in the judicial process and increase his or her confidence in the administration of justice. In addition, if a meeting with the victim was not possible before authorizing the prosecution, the pre-trial meeting is an opportunity to address the issues that would have been raised then.

31. Where the sole objective of the meeting with the prosecutor is to explain the judicial process, the victim may be accompanied by a person of his or her choice. On the other hand, when the meeting deals with the facts of the case, it takes place exclusively in the presence of the victim and the investigator. This is to prevent an escort from being compellable to testify in court.

32. Where a child is scheduled to testify at the trial, and in all cases where the situation requires it, the prosecutor must meet with the child within a reasonable time before the hearing.[26] The meeting is intended, in particular, to develop or maintain a bond of trust with the child, answer the child's questions and address his or her concerns, enable the child to express certain fears, inform the child of his or her participation and how the trial will unfold, assess the child's needs with regard to the measures to facilitate testimony, and prepare the child to testify before the Court.

33. When communicating with the child, the prosecutor uses vocabulary appropriate to the child's age and his or her level of maturity and development.

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[25] VIO-1 – Domestic Violence, paras. 14 et 15 and AGR-1, supra note 18, para. 7.
[26] ENF-1, supra, note 18, paras. 12 à 14.

g) Priority judicial processing of cases

34. When scheduling trial dates, prosecutors must prioritize cases concerning offences of a sexual nature committed against adults or children and conjugal violence. Prosecutors must also inform the Court of the need to proceed as quickly as possible, in order to alleviate any stress and anxiety the victim may feel. Prosecutors must object to all applications for postponement that appear intended to delay the proceedings.[27]

35. The DCPP works closely with the police and communities to ensure that the legitimate interests of victims are better taken into consideration when they navigate and participate in the justice system.

h) Conjugal violence

36. In Quebec, all conjugal violence cases are identified by a special rating. The rating makes it easier to track cases where a person has committed a crime in a context of conjugal violence. This enables the various intervening parties to adapt their interventions to the needs of the victims.

37. In conjugal violence cases, the work of prosecutors is governed by a specific directive,[28] which is based on and complies with the *Intervention Policy on Domestic Violence: Preventing, Detecting, Countering Domestic,* adopted by the Government of Quebec in 1995.[29] The directive is also inspired by the Guidelines and measures of the Minister of Justice.[30].

38. In particular, the policy reaffirms the criminal nature of conjugal violence and reflects the importance of public denunciation of this crime through the principle of judicialization. It also

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[27] AGR-1, supra, note 18, para. 9, ENF-1, supra, note 18, para. 5 and VIO-1, supra, note 25, para. 7.
[28] VIO-1, supra, note 25.
[29] To combat the scourge of conjugal violence, the Government of Quebec launched the *Intervention Policy on Domestic Violence: Preventing, Detecting, Countering Domestic Violence* (in French) in 1995. The DCPP is a partner in the action plans stemming from that policy.
[30] Supra, note 11.

specifies that the judicial intervention must be both resilient and flexible in order to balance the requirements of the criminal and penal justice system and the needs and concerns of victims.

39. One of the DCPP's main concerns is the safety of victims, including Indigenous victims. The DCPP sees that the legitimate interests of victims are taken into consideration when offences of that type are processed. Directive VIO-1 specifies, in particular, that, where independent evidence is available, a victim's unwillingness to file a complaint cannot be a determining factor in deciding whether to prosecute.

40. In addition, that same directive states that prosecutors must exercise caution when consenting to a guilty plea for an included offence or any other offence. Moreover, where the evidence available reveals that an offence was committed, the preventive measure provided for in the *Criminal Code*, i.e. the peace bond, should not replace a prosecution or guilty plea, barring exceptions.

41. The DCPP is a member of the *Interdepartmental Committee on domestic, family and sexual violence*. It is contributing to the development of the next action plan. In the meantime, it continues to participate in the implementation of the *2012-2017 Government Action Plan on Domestic Violence*[31], which stems from the *Intervention Policy on Domestic Violence: Preventing, Detecting, Countering Domestic*[32].

42. Several prosecutors are also taking part in the various regional advisory panels aimed at guiding the actions to be taken with regard to the problem of conjugal violence.

43. The DCPP also takes part in the work of the Comité d'examen des décès survenus en contexte de violence conjugale (examination committee on deaths that occurred in a context

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[31] We invite you to consult the *Summary of the implementation of the 2012-2017 Government Action Plan on Domestic Violence* (in French only) (). At page 69 *et seq.* of the Summary, you will note that the initiatives of legal support adapted to Indigenous persons and alternative measures for Indigenous adults are addressed.

[32] Supra, note 29.

of conjugal violence). The mandate of the committee, which is under the direction of the Chief Coroner, is to examine cases of deaths which were subject to a notice to the coroner. That work will make it possible, in particular, to identify the main observations and systemic issues related to deaths that occurred in a context of conjugal violence; detect certain mortality phenomena in that same context and make recommendations aimed at prevention; identify risk factors, protective factors and significant trends; note the presence or absence of systemic problems, shortcomings or weaknesses; and ensure that the appropriate investigative tools, protocols and methods are used. The committee is a discussion forum for sharing knowledge regarding deaths that occurred in a context of conjugal violence. As such, it contributes to the improvement of internal practices, protocols and policies of organizations concerned and encourages the standardization thereof.

44. The DCPP is very sensitive to the issue of homicidal risk in a context of conjugal violence. In that regard, the DCPP invites all of its prosecutors to prioritize the safety of victims over all other factors at the time of release.[33] With regard to sentences imposed on offenders to prevent reoffending, the DCPP also encourages best practices throughout its network, within the limits provided by the jurisprudence and the law.

i) Sexual violence

45. In cases involving crimes of a sexual nature, judicial proceedings are authorized and conducted by prosecutors who wish to take into consideration the legitimate interests of the victims while ensuring the protection of society. In authorizing an information or the filing of an indictment, they are guided by a general guideline that establishes the criteria of sufficiency of evidence and advisability.[34] They are also subject to other guidelines in the

[33] VIO-1, supra, note 25.
[34] ACC-3, supra, note 17.

Guidelines and measures of the Minister of Justice of Quebec,[35] in particular, the new directive that specifically addresses interactions with children[36], as well as that which covers the treatment of victims and witnesses[37] These guidelines provide that, except in exceptional circumstances, the prosecutor must meet with the victim before authorizing an information.[38]

46. Specialized prosecutors[39] analyze the cases sent by police forces and see to follow-through at every stage of the judicial process (vertical prosecution). That approach has the advantage of limiting the number of people intervening with the victim, fostering the development of personalized contact with the victim, ensuring that a single prosecutor follows up on the case and knows all of the details, and enabling all intervening parties (police officers, assistance organizations, defence attorneys, etc.) to directly address the prosecutor assigned to the case.

47. In accordance with the Guidelines and measures[40], the protection of public safety, particularly the safety of victims and witnesses, is a predominant criterion in the decision-making process of prosecutors at every stage of the proceedings. In addition, recommendations on sentencing must take into consideration the victims' viewpoints regarding the consequences of the crime on their lives, expose the unacceptable nature of the sexual assault, and ensure that the Court has access to the elements needed to impose a sentence that reflects the seriousness of the facts.

48. In the case of offences against children, prosecutors apply the *Multisectoral agreement concerning children who are victims of sexual abuse, physical ill-treatment or a lack of care*

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35 Supra, note 11.
36 ENF-1, supra, note 18.
37 VIC-1, supra, note 12.
38 ACC-3, supra, note 17, para. 16.
39 AGR-1, supra, note 18, para. 4.
40 Supra, note 11.

threatening their physical health (hereinafter the “Multisectoral agreement”)[41]. The purpose of the agreement is to guarantee better protection for children and provide them with the assistance they need by advocating for close cooperation between the Director of Youth Protection (DYP), the prosecutor, the police and, if applicable, other intervening parties concerned, such as schools or childcare centres. To that end, designated prosecutors are available on receipt of a report by the DYP or a complaint by a police officer. During the socio-legal intervention procedure, those prosecutors act as advisors and assume coordination when a criminal prosecution is instituted.

49. Sexual assault is a serious crime. The DCPP is determined to do everything in its power to encourage people to report that crime to law enforcement, and to support victims and facilitate their passage through the justice system. Prosecutors are aware that the bond of trust and close relationship they develop with victims makes the victims’ passage through the justice system easier. Hence, they direct all of their efforts toward that objective. Therefore, the DCPP, as a partner in the implementation of the *2016-2021 Government Strategy to Prevent and Counteract Sexual Violence*,[42] has put in place five measures (see Appendix enclosed) in order to pursue its various objectives.

j) Offences involving impaired driving

50. Barring exceptional circumstances, the basic principle for repeat offenders is to seek forfeiture of the vehicle. However, certain factors are to be taken into consideration when determining the advisability of seeking the forfeiture of an Indigenous repeat offender’s vehicle.[43] Where the offender identifies as Indigenous, the prosecutor must determine whether it is advisable to seek forfeiture of the offender’s vehicle, on the basis of the

[41] *Multisectoral agreement concerning children who are victims of sexual abuse, physical ill-treatment or a lack of care threatening their physical health* (in French).

[42] *2016-2021 Government Strategy to Prevent and Counteract Sexual Violence* (in French).

[43] CAP-1 – Impaired driving ability, paras. 9 and 14.

following factors: (a) the significant impact of the forfeiture on the community's ability to satisfy its basic needs; (b) the place of residence of the offender and the geographical realities of certain remote communities; (c) the absence of an organized road network; (d) he absence of a public transport network; (e) the climate; (f) the ancestral practices of the region's inhabitants; (g) the limits of institutional resources; (h) the risk of reoffending; and, (i) public safety.

51. Specific factors must also be taken into consideration when determining whether imposing the minimum sentence would clearly be unreasonable (filing of notice of reoffence) in the case of a second offence by an Indigenous offender.[44] In principle, a notice of reoffence is filed so that a more severe sentence can be imposed, namely, the minimum sentence provided for a second offence or a subsequent offence, except where the prosecutor considers that the minimum sentence would clearly be unreasonable.

52. When determining whether imposing the minimum sentence would clearly be unreasonable in the case of a second offence by an Indigenous offender, prosecutors must pay particular attention to the following factors: (a) the place of residence of the offender and the geographical realities; (b) the ancestral practices of the region's inhabitants; (c) the limits of institutional resources; and, (d) the consequences that imposing the minimum sentence for the offence would have on the community.

53. Prosecutors may consent to or recommend placement in an addiction resource at any stage of the proceedings, particularly at the interim release hearing and during sentencing, if the said resource is registered in the directory of addiction resources.[45]

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[44] *Ibid*, paras. 13 and 14.

[45] DEP-1 – Placement in an addiction resource (drug addiction or pathological gambling), para. 1. The directories are available at: Addictions (alcohol, drugs and gambling). Directory of addiction resources (in French), Indigenous resources: Treatment Centres and Inuit resources: New Isuarsivik Regional Recovery Centre: http://isuarsivik.ca/our_project/.

k) Plea bargaining and sentencing

54. In the case of Indigenous offenders, prosecutors must take additional factors into consideration when assessing the possibility of entering a plea bargain for the purpose of avoiding a mandatory minimum sentence or the non-application of a conditional sentence.[46] Those factors also apply for the purpose of avoiding the pronouncement of an order concerning weapons.

55. Prosecutors who enter into an agreement concerning an Indigenous offender, in either of the two cases mentioned above or for the purpose of avoiding the pronouncement of an order concerning weapons, may take the following factors into consideration: (a) the place of residence of the offender and the geographical realities; (b) the ancestral practices of the region's inhabitants; (c) the limits of institutional resources; (d) the consequences that the sentence for the original offence or an ancillary order related to weapons would have on the community; and, (e) the specific risk associated with the possession of a weapon for the protection of the public. Prosecutors who enter into an agreement under this paragraph must enter the reasons for their decision in the record of the prosecution and give the record to the chief attorney for consideration.

l) Communication

56. In addition to the information that must be communicated to victims in accordance with directive VIC-1, prosecutors must ensure that victims are informed: (a) of the possibility of resiliating a residential lease (s.1974.1 of the *Civil Code of Quebec*) [47]; (b) of an application filed by the offender to obtain the victim's personal records (for example, medical, psychiatric or therapeutic records, diaries) and of the right to be represented by counsel of his or her

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[46] PEI-3, supra, note 15, para. 9.
[47] *Civil Code of Quebec*, CSR c. CCQ-1991.

choice as part of that application (s. 278.1 CC); and, (c) of an application filed by the offender to have the complainant's past sexual activity admitted into evidence (section 276 CC). [48]

57. Before starting negotiations, the prosecutor may contact the victim, if he or she deems it appropriate given the nature of the offence or the time that has elapsed since the offence was committed, in order to inform the victim of the possibility of entering into an agreement with the defence, and to find out about the consequences of the crime on the victim's life.[49]

58. After an agreement is entered into, the prosecutor must take reasonable steps to inform the victim or the person acting in the victim's name (sections 606(4.1) and 606(4.2) CC.), when the accused is charged with murder, a serious personal injury offence (section 752 CC.), or an offence defined in section 2 of the *Canadian Victims Bill of Rights,*[50] for which the maximum punishment is imprisonment for five years or more, where the victim has notified the prosecutor of his or her desire to be informed of the agreement.

59. For all other offences, a prosecutor informed by the victim of the latter's desire to be informed of an agreement must take steps in that regard, if the circumstances allow without causing undue delays.

60. The prosecutor who communicates with the victim or with the person acting in the victim's name must send the following information: (a) the offender's intention to plead guilty and the offence that will be the subject of the plea; (b) the reasons justifying the withdrawal, reduction or substitution of certain counts or a more lenient sentence; (c) the date scheduled to enter the guilty plea; and, (d) the date scheduled for sentencing.

61. In the case of an offence committed against a person who may be in a vulnerable situation within the meaning of directive VIC-1, when the circumstances justify it, the prosecutor must first consult the victim or the child's parent or tutor, as applicable.

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[48] AGR-1, supra, note 18, para. 11.
[49] PEI-3, supra, note 15, paras. 23 and 24.
[50] Supra, note 13.

62. Where a prosecutor intends to stay the proceedings in the case, he or she must inform the victim or the child's parent or tutor, as applicable.[51]

63. If a case is transferred to another judicial district, the prosecutor from the original judicial district must ensure that the victim is informed of the transfer and its terms.[52] In the case of an interprovincial transfer, the chief prosecutor, or any other person designated by the chief prosecutor, must ensure that the victim is informed of the transfer and its terms.

64. When a hearing is postponed, the prosecutor must inform the victim and the witness or, if applicable, the child's parent or tutor, of the reasons for the postponement.[53]

65. When a victim in one of the Director's records requests access to that record during the period of access defined in section 119(2) of the YCJA (s.119(1)(d) of the YCJA), the prosecutor must provide the information regarding the identity of the young person and the proceedings.[54]

66. At the request of the victim, the prosecutor must inform him or her of the identity of the young person dealt with by an extrajudicial sanction and how the offence has been dealt with (section 12 of the YCJA). The information regarding the identity of the young person includes the parents' identity and contact information.

67. In the days preceding the hearing requiring the victim's attendance, the prosecutor must see that reasonable steps are taken to ensure that the victim is present before the Court.[55]

68. When informed that the victim does not wish to become involved in the judicial process, the prosecutor : (a) meet with the victim and inform him or her of the upcoming judicial procedure, the importance of the judicial intervention and its objective, and the importance of the victim's testimony; (b) attempt to convince the victim of the need to testify and ensure

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[51] NOL-1 – Stay of charge (*Nolle Prosequi*), para. 7.
[52] TRA-2 – Transfer of a file for a guilty plea.
[53] REM-1 – Postponement (adjournment), para. 5.
[54] ADO-4 – Youth Criminal Justice System.
[55] VIO-1, supra, note 25, paras. 19 and 20.

that the victim's reluctance to take part in the judicial process is not motivated by fear or threats of retaliation; (c) proceed without the victim's testimony where the evidence is otherwise sufficient within the meaning of directive ACC-3; and, (d) request a postponement if the victim does not appear before the Court after having been duly summoned, in order to determine the reason for the victim's absence, without requesting a warrant of arrest.

69. In the absence of other evidence (for example, statements by other witnesses, medical records describing the victim's injuries, record of 911 calls, photographs of the injuries or damage), prosecutors must inform the Court of their inability to present sufficient evidence.

70. Exceptionally, the prosecutor may have the victim explain to the Court the reasons for his or her refusal to testify. In that case, the prosecutor must enter the reasons justifying that measure in the record.

71. The prosecutor inform the victim of his or her right to fill out the form entitled *Victim impact statement and possible ways to present it* (s.722(5) and 722(7) CC.).[56] When informed that the victim has filled out the form, the prosecutor must enter that information in the record of the prosecution.

72. Where the victim has informed the prosecutor that he or she wishes to be present during sentencing using the form entitled *Presentation of the victim impact statement to the court for the purpose of sentencing and notice of change of address*, or by another means, the prosecutor inform the Court so that the victim can have a reasonable opportunity to be present.

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[56] PEI-3, supra, note 15, paras. 23 to 25.

m) Referral to assistance organizations

73. Where prosecutors deem it necessary, they may direct victims to organizations in their region that offer assistance or support services adapted to their realities and needs (for example, psychological support, lodging, medical assistance).[57]

74. While upholding their oath to preserve the confidentiality of the information to which they have access in the performance of their duties, prosecutors may, if they deem it advisable and with the victims' permission, exchange information with an organization providing assistance to the victim, so that the organization can better support the victim during his or her passage through the justice system.

75. Within the limits provided by law, prosecutors must cooperate with the Department of Justice of Quebec and the Crime Victims Assistance Centres (CVACs) in the exchange of information required to implement information programs for victims. If needed, prosecutors may direct victims to appropriate assistance or support services.[58]

76. When a prosecution is instituted, the prosecutor must encourage any form of assistance or support that may be offered by the DYP for the benefit of the child. If needed, the prosecutor may direct the child and his or her parents to an organization that offers assistance or support services.[59]

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[57] VIC-1, supra, note 12, paras. 10 and 11.

[58] AGR-1, supra, note 18, para. 10. A list of the organizations is available at www.agressionssexuelles.gouv.qc.ca and www.cavac.qc.ca (in French only). The following toll-free referral phone numbers are available: 1 888 933-9007 or 514 933-9007 (for the Montréal region) and S.O.S. Domestic Violence: 1-800-363-9010.

[59] ENF-1, supra, note 18, para. 15.

n) Restitution

77. With regard to the possibility of obtaining a restitution order for the victim, prosecutors refer to directive PEI-3 (s. 737.1 and 738 CC)[60] and informs victims of their right to fill out the form entitled *Statement on Restitution*.[61]

78. Prosecutors who note that a victim has suffered losses or damages, the amount of which is readily ascertainable, must consider the possibility of requesting a restitution order from the Court (s.738 CC).

79. During representations on sentencing, prosecutors must take the necessary steps to ensure that the legitimate interests of the victims are taken into consideration and that their viewpoints and concerns, particularly with regard to the consequences and impact of the crime, are presented.

o) Criminal allegation against a police officer and Independent investigation

80. Sections 286 to 289 of the *Police Act*[62] supervise the process of investigating a police officer. The director of a police force must notify the ministère de la Sécurité publique (Ministry of Public Security) (hereinafter "MSP"), without delay, of any allegation against a police officer concerning a criminal offence, unless the director considers, after consulting the director of the DCPP, that the allegation is frivolous or unfounded. However, in the case of an allegation against a police officer concerning a criminal offence of a sexual nature committed in the performance of duties, the investigation is entrusted to the Bureau des enquêtes indépendantes (Office of Independent Investigations) (hereinafter "BEI"), which may, if it considers it necessary, consult the DCPP to determine whether the allegation is frivolous or unfounded.

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[60] VIC-1, supra, note 12, para. 21.
[61] PEI-3, supra, note 15, paras. 26 and 27.
[62] *Police Act*, SCR, c. P-13.1.

81. Once an investigation in relation to an allegation against a police officer concerning a criminal offence is completed, the record must be sent to the director of the DCPP by the director of the police force or the director of the BEI, as applicable.

82. Sections 289.1 to 289.4 of the *Police Act* relate to the conduct of an independent investigation, conducted by the BEI, which is a specialized police force whose duties are set out in sections 289.5 to 289.27 of that Act.

83. Since September 17, 2018, the BEI has also been mandated to investigate any allegation of a criminal offense committed by a police officer against an Indigenous person in Quebec.[63]

84. An independent inquiry must be conducted when a person, other than a police officer on duty, dies, suffers a serious injury or is injured by a firearm used by a police officer, during a police intervention or when detention by a police force.

85. The directive POL-1[64] provides for the process of handling investigative reports concerning criminal allegations against police officers as well as those concerning an independent investigation. In some cases, a committee of prosecutors is responsible for analyzing the file to determine whether a prosecution is warranted.

86. When the final decision not to institute a prosecution is made, unless it is inappropriate to do so, an attorney informs the injured person or the relatives of the deceased of the Director's decision-making process, the reasons for not instituting a prosecution and the fact that those reasons will be made public.

87. Reasons for a decision not to lay charges may exceptionally be made public where the DCPP deems it to be in the public interest in order to maintain public confidence in the

[63] Following the events in Val d'Or, where allegations of misconduct by certain members of the police force have been reported (see the Declaration issued by the DCPP), the MSP has put in place new measures to address Indigenous communities' concerns (see the Press released issued by the MSP (in French).
[64] POL-1 – Charge against a police officer – Criminal Allegation and Independent Investigation.

administration of justice and independence of the institution of the DCPP. Thus, given the peculiarities of independent investigations, the reasons for which a decision not to lay charges will be made public by the publication of a press release,[65] in accordance with the DCPP's Guidelines regarding the publication of the reasons for a decision not to lay charges[66].

p) Institutional issues

88. Lastly, it is important to point out that questions of law relating to Indigenous realities, which raise a legal issues of institutional interest, are reported to the Bureau du service juridique of the DCPP so that appropriate follow-up can be conducted and an organizational position can be developed.[67]

PART II – A BETTER UNDERSTANDING OF INDIGENOUS REALITIES

1. TRAINING PROVIDED

89. In the context of the DCPP's collaboration with Measure 23 of the *2012-2017 Government Action Plan on Domestic Violence*[68], namely: "Provide training to court workers on the reality and rights of Indigenous communities as well as on domestic and family violence in Indigenous communities to ensure that their interventions are culturally relevant", the DCPP initially introduced the topic of Indigenous realities into the specialized training on conjugal violence at the 2014 edition of the School for Prosecutors (hereinafter the "SP").

90. More recently, the DCPP has formally stated its commitment, in the recent *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022* (Government action plan),[69] to train prosecutors on Indigenous realities in a context of

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[65] Press released are published on the DCPP Website.
[66] DCPP Guidelines regarding the publication of the reasons for a decision not to lay charges.
[67] INS-1 – Institutional issues, para. 2(i).
[68] Supra, note 31.
[69] Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022.

criminal justice. The DCPP's commitment to training on Indigenous realities is intended to be much more inclusive and fundamental than previously.

91. Other measures in the government action plan related to training, raising awareness or information-sharing, and that fall under the responsibility of partner departments or public bodies, are of interest to the DCPP, such as developing general training online on Indigenous realities for the State's public and para-public sector employees.

92. Concretely, since the adoption of the Government action plan, the DCPP has developed and provided various training sessions on Indigenous realities, in particular:

- 3-hour training session by the public body Quebec Native Women inc. (15 prosecutors have benefited from it since December 2017);
- With the SP, 15 hours of specialized training on Indigenous realities has been provided by Julie-Anne Bérubé, from Université du Quebec en Abitibi-Témiscamingue, as well as Mtre. Marie-Chantal Brassard, Mtre. Nicolas Bigué and Jon-Ethan Rankin-Kistabish, from the DCPP (22 prosecutors benefited from it in June 2018).

93. The DCPP is confident that better knowledge of Indigenous history will ensure improved understanding of their realities, and wishes to have all DCPP personnel receive the general training online to be developed by the Secrétariat aux affaires autochtones (Secretary for Indigenous Affairs) for the Government action plan.

94. The DCPP also plans to introduce an Indigenous realities component into the SP core training, which is mandatory for all new prosecutors engaged in the DCPP annually, regardless of their previous years of experience. as a lawyer in the private sector or with other public organizations.

2. Creation of the Advisory Committee for the provincial coordination of Indigenous Affairs

95. In order to better equip prosecutors in their work and to ensure consistent practice and direction that adapt to the social, cultural and geographical realities of the different

communities, the DCPP has decided to set up an Advisory Committee on provincial coordination of Indigenous Affairs (hereinafter "ACIA").

96. The coordinator, who reports to the office of the Director, acts as a resource person in cooperation with the ACIA members,[70] in particular with the network of prosecutors and partners in Quebec. The coordinator receives all requests, whether internal or external, that concern Indigenous affairs, develops tools and disseminates documentation useful to responding prosecutors.

97. One of the members collaborates with federal, provincial and territorial partners in that regard, in particular, to ensure that key organizational positions are relayed to federal counterparts, and to contribute to legal monitoring.

98. Responding prosecutors are responsible for providing more direct support to prosecutors at their respective offices when Indigenous affairs are involved in the context of a prosecution. They inform the coordinator of any situation related to Indigenous issues that could have an impact on daily or organizational practice, or be of provincial interest.

3. MATERIAL AVAILABLE TO PROSECUTORS

99. The DCPP also promotes the production and dissemination of material on Indigenous realities and other issues. There is, in particular, a section of the DCPP Intranet dedicated to the ACIA which is supplemented by numerous documents, including Electronic news bulletins from the ACIA that deal with a variety of subjects related to Indigenous affairs,[71] which are sent to prosecutors who have been designated as respondents for the ACIA, and the teaching material used by the SP for the specialized training on Indigenous realities.

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[70] Responding prosecutors are appointed in each regional office and in certain specialized offices.

[71] The second issue of the news bulletin provided a number of suggestions for further reading to enhance understanding of Indigenous affairs and the third issue of the news bulletin was a special edition devoted to SP training on Indigenous realities in a context of criminal justice and cultural safety.

100. A guide for prosecutors, intended to be a reference document able to meet a prosecutor's need for knowledge on varied subjects when interacting (occasionally or regularly) with Indigenous persons, and a checklist for sentencing that outlines the teachings of the Supreme Court of Canada in *Gladue* and *Ipeelee* will also be developed in the short term.

4. CULTURAL SAFETY

101. Cultural safety is essential to improving knowledge of the social, cultural and historical realities of Indigenous peoples.[72] Training, development of tools and dissemination of teaching material are at the core of the initial steps of a successful cultural safety initiative. Those actions help raise cultural awareness and sensitivity (the first two steps of cultural safety). The following step is, obviously, to display cultural competence, by adapting attitudes, practices and services to take into account Indigenous realities.[73]

102. What is more, there are a number of examples characteristic of cultural competence within the DCPP. For example, when meeting with Indigenous victims, care is taken to choose a place where the victim feels comfortable and can be accompanied by friends or family members. The prosecutor can request the services of an interpreter, so that the victim can express himself or herself in the language of their choice, or ask a trusted person to assume that role (police officer, CAVAC worker, friend or relative, etc.). Prosecutors also take into account, as much as possible, certain cultural particularities that may come into play,

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[72] Further, this concept has been discussed on numerous occasions before the *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress* (hereinafter « Commission Viens »). Various documents have been filed before the Commission in that regard : Dr. JUDITH MORENCY, *De la sécurisation culturelle à l'accordage culturel : la guérison et la réconciliation, l'affaire de tous*, April 2018, online: : P-552; JANET MARK and DONNA McBRIDE, *Développement des compétences sur les questions autochtones*, November 2017, P-233; CAROLE LÉVESQUE, *Sécurisation culturelle : moteur de changement social – Pour l'amélioration de la qualité de vie et des conditions de vie*, June 2017, P-038; CAROLE LÉVESQUE, *Éléments de réflexion et pistes d'action pour améliorer les conditions de vie des Autochtones, combattre le racisme et promouvoir la sécurisation culturelle au sein des services publics*, June 2017, P-036.

[73] See Appendix attached to see two graphics illustrating the concept.

perhaps in the person's language, whether verbal or nonverbal, for example, by respecting silences.

PART III – OVER-REPRESENTATION

103. As mentioned previously, various witnesses have described imposed release conditions ill-suited to the needs and capacities of Indigenous offenders and the situations in their communities, which encourages non-compliance with those conditions, and consequently leads to judicialization. The DCPP has therefore made changes to its directive ACC-3, so that prosecutors take into account an Indigenous offender's role and involvement in his or her community, the consequences of temporary detention on the communities, the ancestral practices of the inhabitants of the region, as well as the realities related to his or her geographic situation and the social problems within the community.[74]

104. As well, the individual's personal situation, in particular homelessness, mental health or substance abuse problems, will have an impact on judicialization. At the institutional hearings on government services held in Calgary in May 2018, various witnesses discussed those problems in the Indigenous environment. Thus, the DCPP wants to underline its participation in the various programs described below, which address accessibility and accompaniment throughout the judicial process for fragile and vulnerable persons, in particular victims and those with mental health problems. It goes without saying that those initiatives require the cooperation of different interveners from the justice system and the health and social services network. It is hoped that the DCPP thus contributes to correcting those issues and decreasing over-representation of Indigenous persons in the prison environment.

[74] ACC-3, supra, note 17, para. 28.

1. PORTRAIT OF THE INCARCERATION OF INDIGENOUS PERSONS IN QUEBEC

105. Correctional services for the province of Quebec recently published the 2015-*2016 Correctional profile : Native Persons Committed to the Custody of Quebec's Correctional Services*,[75] which was filed as evidence on September 20, 2018, under Exhibit 43. In particular, this document indicates that, in 2015-2016, incarcerated Indigenous persons made up 5.4% of the correctional population of Quebec, although they made up only 1.3% of the general population.[76] It also presents data on the 1632 incarcerated Indigenous persons and the 28 506 persons who did not report they were Indigenous. This number must be differentiated from admissions, as the same person may be admitted several times to an establishment.

2. MENTAL HEALTH, HOMELESSNESS AND DRUG ADDICTION PROGRAMS

a) The Justice Support Program for mental health and the Justice Support Program for the homeless before the Court

106. The *Justice Support Program for mental health* (hereinafter "PAJ-SM") is based on a Court's flexibility as regards the specific problems of offenders with a mental disorder. The program seeks increased cooperation from the justice system, police forces, correctional services, the health and social services network, criminologists, a physician and representatives of the Crime Victims Assistance Centre (hereinafter "CAVAC"). The *Justice Support Program for the homeless before the Court* (hereinafter "PAJIC") aims to provide homeless persons access to flexibility for criminal offences, and obtain sustained efforts with a view to social reinsertion and improved conduct, whereas the PAJ-SM is especially intended for offences under Part XXVII of the C*riminal Code*.

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[75] Supra, note 23.
[76] Incarceration means that the individual was in detention for at least one day.

107. Those programs were introduced in the fall of 2006 at the Montreal Municipal Court. In January 2013, the Quebec Municipal Court made public the *Multi-sector Intervention Support Programs in Municipal Court* project (hereinafter "IMPAC"), a flexibility program for both homeless offenders and those with mental health problems. The First Peoples Justice Center of Montreal has participated in the project since 2017.

108. On June 21, 2016, representatives of the Criminal and Penal Division of the Court of Quebec in Saint-Jérôme, the DCPP, the Laurentians direction of professional correctional services, the legal aid office of Saint-Jérôme and the Laurentians integrated health and social services centre officially launched the PAJ-SM, which was implemented one year earlier (May 2015).

109. The PAJ-SM was the first partnership agreement of its type with the Court of Quebec, and makes it possible to adapt the services provided to those who have committed a criminal offence and showed signs of a mental health problem at the time of the offence.

110. Based on that model, similar initiatives are now in place at the Courthouses in Trois-Rivières, Saguenay and Longueuil. There is also a university research project under way to implement the program in the Court of Quebec at the Sherbrooke courthouse.

111. The Court of Quebec at the Courthouses in Gatineau, Chaudière-Appalaches, Bas-Saint-Laurent, Gaspésie and Îles-de-la-Madeleine should implement the PAJ-SM in the coming years.

112. Consolidation with the IMPAC project at Quebec municipal Court should be the first step in creating a model similar to the *Path of justice and mental hea*lth (hereinafter "PJMH") (Montreal courthouse) for the Quebec courthouse.

113. A pilot project on the Côte-Nord, in connection with the *Quebec Court-Supervised Drug Treatment Program* (hereinafter "CSDTP")[77], for Indigenous and non-Indigenous clients, is

[77] Quebec Court-Supervised Drug Treatment Program.

at the stage of an application for financing. The program will be implemented progressively, according to available resources and following the adjustments recommended by the assessment.

114. A PAJ-SM for the Great North of Quebec (Nunavik) is awaiting a pilot project for a CSDTP for Indigenous and non-Indigenous clients. It is at the stage of an application for financing. Discussions are under way to have the program applied to Inuit in the context of their project to reconstruct social regulation.

115. In October 2016, the Courthouse in Laval began the *Mental Health Intervention Protocol*. This project is different from those of neighbouring regions because it is not a program, but rather an intervention protocol for when a person with mental health problems is arrested. It aims to ensure the respect of their rights and to avoid incarceration by involving all the available resources.

116. Taking inspiration from the PAJ-SM in Saint-Jérôme, in February 2017, the Joliette region implemented *the Justice Support Program for Mental Health - Homelessness, whether associated with psychoactive substance addiction or not*.

117. In accord with the *2015-2020 Interministerial Homelessness Action Plan*,[78] the objective is to finish implementation of the PAJ-SM and the flexibility and support programs throughout the territory where homelessness problems exist, and to enter into agreements with the Indigenous Friendship Centres and mayors of cities where there is a problem with Indigenous homelessness. Within two or three years, all of Quebec should be completely covered, both the main judicial districts and all courthouses in Quebec.

[78] 2015-2020 Interministerial Homelessness Action Plan (in French).

118. Also in the context of the *2017-2023 Government Action Plan for social inclusion and social involvement*,[79] two projects were announced in December 2017: one is a [TRANSLATION] "training" section for PAJ-SM partners and the implementation of outreach programs, of the type mobile referral and intervention team for homelessness and support team for psycho-social emergencies. The other project is "judgment enforcement" to complement implementation of the PAJIC and the normalization of compensatory work imposed under the *Code of Penal Procedure*.[80] Those two projects are intended for all of our justice and mental health partners, with a view, in particular, to developing guides for best practices.

b) The Justice Support Program - Vulnerable clients in Abitibi-Témiscamingue

119. Created in partnership with 14 organizations, the program offers an alternative to judicialization for persons who suffer from various mental health problems or an intellectual disability and have committed a minor offence. The program coordinates with the Val-d'Or municipal court as regards homelessness (in particular for Indigenous persons), by means of the "implementation of urban psychosocial and legal services to support vulnerable Indigenous persons", as well as with the Indigenous Friendship Centres and mayors of cities where there is a problem with Indigenous homelessness, since the March 2017 agreement. The program will first be implemented in Val-d'Or for one year, then will cover the entire region.

c) Path of Justice and Mental Health for the Court of Quebec

120. At the Montreal courthouse, the mental health program PJMH for the Court of Quebec, has been in place since mid-October 2016. For the time being, the program targets only accused

[79] 2017-2023 Government Action Plan for social inclusion and social involvement. An announcement regarding this action plan, for a university research project on the effectiveness and efficiency of PAJ-SMs for offenders was also made public in December 2017.

[80] Supra, note 7.

who appear while detained. The goal is to enable the prosecution to release the accused from custody the same day as their appearance, without keeping them in custody another night to get information on their mental health. The program also aims to correlate for the accused the resources that provide mental health services in the health system. It is possible that, over time, the PJMH will evolve into a genuine PAJ-SM.

3. ALTERNATIVE MEASURES APPLIED BY THE DCPP

a) The Non-Judicial Treatment Program for certain criminal offenses by Adults

121. This program was set up in order to avoid systematically resorting to the judicial system to punish certain illegal behaviors which are only an isolated deviation from a citizen who does not disturb the social order of the community in an important manner and that does not compromise the fundamental values of our society[81].

122. Any adult offender may benefit from the program when : the offense is covered by the directive NOJ-1[82], the criteria listed in the same directive are met and the prosecutor is of the opinion that the application of the program seems justified in the circumstances. When the offender benefits from the program, a letter informing that a non-judicial (usually pre-charge) treatment is undergoing is sent. If the offender objects, subject to the limitation period, charges for which the non-judicial treatment was contemplated are then laid against the offender.

123. The program includes more than 180 eligible offenses, of which 51 new offenses were added in August 2017, notably to support the implementation of the program into Indigenous communities.[83]

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[81] Appendix 2, supra, note 19.
[82] NOJ-1 – Non-Judicial Treatment Program for certain criminal offenses by Adults.
[83] Appendix 2, supra, note 19.

b) Alternative Measures Program for adults in Aboriginal communities

124. The Alternative Measures Program for adults in Aboriginal communities[84] (hereinafter "AMPA") is an alternative to criminalization and not to judicialization. As a result, it is applied after charges are laid and only for certain specified offences. Thus the offence is publicly denounced, which promotes the principles of denunciation and deterrence, while enabling the application of a rehabilitation measure that will contribute in the long term to public safety in the community, which promotes the principle of denunciation and deterrence, while allowing the application of a rehabilitation measure that has contributed in the long term to public safety in the community since it addresses the underlying problem that contributes to the offender's crime.

125. Before referring an offender for alternative measures, the prosecutor must first determine whether there are grounds to lay charges. Subsequently, the prosecutor must determine whether it is possible to refer the case to the program for the non-judicial treatment of the case, as mentioned above[85] Following that step, the prosecutor can assess whether or not the offender may be referred to an AMPA. In that case, the measures are supervised by the Justice Committee in the community.

126. Thus, there is judicialization, and subsequently the offender is referred to the Justice Committee so that he or she can complete the alternative measure. It may be community service, compensating the victim, writing a letter of excuse, following a treatment or therapy program, or any other measure the Justice Committee deems appropriate. Thus, the offender's case remains open before the Court, but is adjourned to allow the person to complete the measure. When that is done, the offender's case returns before the Courts and the charges could be dismissed by the Court under section 717 CC if the Court believes

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[84] Alternative Measures Program for Adults in Aboriginal communities, supra, note 19.
[85] Appendix 2, supra, note 19.

that the offender has successfully completed his or her alternative measure. During the process, the prosecutor takes steps and follows up with the Justice Committee and the Courts.

127. In November 2015, a new AMPA came into force, replacing the program authorized by the Attorney General of Quebec in 2001. The DCPP collaborated in its development, particularly with respect to the review of the categories of eligible offenses to extend its application to new offenses. It participates in its implementation by adhering to an application protocol with communities who wish to implement it. The new alternative measures program has a simplified procedure and application, therefore it is easier to understand. Also, the categories of eligible offences were revised to cover a broader spectrum of conduct and individuals. For example, the program will now apply to indictable offenses, as well as hybrid (summary or indictable) offenses prosecuted by way of indictment. It also applies to new hybrid offenses punishable by 10 years of imprisonment that will be prosecuted summarily. In addition, it establishes factors the prosecutor must take into account when exercising discretion. Essentially, those factors put more emphasis on the rehabilitation of the offender. The new AMPA also provides that some cases, involving domestic violence, may now be dealt with under alternative measures at the Justice Committee.

128. In fact, in certain circumstances and under certain terms and conditions, offences involving domestic violence may be eligible for the new AMPA. In those cases, the Justice Department and the DCPP must be assured of the interest and commitment of the organizations in the community that are providing help to the victims. At this time, three communities satisfy the requirement. The goal of this measure is to promote denunciation and find a lasting solution to conjugal violence that may result, for example, from a drinking or drug problem.

129. The DCPP is currently taking steps with each one of the 25 communities covered by an agreement, in order to sign new protocols. As to including offences committed in a conjugal

context in the new AMPA, it will be done in collaboration with the communities that want to have those offences included, according to their wishes and at their rhythm.

PART IV – *GLADUE* REPORTS

130. The *Gladue*[86] and *Ipeelee*[87] decisions reaffirmed that the Court, when it imposes a custodial sentence during sentencing, must consider the systemic and background factors that affect Indigenous offenders, including the difficulties experienced and the community environment they come from.

131. With a view to the sound and efficient administration of justice in respect of the principles dictated by the Court, in July 2016, the DCPP and the Quebec Justice Department jointly adopted the *Framework for the preparation of a Gladue Report*[88] (hereinafter the "Framework"). According to that Framework, DCPP prosecutors must ask for a Gladue report to be prepared if they intend to ask for a term of imprisonment of four months or more.

132. During Commission of inquiry hearings, it was stated on numerous occasions that the handling of Gladue reports throughout the country was disparate and that the teachings of the Supreme Court were not applied appropriately in a number of regions, the DCPP examined the issue more closely. After verification, it seems possible that some Gladue principles could been less known by some prosecutors not dealing regularly with indigenous cases. Some difficulties in the quality of reporting and production lead times have also been noted in some regions.

133. In order to remedy that situation, tools[89] were developed and will continue to be developed to support and train all prosecutors concerning the Framework. In addition, as mentioned

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86 *R.* v. *Gladue*, [1999] 1 S.C.R. 688.
87 *R.* v. *Ipeelee*, [2012] S.C.C. 13.
88 See Appendix 5 attached.
89 For example: a repository of jurisprudence, a guide and the inclusion of this subject in the annual training at the School for Prosecutors.

previously, the issue of Indigenous realities, such as geographic location, ancestral practices, social problems and limited resources, is taken into account at different steps of the judicial process by the new directives that will come into force on November 16, 2018, and will have a positive impact on our practices and interventions. Last, the DCPP is committed to continued cooperation with the Quebec Justice Department on initiatives to improve the content of Gladue reports.

CONCLUSION

134. In light of the information in this factum, you can see that the DCPP has devoted much effort, time and resources to the various initiatives to adapt the criminal justice system approach to the Indigenous realities, to improve services to Indigenous people, to combat the over-representation of Indigenous persons in the criminal and penal justice system, or to encourage the consideration of victims' legitimate interests and protection of Indigenous witnesses. We invite you to consider, in particular, the review of our directives and their adaptation to Indigenous realities; the different trainings provided to prosecutors; the elaboration and application of the AMPA*;* the itinerant courts; the DCPP's cooperation with a variety of government partners;[90] the creation of the ACIA;[91] the implementation of the *Program for meetings between the prosecutor and the victim* (pilot project), and the participation of the DCPP in both Commissions of inquiry.[92]

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90 For example, in the context of the *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit*, the DCPP's participation in various discussion tables and the Aboriginal Socio-Judicial Forum, etc.

91 Involving the appointment, in all DCPP offices, of responding prosecutors, CCAA bulletins published for DCPP prosecutors and personnel, material published on the intranet, internal surveys by the CCAA on realities and practices in order to better identify needs and the solutions, etc.

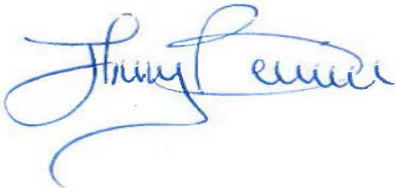
92 *National Inquiry into Missing and Murdered Indigenous Women and Girls* and the *Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec.*

135. The DCPP focused on adequately improving and adapting its practices. Therefore, it is ready to do everything in its power to contribute to initiatives toward cultural safety, in keeping with its mission.

136. In closing, while awaiting the final report by the Commission of inquiry, the DCPP will continue to work to improve its practices in relation to Indigenous matters and hopes that the initiatives mentioned in this factum will contribute to the prevention of violence against Indigenous women and girls. The DCPP is also open to the recommendations of the Commission of Inquiry that could contribute to the improvement of its practices.

137. Respectfully submitted.

In Quebec, October 31, 2018.



Mtre. Anny Bernier
Criminal and Penal Prosecuting Attorney
Director of Criminal and Penal Prosecutions

APPENDIX 1

Tiré du décret 711-2016, adopté le 9 août 2016 par le gouvernement du Québec

Mandat de la Commission d'enquête:

1. a) D'enquêter et de faire rapport sur les causes systémiques de toutes formes de violence - y compris - la violence sexuelle - à l'égard des femmes et des filles autochtones au Québec, notamment les causes sociales, économiques, culturelles, institutionnelles et historiques sous-jacentes qui contribuent à perpétuer la violence et les vulnérabilités particulières de ces femmes et de ces filles;

   b) D'enquêter et de faire rapport sur les politiques et les pratiques institutionnelles mises en place en réponse à la violence à l'égard des femmes et des filles autochtones au Québec, y compris le recensement et l'examen des pratiques éprouvées de réduction de la violence et de renforcement de la sécurité;

   c) À ces fins et dans ce cadre, d'examiner notamment les facteurs pouvant être liés aux relations entre les services publics relevant des compétences constitutionnelles du Québec, incluant notamment les corps de police, les établissements de santé, de services sociaux et d'enseignement et les Autochtones plus globalement;

2. De formuler des recommandations quant aux actions concrètes et durables à mettre en place en vue de prévenir les situations de violence à l'égard des femmes et des filles autochtones au Québec dont celles pouvant mener à leur disparition ou à leur assassinat, et;

3. De formuler des recommandations visant à améliorer de manière significative la qualité des relations entre les Autochtones et les intervenants des services publics.

APPENDIX 2

PROGRAMME DE TRAITEMENT NON JUDICIAIRE
DE CERTAINES INFRACTIONS CRIMINELLES
COMMISES PAR DES ADULTES

INTRODUCTION

Si les crimes graves qui portent atteinte aux valeurs fondamentales telles la vie, la sécurité et l'intégrité de la personne méritent d'être réprimés sévèrement par le système judiciaire, la situation est différente pour les infractions mineures.

Certains comportements illégaux ne sont souvent qu'un écart de conduite isolé de la part d'un citoyen qui ne perturbe pas l'ordre social de façon importante et qui ne compromet pas les valeurs fondamentales. Dès lors, on peut songer à traiter ce genre de manquement sans qu'il soit nécessaire de faire appel à l'appareil judiciaire.

Le recours aux procédures criminelles doit être conçu comme le moyen ultime dont dispose la société pour se protéger, et on doit en faire usage avec modération et discernement pour ne pas engorger les tribunaux, ni restreindre indûment le temps qu'ils peuvent consacrer à la répression des crimes graves. Il faut également prendre en considération les inconvénients que les poursuites criminelles occasionnent aux victimes et aux témoins sans qu'ils en retirent quelque bénéfice personnel.

Un recours systématique aux poursuites criminelles afin de sanctionner des manquements peu graves tend à banaliser la comparution des contrevenants devant les tribunaux et risque de compromettre l'impact dissuasif qu'elle peut avoir sur ceux-ci.

La décision de faire bénéficier un contrevenant du programme de traitement non judiciaire de certaines infractions criminelles commises par des adultes relève de la discrétion du procureur.

Ce programme exclut les adolescents, puisque ces derniers bénéficient de leurs propres mesures en vertu de la *Loi sur le système de justice pénale pour les adolescents*.

ADMISSIBILITÉ

Tout contrevenant adulte peut bénéficier du programme de traitement non judiciaire pour une infraction admissible s'il n'est pas exclu en raison d'une des circonstances décrites au programme et suivant les critères d'appréciation énumérés au programme. Lorsqu'il bénéficie du programme, le contrevenant se voit transmettre une lettre l'informant qu'il fait l'objet d'une mesure de traitement non judiciaire. Si le contrevenant s'y oppose, sous réserve de la prescription, des accusations relatives aux infractions pour lesquelles le traitement non judiciaire était envisagé sont alors portées contre lui.

EXCLUSIONS AU PROGRAMME

Sont exclues du programme les personnes suivantes :

- celles qui n'ont pas la citoyenneté canadienne ou le statut de résident permanent au Canada;
- celles associées au système judiciaire (art. 2 C.cr.) qui ont commis l'infraction dans l'exercice de leurs fonctions;
- celles qui, sauf pour des circonstances particulières, ont des antécédents judiciaires en semblable matière (incluant les condamnations « jeunesse » dont l'accès est permis);
- celles qui font l'objet d'une ou plusieurs causes pendantes lorsqu'on leur impute une nouvelle infraction;
- celles à qui on impute une ou plusieurs autres infractions judiciarisées ou en voie de l'être;
- celles qui, sauf pour des circonstances particulières, ont déjà bénéficié d'une mesure de rechange ou, au cours des 5 dernières années, d'une mesure de traitement non judiciaire;
- celles qui ont commis un crime à l'égard d'une personne associée au système judiciaire (art. 2 C.cr.) alors qu'elle était dans l'exercice de ses fonctions ou en raison de ses fonctions.

CRITÈRES D'APPRÉCIATION

Afin de pouvoir bénéficier du programme de traitement non judiciaire, le contrevenant doit être, de l'opinion du procureur, une personne pour laquelle l'application du programme est justifiée. À cet égard, le procureur prend notamment en compte les facteurs suivants :

- les circonstances particulières de la commission de l'infraction telles que le degré de préméditation, la gravité subjective, notamment les conséquences de l'infraction à l'égard de la victime, le degré de participation de l'auteur présumé et l'intérêt de la justice;
- la circonstance aggravante que constitue la perpétration de l'infraction par une personne associée au système judiciaire (art. 2 C.cr.);
- le degré de collaboration manifesté par le contrevenant relativement à l'enquête concernant l'infraction reprochée;
- les actes de reconnaissance accomplis par le contrevenant à l'égard du préjudice découlant de l'infraction, notamment un dédommagement à la victime, un don à un organisme dont le mandat est la prévention de la criminalité ou l'aide aux victimes d'actes criminels, ou une lettre d'excuses à la victime;
- l'ensemble des antécédents judiciaires (incluant les condamnations « jeunesse » dont l'accès est permis);
- le risque de récidive;
- le besoin de dissuasion du contrevenant, notamment s'il a bénéficié, en vertu de la *Loi sur le système de justice pénale pour les adolescents*, d'une sanction extrajudiciaire dans les 2 dernières années;

- les représentations soumises au procureur par l'avocat du contrevenant ou par celui-ci lorsqu'il n'est pas représenté.

GRILLE D'ANALYSE

Lorsqu'un procureur traite un dossier où l'application du programme de traitement non judiciaire est envisagée, il remplit la grille d'analyse à cet effet.

MESURES DE TRAITEMENT NON JUDICIAIRE

Les mesures de traitement non judiciaire sont la lettre d'avertissement et la mise en demeure.

LETTRE D'AVERTISSEMENT

La lettre d'avertissement est un document informant le contrevenant :

- qu'une demande d'intenter une poursuite contre lui a été reçue par un procureur;
- qu'un programme de traitement non judiciaire de certaines infractions criminelles commises par des adultes est en vigueur;
- que le contrevenant est admissible à ce programme;
- que son dossier ne fera pas l'objet d'une poursuite criminelle relativement à cette infraction à moins d'avis contraire de sa part;
- qu'il a le droit de consulter un avocat de son choix;
- que, s'il commet subséquemment une autre infraction criminelle au cours des cinq prochaines années, le présent dossier sera pris en compte pour décider s'il peut à nouveau bénéficier du programme de traitement non judiciaire de certaines infractions criminelles commises par des adultes.

MISE EN DEMEURE

La mise en demeure est utilisée uniquement dans le cas du non-respect d'une ordonnance de probation comportant une condition de remboursement et elle n’est pas assujettie à l'appréciation des facteurs prévus au programme. Il s'agit d'une lettre que le procureur envoie au contrevenant pour lui rappeler que le délai à l’intérieur duquel il devait se conformer à son obligation légale est expiré et que, s'il ne s'exécute pas rapidement, une dénonciation sera déposée.

LISTE DES ARTICLES DE LOI VISÉS PAR LE PROGRAMME DE TRAITEMENT NON JUDICIAIRE DE CERTAINES INFRACTIONS CRIMINELLES COMMISES PAR DES ADULTES

Code criminel

54	Aider un déserteur ou un absent de l'armée canadienne
56	Aider un membre de la Gendarmerie royale du Canada à déserter ou à s'absenter sans permission
56.1(4)b)	Pièces d’identité
57(2)b)	Fausse déclaration relative à un passeport
66(1)	Participation à un attroupement illégal
66(2)b)	Dissimulation d'identité
72(1)-73a)	Prise de possession par la force
83(1)	Se livrer à un combat concerté
86(2)(3)b)	Contravention aux règlements des armes à feu
121.1(4)b)	Interdiction – produits du tabac et tabac en feuilles
129a)e)	Infractions relatives aux agents de la paix (résister ou entraver)
129b)e)	Infractions relatives aux agents de la paix (omettre de prêter main-forte)
129c)e)	Infractions relatives aux agents de la paix (résister ou entraver dans l’exécution d’un acte judiciaire)
130(1)a)(2)b)	Prétendre faussement être un agent de la paix (se présenter faussement)
130(1)b)(2)b)	Prétendre faussement être un agent de la paix (emploi d’un insigne ou article d’uniforme)
134	Fausse déclaration
139(1)a)d)	Entrave à la justice (indemniser ou convenir d’indemniser une caution)
139(1)b)d)	Entrave à la justice (caution acceptant ou convenant d’accepter une indemnité)
140(1)a)(2)b)	Méfait public (fausse déclaration accusant une autre personne)
140(1)b)(2)b)	Méfait public (acte destiné à rendre une autre personne suspecte)
140(1)c)(2)b)	Méfait public (rapporter une infraction non commise)
140(1)d)(2)b)	Méfait public (faux décès)
143	Offre de récompense et d'immunité
145(4)b)	Omission de comparaître ou de se conformer à une sommation, à l'exception du défaut de comparaître relativement à l'application de la Loi sur l'identification des criminels
145(5)b)	Défaut de se conformer à une citation ou promesse de comparaître, à l'exception du défaut de comparaître relativement à l'application de la Loi sur l'identification des criminels
162(1)(5)b)	Voyeurisme
163-169b)	Corruption des moeurs
165-169b)	Vente spéciale conditionnée
167(1)-169b)	Représentation théâtrale immorale
167(2)-169b)	Participant à une représentation théâtrale immorale
168-169b)	Mise à la poste de choses obscènes
173(1)b)	Actions indécentes

173(2)b)	Exhibitionnisme
174(1)a)	Nudité dans un endroit public
174(1)b)	Être nu et exposé à la vue du public sur une propriété privée
175(1)a)(i)	Troubler la paix dans un endroit public (en se battant, en criant ou employant un langage insultant ou obscène)
175(1)a)(ii)	Troubler la paix dans un endroit public (en étant ivre)
175(1)a)(iii)	Troubler la paix dans un endroit public (en gênant ou molestant d'autres personnes)
175(1)b)	Exposition d'objets indécents
175(1)c)	Flâner dans un endroit public
175(1)d)	Troubler la paix des occupants d'une maison d'habitation
176(2)	Troubler des offices religieux ou certaines réunions
176(3)	Troubler des offices religieux ou certaines réunions
177	Intrusion de nuit
178	Substance volatile malfaisante
179(2)	Vagabondage
201(2)	Personne trouvée dans une maison de jeu ou qui tolère le jeu
206(4)	Acheter, prendre ou recevoir un lot, un billet ou un autre article
207(3)a)(ii)	Acte non autorisé dans la mise sur pied, l'exploitation ou la gestion d'une loterie autorisée
207(3)b)	Acte non autorisé lors de la participation à une loterie autorisée
207.1(3)a)(ii)	Acte non autorisé dans la mise sur pied, l'exploitation ou la gestion d'une loterie sur un navire de croisière internationale
207.1(3)b)	Acte non autorisé lors de la participation à une loterie sur un navire de croisière internationale
213(1)a)b)	Interférence à la circulation dans le but d'offrir ou de rendre (à l'exception d'obtenir) des services sexuels moyennant rétribution
213(1.1)	Communication dans le but de rendre des services sexuels moyennant rétribution
215(3)b)	Devoir de fournir les choses nécessaires à l'existence
250(1)	Omission de surveiller une personne remorquée
250(2)	Remorquage d'une personne la nuit
263(3)c)	Obligation de protéger les ouvertures dans la glace et les excavations sur un terrain
264(3)b)	Harcèlement criminel
264.1(1)a)(2)b)	Proférer des menaces (de causer la mort ou des lésions corporelles)
264.1(1)b)(3)b)	Proférer des menaces (de brûler ou endommager des biens meubles ou immeubles)
264.1(1)c)(3)b)	Proférer des menaces (de tuer, empoisonner ou blesser un animal ou un oiseau)
266b)	Voies de fait
267a)	Agression armée
319(1)b)	Incitation publique à la haine
319(2)b)	Fomenter volontairement la haine
334b)(ii)	Vol ne dépassant pas 5 000 $
335(1)	Prise ou occupation d'un véhicule ou d'un bateau sans le consentement du propriétaire
339(2)	Fripiers et revendeurs
342(1)a)f)	Vol, etc., de cartes de crédit (voler)
342(1)b)f)	Vol, etc., de cartes de crédit (falsifier ou fabriquer)
342(1)c)f)	Vol, etc., de cartes de crédit (posséder, utiliser ou faire le trafic)
342(1)d)f)	Vol, etc., de cartes de crédit (utiliser une carte annulée)
342.1(1)a)	Utilisation non autorisée d'ordinateur (obtenir des services d'ordinateur)
342.1(1)b)	Utilisation non autorisée d'ordinateur (intercepter ou faire intercepter toute fonction)
342.1(1)c)	Utilisation non autorisée d'ordinateur (utiliser ou faire utiliser un ordinateur)

342.1(1)d)	Utilisation non autorisée d'ordinateur (mot de passe d'ordinateur)
342.2(1)b)	Possession d'un dispositif permettant l'utilisation non autorisée d'un ordinateur ou la commission d'un méfait
348(1)a)e)	Introduction par effraction dans un dessein criminel relativement à un endroit autre qu'une maison d'habitation (intention de commettre un acte criminel)
348(1)b)e)	Introduction par effraction dans un dessein criminel relativement à un endroit autre qu'une maison d'habitation (commission d'un acte criminel)
348(1)c)e)	Introduction par effraction dans un dessein criminel relativement à un endroit autre qu'une maison d'habitation (sortir d'un endroit par effraction)
349	Présence illégale dans une maison d'habitation
351(1)b)	Possession d'outils de cambriolage
353(4)	Défaut de tenir un registre de vente de passe-partout d'automobile
355b)(ii)	Recel ne dépassant pas 5 000 $
355.2-355.5b)(ii)	Trafic de biens criminellement obtenus ne dépassant pas 5 000 $
355.4-355.5b)(ii)	Possession de biens criminellement obtenus – trafic, ne dépassant pas 5 000 $
356(1)a)(3)b)	Vol de courrier (voler du courrier, un sac ou une clef)
356(1)a.1)(3)b)	Vol de courrier (faire, avoir en sa possession ou utiliser une copie d'une clef)
356(1)b)(3)b)	Vol de courrier (avoir en sa possession une chose ayant servi à la perpétration d'une infraction)
356(1)c)(3)b)	Vol de courrier (réexpédier ou faire réexpédier)
362(1)a)(2)b)(ii)	Faux-semblant ne dépassant pas 5 000 $
364(1)	Obtention frauduleuse de vivres ou de logement
365a)	Affecter la pratique de la magie
365b)	Dire la bonne aventure
365c)	Affecter la pratique de la magie pour découvrir une chose supposée avoir été volée ou perdue
367b)	Fabrication d'un faux document
368(1)a)(1.1)b)	Emploi, possession ou trafic d'un document contrefait (emploi)
368(1)b)(1.1)b)	Emploi, possession ou trafic d'un document contrefait (tenter que soit employé)
368(1)c)(1.1)b)	Emploi, possession ou trafic d'un document contrefait (trafic)
368(1)d)(1.1)b)	Emploi, possession ou trafic d'un document contrefait (avoir en sa possession dans l'intention de commettre une infraction)
368.1	Instruments pour commettre un faux
372(1)(4)b)	Faux renseignements
372(2)(4)b)	Communications indécentes
372(3)(4)b)	Communications harcelantes
380(1)b)(ii)	Fraude ne dépassant pas 5 000 $
393(3)	Obtention frauduleuse de transport
398	Falsification d'un registre d'emploi
401(1)	Obtention de transport par faux connaissement
403(1)a)(3)b)	Fraude à l'identité (obtenir un avantage)
403(1)b)(3)b)	Fraude à l'identité (obtenir un bien ou un intérêt sur un bien)
403(1)c)(3)b)	Fraude à l'identité (causer un désavantage)
403(1)d)(3)b)	Fraude à l'identité (éviter une arrestation ou une poursuite, entraver la justice)
404	Représenter faussement une personne à un examen
407-412(1)b)	Contrefaçon de marque de commerce
408a)-412(1)b)	Substitution (autres marchandises ou services)
408b)-412(1)b)	Substitution (fausse désignation à l'égard de marchandises ou services)
409(1)-412(1)b)	Instruments pour contrefaire une marque de commerce
410a)-412(1)b)	Altération d'une marque de commerce ou d'un nom sans consentement
411-412(1)b)	Vente de marchandises utilisées sans indication
413	Se réclamer faussement d'un brevet de fournisseur de Sa Majesté
415a)g)	Cacher ou maquiller une épave
415b)g)	Recevoir une épave d'une autre personne que son propriétaire

415c)g)	Offrir en vente une épave sans autorisation légitime
415d)g)	Avoir en sa possession une épave sans autorisation légitime
415e)g)	Aborder un navire naufragé contre la volonté du capitaine
417(2)b)	Opérations illicites à l'égard d'approvisionnements publics
419a)	Emploi illégitime d'uniformes militaires
419b)	Emploi illégitime de marques ou emblèmes militaires
419c)	Emploi illégitime de certificats militaires
420(1)b)	Approvisionnements militaires
423(1)a)	Intimidation (user de violence ou menaces de violence envers la personne, son conjoint ou ses enfants, ou endommager ses biens)
423(1)b)	Intimidation de la personne ou de l'un de ses parents par des menaces de violence, d'un autre mal ou de quelque peine, ou de dommage aux biens
423(1)c)	Intimidation (suivre avec persistance la personne)
423(1)d)	Intimidation (cacher des outils ou autres biens possédés ou employés par la personne, l'en priver ou faire obstacle à leur usage)
423(1)e)	Intimidation (suivre de façon désordonnée la personne sur une grande route)
423(1)f)	Intimidation (surveiller le lieu où la personne réside, travaille ou se trouve)
423(1)g)	Intimidation (bloquer ou obstruer une grande route)
425a)	Infractions à l'encontre de la liberté d'association
425b)	Infractions à l'encontre de la liberté d'association
425c)	Infractions à l'encontre de la liberté d'association
427(1)	Émission de bons-primes
427(2)	Don à un acheteur de marchandises
430(1)a)(4)b)	Méfait ne dépassant pas 5 000 $
430(1)b)(4)b)	Méfait : bien rendu dangereux ou inutile
430(1)c)(4)b)	Méfait en gênant l'emploi d'un bien
430(1)d)(4)b)	Méfait en gênant une personne dans l'emploi d'un bien
430(4.11)c)	Méfait : monuments commémoratifs de guerre
430(4.2)b)	Méfait : bien culturel
432(1)b)	Enregistrement non autorisé d'un film
437b)	Fausse alerte
438(2)	Entrave au sauvetage d'une épave
439(1)	Amarrer un bateau à un des signaux de marine
442	Déplacer des lignes de démarcation
445(1)a)(2)b)	Tuer ou blesser des animaux qui ne sont pas des bestiaux
445.1(1)a)(2)b)	Faire souffrir inutilement des animaux
446(1)a)(2)b)	Négligence à des animaux lors du transport
447(1)(2)b)	Arène pour combats de coqs
447.1(2)	Possession d'un animal contrairement à un ordre du tribunal
454	Piécettes
456a)	Dégradation d'une pièce courante de monnaie
456b)	Mise en circulation d'une pièce courante de monnaie qui a été dégradée
457(3)	Commettre un acte relatif à l'imitation d'un billet de banque
463c)	Tentative et complicité après le fait, relativement à une des infractions de la présente liste
463d)(ii)	Tentative de vol ou de fraude ne dépassant pas 5 000 $
464b)	Conseiller une infraction qui n'est pas commise, relativement à une des infractions de la présente liste
465(1)d)	Complot
733.1(1)b)	Bris de probation

Loi réglementant certaines drogues et autres substances

4(1)(5)	Possession d'une substance inscrite à l'annexe II et à l'annexe VIII dont la quantité n'excède pas 1 g de résine de cannabis ou 30 g de marijuana

Loi sur le système de justice pénale pour les adolescents

137	Défaut de se conformer à une peine ou une décision

APPENDIX 3

Stratégie gouvernementale pour prévenir et contrer les violences sexuelles 2016-2021

Mesures mises en place par le DPCP

1) Programme de rencontres :

Afin de faciliter le passage des victimes dans le système de justice pénale, le DPCP s’est engagé à adopter un programme de rencontres entre les procureurs et les victimes pour qu’elles aient à leur disposition toute l’information pertinente et utile à leur participation (mesure 12).

À cette fin, un projet pilote est en cours dans 4 points de service du DPCP à savoir le point de service de Québec, de Laval, de Saint-Jérôme ainsi que de Sept-Îles et sa cour itinérante. D’autres régions s’ajouteront ce printemps afin de couvrir les points de service de Saint-Hyacinthe, de Saguenay et, notamment, la clientèle jeunesse du point de service de Saint-Jérôme. Le choix de ces points de service est justifié à partir de paramètres particuliers eu égard à la clientèle et aux territoires desservis par chacun de ceux-ci. L’ensemble de ces points de service bénéficie de l’ajout d’un procureur afin d’en assurer la mise en oeuvre.

Ce projet permet à la victime de violence sexuelle de rencontrer sur une base volontaire le procureur responsable de son dossier, et ce, après l’autorisation du dossier et avant le début du procès.

Lors de cette rencontre, plusieurs sujets essentiels sont abordés avec la victime notamment:

- expliquer le rôle et les responsabilités du procureur aux poursuites criminelles et pénales (procureur);
- expliquer le déroulement des procédures ainsi que les mesures prises pour assurer le respect des droits de la victime prévus par la loi;
- prévoir les possibilités de contacter le procureur;
- signifier les attentes du procureur quant à la participation de la victime;

- identifier ses besoins : préparation au témoignage, huis clos, présence d'une personne de confiance lors de son témoignage, sécurité, santé, handicap, frais de déplacement, nécessité d'un interprète, accompagnement par un représentant d'un organisme d'aide, etc.;
- l'informer des services d'aide aux victimes et la référer au besoin.

Plusieurs autres sujets peuvent également être abordés de part et d'autre à l'occasion de cette rencontre et visent à permettre à la victime d'être mieux informée sur le déroulement de la procédure, des étapes à venir, sur son rôle comme témoin. La victime est également invitée à faire part de ses craintes, ses besoins quant à sa sécurité et ses attentes quant à sa participation.

2) Capsules d'information :

Pour joindre les victimes sur les réseaux sociaux, le DPCP a produit et diffusé sur son site Internet des capsules d'information sur le processus judiciaire et le rôle des procureurs en matière de crimes de violences sexuelles (action 15), afin de démystifier et vulgariser certains aspects du processus judiciaire. D'autres capsules seront ajoutées sous peu, notamment quant à la notion de consentement en matière sexuelle.

3) Formation :

Pour mieux endiguer la criminalité liée à l'exploitation sexuelle, le DPCP offre une formation spécifique à ses procureurs (action 24) quant aux aspects propres à ce type de criminalité, et ce, annuellement. L'an dernier, le proxénétisme et la traite de personnes étaient au programme de cette formation, alors qu'en 2018 l'accent a été mis sur les crimes sexuels commis à l'égard des enfants via Internet. Les procureurs seront mieux outillés et à la fine pointe des informations sur le traitement de ce type de dossier. De plus, nous avons offert une formation spécifique sur la réalité autochtone avec la collaboration de Femmes autochtones du Québec inc. aux procureurs chargés d'analyser les dossiers de plainte provenant de différents membres des communautés autochtones.

4) Exploitation sexuelle des enfants sur Internet :

Pour mieux contrer l'exploitation sexuelle des jeunes et des enfants, le DPCP s'est engagé à mettre en place une structure de coordination des poursuites reliées aux crimes d'exploitation sexuelle des enfants sur Internet (action 28). À cette fin, une procureure a été dégagée à temps plein pour assurer la coordination de ces dossiers et préside les travaux d'une communauté de savoir composée de procureurs de toutes les régions de la province, afin d'assurer le partage systématique d'information et d'expertise. Cette communauté de savoir permet l'adoption des meilleures pratiques pour lutter contre cette forme de criminalité.

En lien avec la cybersexualité et l'autoexploitation sexuelle juvénile sur Internet, le 23 juin 2016, le DPCP a signé une entente de partenariat avec le Service de police de la Ville de Gatineau et le CALAS, dans le cadre du programme de prévention #GARDECAPOURTOI portant sur le phénomène émergent du sextage. Ce programme vise à sensibiliser les élèves de première secondaire du territoire de la ville de Gatineau au phénomène de la pornographie juvénile et du sextage. Dans le cadre de cette entente, les procureurs du Bureau des affaires jeunesses du DPCP (ci-après « BAJ ») seront appelés à coanimer avec leurs partenaires des ateliers portant sur le volet social et judiciaire de la réalité de la pornographie juvénile.

Le BAJ, en partenariat avec le Service de police de la Ville de Saint-Jérôme et les différents acteurs du milieu judiciaire et scolaire, ont d'ailleurs créé la trousse d'intervention SEXTO afin de mieux sensibiliser les jeunes et leurs parents aux dangers des messages à caractère sexuel et de les outiller devant le phénomène croissant de l'autoexploitation juvénile.

5) Guide du poursuivant en violence sexuelle :

Pour permettre aux procureurs d'approfondir leurs connaissances quant aux crimes formant le large spectre des violences sexuelles, un guide du poursuivant (action 35) est en préparation et sera diffusé comme outil de référence. Ce guide sera un outil indispensable auprès des procureurs dédiés au traitement des violences sexuelles.

À ces mesures, s'ajoutent celle rendue publique par le DPCP le 9 avril 2018, un communiqué annonçant la mise en service d'une ligne téléphonique 1 877 547-DPCP

destinée à renseigner les personnes victimes de violences sexuelles et les organismes d'aide concernés qui désirent obtenir des informations sur le traitement d'une plainte policière et l'autorisation d'une poursuite criminelle. La création de ce service vient concrétiser un engagement du DPCP présenté lors du Forum sur les agressions et le harcèlement sexuels, qui s'est tenu à Québec le 14 décembre 2017. Les utilisateurs de cette ligne reçoivent des renseignements par une équipe de procureurs expérimentés. Cette nouvelle mesure exprime la ferme volonté du DPCP d'être encore plus à l'écoute des préoccupations des victimes de violences sexuelles concernant le système judiciaire et son processus. Depuis la mise en service de la ligne téléphonique, nous recevons en moyenne 2 appels par jour provenant de personnes victimes ou d'organismes d'aide.

Finalement, puisque les personnes victimes qui hésitent à dénoncer et à s'engager dans le processus judiciaire ont certainement des motifs multiples et issus de plusieurs facteurs, 'il est impératif de s'y attarder afin d'y apporter des solutions. Le phénomène mondial #moiaussi y tire sans doute en partie sa source. Un des bénéfices de ce phénomène a été de forcer les citoyens, les milieux de travail, les associations, le monde de l'éducation, la société civile et les institutions à se remettre en question et le DPCP n'y échappe pas. Plusieurs gestes concrets ont d'ailleurs été posés:

- Une coordonnatrice provinciale en agression sexuelle a été nommée au Secrétariat général du DPCP.
- Les procureurs spécialisés en agression sexuelle ont été invités à se regrouper au sein d'une communauté de savoir afin de mettre en commun leur expertise, de définir des meilleures pratiques, d'échanger des propositions d'amélioration des services sur le plan opérationnel, etc.
- Plusieurs partenaires (policiers, CAVAC, maisons d'hébergement, organismes communautaires, etc.) ont été interpelés afin d'offrir une équipe de support aux victimes et d'assurer une présence dans les milieux scolaires.
- Des communications publiques et le déploiement d'une campagne de communication seront mis en place dans les prochains mois pour sensibiliser l'ensemble des interlocuteurs au processus judiciaire et à l'accompagnement d'une victime dans le contexte des violences sexuelles.

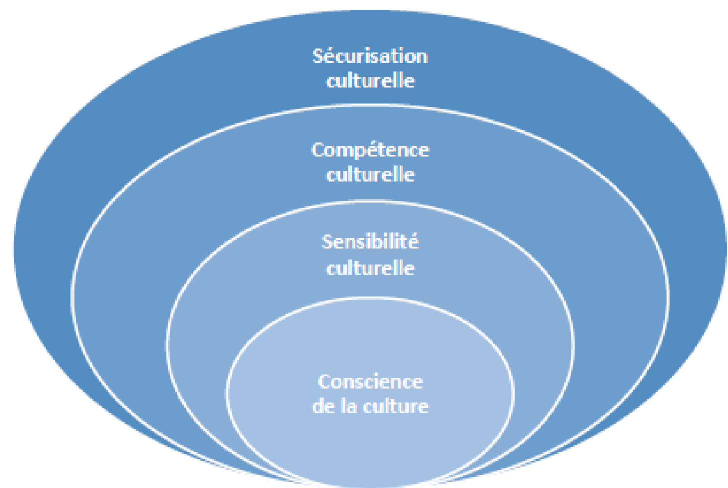
APPENDIX 4

La démarche de sécurisation culturelle en bref [93]:

La sécurisation culturelle consiste en l'établissement d'une relation empreinte de confiance et de respect tout en reconnaissant les impacts que les conditions socioéconomiques, psychosociales et historiques ont sur les besoins d'un individu ou d'une population. Ainsi, la reconnaissance et la compréhension des spécificités des cultures autochtones par les intervenants allochtones (non autochtones) permettent non seulement de bâtir la confiance nécessaire dans la prestation de services, mais également de proposer un accompagnement pertinent à la clientèle autochtone.

De manière plus explicite, il faut entendre la sécurisation culturelle comme l'ultime étape d'une approche progressive constituée de quatre stades successifs :

1. **La conscience culturelle :** Elle permet à l'intervenant d'être en mesure et désireux de reconnaître ou d'admettre les différences culturelles présentes au sein de la population, en plus d'accepter ces différences.
2. **La sensibilité culturelle :** Elle tient compte des antécédents et des expériences culturelles des Autochtones. Elle permet d'aller au-delà de la reconnaissance de l'autre en démontrant un réel respect des savoirs « autochtones » et d'être sensible au fait qu'il peut être nécessaire d'adapter sa pratique en fonction de la clientèle visée.



3. **La compétence culturelle :** Elle se reconnaît lorsque les connaissances, compétences et attitudes des intervenants renforcent l'autonomie de la clientèle et lorsque les services sont culturellement adaptés aux réalités et aux besoins de la personne autochtone.

4. **La sécurisation culturelle :** Elle est définie comme une approche systémique/holistique qui englobe la compréhension des différences de pouvoir inhérentes à la prestation de services, incluant la réflexion des intervenants sur leurs propres actions. La sécurisation culturelle permet alors de contrer les obstacles à la prestation de services et vise à impliquer la personne dans la prestation et l'évaluation de l'interaction. Ultimement, un service devient culturellement sécurisant lorsque l'ensemble des modalités de sa prestation a été adapté selon une perspective autochtone (exemples : l'environnement, les procédures, les attitudes des intervenants, etc.).

Dans ses derniers stades, l'approche de la sécurisation culturelle vise à développer chez les prestataires de services des connaissances, des compétences et des attitudes permettant l'adaptation des services aux réalités et aux besoins des personnes autochtones dans une finalité d'efficacité et de bonification de l'accès aux services publics.

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[93] Cadre de référence déposé le 27 octobre 2017 devant la Commission d'enquête sur les relations entre les Autochtones et certains services publics au Québec : écoute, réconciliation et progrès, P-198.

UN PROCESSUS STRUCTURANT

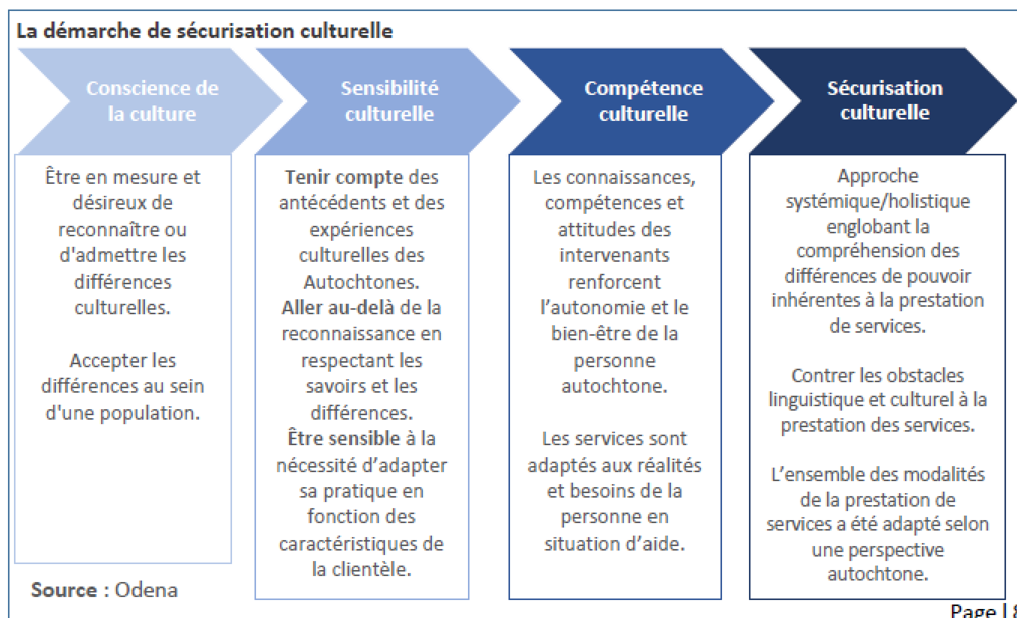
La démarche de sécurisation culturelle va beaucoup plus loin que la stricte adaptation des services de première ligne, qui se limiterait par exemple à offrir les services courants en anglais, dans une langue autochtone ou à engager du personnel d'origine autochtone. Tout en reconnaissant le bien-fondé de ce type de mesures, la démarche de sécurisation culturelle se veut plus ambitieuse dans la mesure où elle intègre dans les lieux mêmes de prestation de services, dans les pratiques professionnelles et dans le fonctionnement organisationnel les déterminants sociaux et culturels qui ont une incidence sur la santé et le bien-être des Inuits et des membres des Premières Nations.

Quelques exemples

La sécurisation culturelle a été adoptée dans de nombreuses régions du monde caractérisées par une forte présence autochtone et largement documentée dans la littérature spécialisée. Au Québec, la clinique Minowé, située au Centre d'amitié autochtone de Val-d'Or, et la Clinique Acokan, située au Centre d'amitié autochtone de La Tuque, constituent des exemples probants de la mise en œuvre d'une approche culturellement sécurisante dans le domaine de la santé et des services sociaux. En effet, ces cliniques organisent leurs activités en respect des spécificités culturelles des Autochtones et, de ce fait, sont caractérisées par une plus grande fréquentation de la clientèle autochtone que les ressources du réseau québécois. En somme, elles permettent de réaliser des interventions précoces, évitant ainsi, dans bien des cas, des interventions ultérieures plus massives, mobilisant des ressources humaines et financières elles aussi plus importantes.

Dans le domaine judiciaire, l'application de l'approche de la sécurisation culturelle implique de miser sur le modèle de la justice communautaire qui, par l'importance qu'il accorde au processus de médiation et de réconciliation, tend à être plus adapté aux milieux autochtones que le modèle de justice occidental, qui n'accorde pas la même place au principe de guérison.

En matière de réinsertion sociale, le Centre résidentiel communautaire inuit de Kangirsuk représente un bon exemple de mise en pratique de l'approche de la sécurisation culturelle. En effet, cet organisme à but non lucratif offre des services à des personnes inuites contrevenantes qui bénéficient d'une permission de sortir ou d'une libération conditionnelle ou qui sont soumises à une ordonnance de probation ou de sursis. Il dispense, entre autres, un programme structuré de support et de guérison, élaboré selon la culture inuite.



APPENDIX 5

Cadre de travail concernant la production de rapport Gladue

ATTENDU QUE les décisions Gladue et Ipeelee ont consacré l'obligation pour le tribunal, lorsqu'il entend imposer une peine de détention lors de la détermination de la sentence, de considérer les facteurs systémiques et historiques touchant les autochtones, dont les difficultés vécues par ceux-ci et le milieu communautaire dont ils sont issus;

ATTENDU QUE pour une administration saine et efficace de la justice et dans le respect des principes dictés par la Cour, les principaux intervenants judiciaires conviennent de la pertinence d'établir certains paramètres liés à l'élaboration de rapports Gladue.

Les intervenants conviennent du cadre général suivant :

A) Objectif du rapport Gladue

Le rapport Gladue a pour objectif de mettre en perspective les facteurs historiques, systémiques et individuels ayant pu contribuer à la présence de l'accusé devant les tribunaux et à proposer, s'il y a lieu, les options disponibles et adaptées aux besoins de l'accusé. Le rapport Gladue n'a pas à faire de liens de causes à effets entre le crime et les facteurs relatés. Le rapport Gladue n'a pas pour objectif de réduire la peine, mais il vise à mieux connaître le contexte particulier de l'accusé autochtone et les moyens concrets disponibles pouvant augmenter les chances de traiter les causes sous-jacentes au crime de façon globale et juste et, si possible, de prévenir la récidive.

B) Contenu d'un rapport Gladue

1. Contenu général d'un rapport

Le rapport Gladue devrait prévoir généralement les éléments suivants :

- informations générales relatives à l'accusé et au type de dossier, au rédacteur et à ses qualifications et aux diverses sources consultées (personnes et documents);
- section exhaustive relatant l'histoire personnelle de l'accusé et qui couvrira l'enfance et l'environnement familial, s'il y a lieu, les traumatismes subis et la vie quotidienne et passée (l'habitation, l'éducation, l'emploi et la situation financière, la présence des

pairs et le réseau de soutien, la consommation de substances et les dépendances, la santé physique et mentale et l'état émotionnel, la possibilité de troubles liés à l'alcoolisme foetal, les forces et les éléments positifs);

- historique et contexte actuel de la communauté (mise en contexte de l'impact des pensionnats, les impacts multigénérationnels, etc.) et les liens de l'accusé avec son milieu;
- antécédents judiciaires, attitudes et réactions de l'accusé à l'endroit du crime et des mesures pouvant être envisagées;
- sommaire des facteurs individuels et systémiques devant être pris en compte, recommandations et options réparatrices / réhabilitatrices culturellement appropriées.

Par ailleurs, le rédacteur d'un rapport doit s'assurer :

- que les faits rapportés ne le soient pas sous une forme de plaidoirie écrite, ce rôle étant réservé aux avocats en cause;
- que le contenu de la présentation ne soit pas subjectif et ne fasse pas preuve de complaisance à l'endroit de l'accusé;
- que les références à la jurisprudence soient minimales et ne fassent pas l'objet d'interprétations;
- que les sources de toutes références soient inscrites;
- que les recommandations ne soient pas sous une forme directive à l'endroit du juge.

2. Idéalement, un rapport Gladue devrait contenir les présentes sections selon l'ordre suivant :

SECTION A : Informations

1. Informations sur l'accusé
2. Informations sur le dossier à la cour et les accusations
3. Informations sommaires sur le rédacteur et ses qualifications
4. Sources d'information : personnes interviewées et documents consultés

SECTION B : Histoire personnelle

1. Situation courante
2. Histoire d'enfance et familiale
3. Réseau naturel et d'aidant autour de l'accusé
4. Logement
5. Éducation
6. Emploi et perspective d'emploi
7. Situation financière
8. Santé physique et mentale, état émotionnel et comportemental
9. Ensemble des troubles causés par l'alcoolisme foetal (ETCAF)
10. Consommation, dépendances et abus de substances
11. Forces, capacités de l'accusé et autres éléments

SECTION C : Considérations Gladue

1. Description de la communauté autochtone de l'accusé: histoire et situation actuelle
2. Attachement de l'accusé à sa communauté et au milieu culturel
3. Impacts des mesures gouvernementales vécues par l'accusé, la famille, ou dans la communauté telles les pensionnats, les écoles de jour, les abus et d'autres situations (ex. abatage des chiens de traîneau, transferts et déplacements, inondations, enfants transférés définitivement en milieu hospitalier, placements d'enfants dans des familles d'accueil pour fréquentation scolaire, etc.)

SECTION D : Historique judiciaire de l'accusé

1. Antécédents judiciaires
2. Attitudes et réflexion du sujet par rapport au(x) crime(s) commis
3. Attitudes de l'accusé en lien avec les interventions et mesures proposées ou déjà amorcées

4. Opinions de la victime (si elle le désire)

SECTION E : Conclusion

1. Sommaire des facteurs individuels et systémiques méritant d'être considérés
2. Recommandations et options potentielles/disponibles

C) La procédure entourant la production d'un rapport

1. Lors du prononcé de sentence

Quel que soit l'avocat intéressé par la production d'un tel rapport, l'autre partie doit en être informée. Il en est de même du juge au dossier qui doit l'être le plus rapidement possible ou lors de l'audience. La décision de produire un tel rapport est consignée au procès-verbal lorsque la situation se présente. Dans l'éventualité où il est demandé par l'une des parties que le juge ordonne la production d'un rapport ou si ce dernier l'ordonne de son propre chef, il est convenu que l'on doit s'assurer que l'accusé ait clairement indiqué qu'il comprenne les objectifs du processus et fasse état de sa volonté de participer au processus d'évaluation. Ce constat sera d'ailleurs reconnu et consigné dans un formulaire à être rempli par l'accusé et qui sera versé au dossier de la cour. Ce formulaire de consentement, manifestant la volonté ou non de l'accusé, est rempli avec l'assistance de son avocat.

La demande est faite lors de la reconnaissance de culpabilité ou lorsque l'accusé plaide coupable. Dans la mesure du possible, le rapport est déposé 10 jours avant l'audience. Le délai de production est estimé entre 2 et 4 mois.

Afin de faciliter la production du rapport, les intervenants judiciaires concernés, après avoir vérifié que les formulaires de consentement et d'engagement de confidentialité (voir point E relativement au formulaire de confidentialité) aient été dûment remplis par l'accusé et le rédacteur, donnent accès aux informations suivantes : la dénonciation, le rapport de police, les antécédents, les rapports psychologiques ou autres documents d'évaluations (RPS, RPD, etc.) et, s'il y a lieu, le temps de détention préventive, la peine prévue si l'infraction fait l'objet d'une peine minimale de même que la date de la prochaine comparution.

2. Lors de l'enquête de remise en liberté

Si la poursuite s'objecte à la libération, l'avocat de la défense vérifie s'il n'est pas possible d'obtenir des informations de type Gladue auprès du coordonnateur du comité de justice ou du conseiller parajudiciaire. Un plan de remise en liberté est rédigé et fourni par ceux-ci et peut, si nécessaire, être accompagné d'un sommaire de la situation personnelle de l'accusé et de considérations Gladue. Celui-ci est déposé dans un délai de 2 à 5 jours suivant la demande.

D) Éléments minimaux à considérer lors de la production d'un rapport à la suite d'une déclaration de culpabilité :

- Une peine d'incarcération de plus de quatre (4) mois est envisagée;
- L'accusé a donné son accord ou n'a pas renoncé à ce qu'un rapport Gladue soit réalisé. Cet accord est écrit et consigné dans le formulaire de consentement;
- S'il fait l'objet d'une détention préventive, l'accusé a été informé verbalement que la confection de son rapport pourrait prolonger sa période de détention préventive considérant le délai nécessaire pour la confection du rapport;
- L'information nécessaire est fournie au rédacteur.

E) Le rédacteur

Le rédacteur doit avoir des connaissances minimales de la culture, de la communauté et des ressources disponibles dans la communauté et dans la région. Cette personne doit avoir suivi une formation sur le sujet, dont celles offertes ou ayant été offertes par : Aboriginal Legal Services of Toronto, Justice Institute of British Colombia ou British Columbia Legal Services Society (Aboriginal programs and services), The Justice Institue of BC et Taïga Vision.

Il est rappelé que pour des fins de confidentialité, le rédacteur doit avoir rempli dans chaque dossier un engagement de confidentialité. Ce formulaire doit accompagner celui rempli par l'accusé et être présenté à ce dernier, une fois dûment rempli. Le document rempli par le rédacteur est versé au dossier de la cour.

F) La présentation du rapport à la cour

Il est convenu que certains passages du rapport sont d'ordre privé et ne sont pas tous directement liés aux évènements. Certains passages doivent donc être rendus publics avec parcimonie lors des audiences.

G) La collaboration suivant le prononcé de la peine

Dans l'éventualité où le tribunal donne suite aux orientations, il est essentiel que les autorités responsables du suivi de la peine collaborent afin d'augmenter les chances de succès.

MJQ - Juillet 2014