

**LIVING TOGETHER**  
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**ACTING TOGETHER**

Government brief submitted  
to the Public Inquiry Commission  
on relations between Indigenous Peoples  
and certain public services in Québec





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## SUMMARY

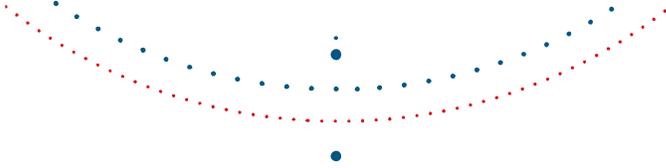
This brief was written jointly by the Secrétariat aux affaires autochtones, the Ministère de la Justice, the Ministère de la Sécurité publique, the Ministère de la Santé et des Services sociaux, the Ministère de l'Éducation et de l'Enseignement supérieur and the Secrétariat à la condition féminine.

In recent years, the Government of Québec has taken many steps to better meet First Nations and Inuit people's needs and aspirations with regard to social development. The purpose of this brief is therefore to provide clarifications about some things that have sometimes been said in the course of the hearings of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec.

The government hopes that these clarifications will make the Commission better informed about the government's activities in Aboriginal communities and help the Commission to formulate recommendations that are truly consistent with the realities of delivering public services in Québec.

**Key words:** cultural safety; collaboration; intergovernmental; reconciliation; dialogue.





## INTRODUCTION

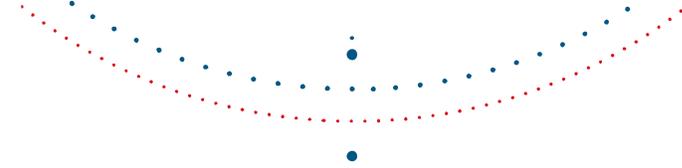
This brief, entitled *Living Together, Acting Together*, has been written to review the many steps that the Government of Québec has taken consistently in recent years to better meet First Nations and Inuit people’s needs and aspirations with regard to social development. This brief also provides clarifications about some things that have sometimes been said in the course of the hearings of the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec (“the Commission”). The authors of this brief—the Secrétariat aux affaires autochtones (SAA), the Ministère de la Justice (MJQ), the Ministère de la Sécurité publique (MSP), the Ministère de la Santé et des Services sociaux (MSSS), the Ministère de l’Éducation et de l’Enseignement supérieur (MEES) and the Secrétariat à la condition féminine (SCF) – hope that these clarifications will prove useful to the Commission in formulating its recommendations.

In accordance with Decree 1095-2016, the Commission has a mandate to “investigate, address facts and conduct analyses in order to make recommendations concerning concrete, effective, lasting remedial measures to be implemented by the Government of Québec and indigenous officials to prevent or eliminate, regardless of their origin or cause, all forms of violence, discriminatory practices and differential treatment in the delivery of the following public services to Québec’s indigenous people: police, correctional, legal, health and social services, as well as youth protection services.”<sup>1</sup>. In fact, the Commission has revealed the difficulties that Aboriginal people sometimes experience in obtaining the services to which they are entitled, as well as the frustrations that they feel regarding the actual or alleged shortcomings in Québec’s system of public services. The Commission has also highlighted the complexity of intergovernmental affairs and the delivery of public services, as well as some harsh realities: the difficult social and economic conditions experienced by many of Québec’s Aboriginal citizens and the misunderstandings and prejudices that sometimes divide Aboriginal and non-Aboriginal communities.

Out of a genuine desire to help Québec’s most disadvantaged communities and to help create equal opportunity in Québec society, the Government of Québec has participated wholeheartedly in the Commission’s work and has followed its activities closely from day to day, not only attempting to adopt an empathetic attitude toward the Aboriginal witnesses who have related the most trying experiences, but also taking careful note of the observations and proposals made by expert witnesses. The Québec government has also taken immediate steps to address certain urgent matters (i.e., to implement recommendations concerning the government that have been made by the Commission in the course of its work).

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<sup>1</sup>Gazette officielle du Québec, 11 janvier 2017, 149<sup>e</sup> année, n° 2, p. 25.



Part 1 of this brief provides a historical overview of the relations between Aboriginal people and the Government of Québec. Part 2 presents the fundamentals of Québec government involvement in Aboriginal communities. Part 3 highlights the distinctive characteristics of the Québec experience. Part 4 explains how six different Québec ministries and agencies interact with Aboriginal people. Lastly, Part 5 describes the government’s general vision of the actions that it will take in response to the work of the Commission.

## **1. HISTORICAL OVERVIEW OF RELATIONS BETWEEN ABORIGINAL PEOPLE AND THE GOVERNMENT OF QUÉBEC**

Québec’s Aboriginal peoples are still feeling the harmful effects of certain unfortunate chapters in their history. These experiences have unquestionably had traumatic consequences, and efforts are still needed today to correct them. The Government of Québec recognizes its important responsibility for carrying out this essential task.

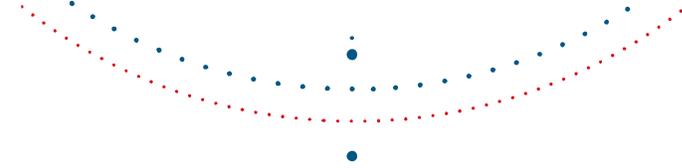
The Government of Québec has taken many steps to reaffirm the rights of Aboriginal people and recognize their special status. It is useful to underscore that, in the words of political scientist Daniel Salé, “[translation] no other jurisdiction in Canada has yet gone so far in recognizing Aboriginal identity.”<sup>2</sup> Although a great deal of progress is still needed, it must be acknowledged that in Québec, the recognition of Aboriginal nations is far more than an empty gesture devoid of value and impact.

This is so because of the new approach to protecting and recognizing the rights of Aboriginal people that emerged in Québec in the 1970s. The ratification of the *James Bay and Northern Québec Agreement* in 1975 and the signing of the *Northeastern Québec Agreement* in 1978 entrenched, for the Cree, Inuit and Naskapi nations, defined rights and benefits, lands and government responsibilities and the funding necessary for their administration in the areas of education and health and social services. These agreements also provided for the payment of certain indemnities to these nations, which has given them greater autonomy.

Over the years, the Government of Québec has intensified its efforts to promote better relations between the various Aboriginal nations and the people of Québec as a whole. In 1983, the government adopted 15 principles to guide its relations with the First Nations and the Inuit. These principles were incorporated into a resolution of Québec’s National Assembly in 1985 and still guide government activities regarding Aboriginal affairs today. To be sure, not all of these

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<sup>2</sup>Salé, D., 2013, *L'évolution des rapports politiques entre la société québécoise et les peuples autochtones depuis la crise d'Oka*, in Beaulieu, A., et al. (Eds.), 2013, *Les Autochtones et le Québec – Des premiers contacts au Plan Nord* Montréal, Presses de l’Université de Montréal, p. 331.

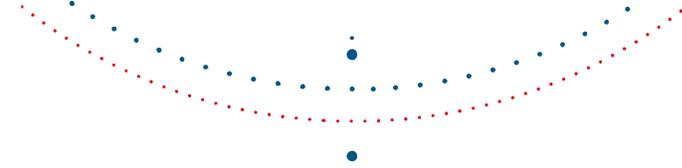


principles have yet been fully realized, but they still serve as a compass for the Québec government's activities and guide its interventions.

Further evidence of the Québec government's tangible determination to harmonize its relations with Aboriginal nations is the work done over the years by an agency now known as the Secrétariat aux affaires autochtones (SAA), established as the Secrétariat des activités gouvernementales en milieu amérindien et inuit (SAGMAI) in 1978. The SAA is a streamlined organization. It is located at the Ministère du Conseil exécutif, so it is close to the centres where decisions are made. It directly supports the Premier of Québec and his Cabinet and is responsible for ensuring coherence in the policies, interventions, initiatives and positions of Québec's various ministries and agencies with regard to the First Nations and the Inuit. The SAA continues to be guided by the 15 principles and resolutions adopted by the National Assembly in 1985 and 1989.

As all of the above history suggests, the Government of Québec has broken radically with the paternalism that formerly guided Canadian governments' approach to dealing with Aboriginal people. The Québec government has long recognized that "the aboriginal peoples of Québec constitute distinct nations, entitled to their own culture, language, traditions and customs, as well as having the right to determine, by themselves, the development of their own identity." (Cabinet Decision 83-20). Over the years, Québec has reiterated this recognition in various statutes, including the *Act respecting the exercise of the fundamental rights and prerogatives of the Québec people and the Québec State* (CQLR c E-20.2).

Adopted in December 2000, this statute has constitutional status. It reaffirms the collective attainments of the Québec people, the responsibilities of the Québec State and the rights and prerogatives of the National Assembly with respect to all matters affecting the future of the Québec people. Also, section 11 of this Act specifies that "In exercising its constitutional jurisdiction, the Québec State recognizes the existing aboriginal and treaty rights of the aboriginal nations of Québec." Section 12 states that the government "undertakes to promote the establishment and maintenance of harmonious relations with the aboriginal nations, and to foster their development and an improvement in their economic, social and cultural conditions." This undertaking has been expressed in particular through the Québec government's active participation in the Forum on the Social and Economic Development of the First Nations and other bodies that have grown out of it (such as the Mashteuiatsh Forum), as well as through the many action plans, strategies and policies that the Québec government has issued in recent



years that have systematically put forward measures that specifically address Aboriginal realities.<sup>3</sup>

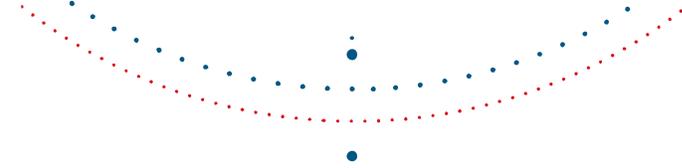
In the early 2000s, the Québec government continued its efforts to normalize its relations with the Aboriginal nations. The signing of the *Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec* (the *Paix des braves*) made the continued development of the James Bay territory possible, because this agreement was designed to empower the Cree Nation and give it greater autonomy in its economic and community development. The Inuit and Naskapi nations have also signed partnership agreements with the Government of Québec to foster their own economic and community development.

The Government of Québec also participates in discussion and negotiation tables that work mainly to settle comprehensive land claims but that may also work to reach shorter-term agreements to promote cohabitation with Aboriginal nations and their social and economic development, or to agree on solutions for more specific issues. The changes in Québec's relationship with Aboriginal nations are especially evident in the case of the Cree, for whom the James Bay and Northern Québec Agreement and the *Paix des braves* have served as springboards to strengthen political, social and economic relationships, in particular by increasing the financial capacities of their communities. With the signing of the *Agreement on Governance in the Eeyou Istchee James Bay Territory*, the government of the Cree Nation has now become a reality. Its authority extends to the Category I and Category II lands and covers a number of fields, including municipal management, natural resource utilization planning and land-use management. Equally important, this agreement will achieve a fundamental objective: creating a fruitful land-use-management partnership between the Cree and the non-Aboriginal people of the James Bay region.

The Government of Québec also continues to collaborate with the other nations that are the beneficiaries of agreements in northern Québec—the Inuit and the Naskapi—even though the Inuit are geographically scattered across several isolated villages on the shores of Hudson Bay and Ungava Bay, while demographic circumstances have made development more complicated for the Naskapi. (These nations have also had to deal with the uneven distribution of potentially exploitable natural resources across their territories.) Long-term agreements have thus been signed with the Inuit and the Naskapi to promote job creation and economic and community development. Examples include the *Partnership Agreement on Economic and Community Development in Nunavik* (the Sanarrutik Agreement) and the *Partnership Agreement on Economic and Community Development Between Naskapis And Québec*. In addition, given the challenges that the Inuit face, such as an acute housing crisis and a high cost of living, in recent

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<sup>3</sup> Particularly in the following fields: preventive health measures, mental health, homelessness, dependencies, gender equality, sexual violence, conjugal and family violence, homophobia and transphobia, anti-bullying programs, youth, elder abuse, culture, educational success, adult education and continuing education, anti-poverty programs, etc.



years Inuit organizations have conducted extensive consultations with their people to mobilize them and look for solutions together. As a result of these consultations, in 2015, the organizations from Nunavik submitted a consultation report entitled *Parnasimautik* to the Government of Québec. Through this initiative, the Inuit sought to promote the culture, language and way of life of which their people are so proud, while also improving their social and economic conditions. This report now guides the activities of the Government of Québec.

In 2017, on the 150<sup>th</sup> anniversary of the Canadian federation, the Government of Québec unveiled a new *Policy on Québec Affirmation and Canadian Relations*. This policy defines and names Québec's plural, inclusive national identity and outlines the government's vision for Québec within Canada, as well as ways of implementing this vision. In this new policy, the Government of Québec expresses its support for Aboriginal Nations to ensure that their place within the Canadian federation is recognized,<sup>4</sup> and reiterates its own willingness to harmonize its relations with the Aboriginal peoples and to develop these relations on the basis of mutual respect and cooperation.

## 2. FUNDAMENTALS OF QUÉBEC GOVERNMENT INVOLVEMENT IN ABORIGINAL COMMUNITIES

### A) SHARED RESPONSIBILITY

#### Constitutional distribution of powers

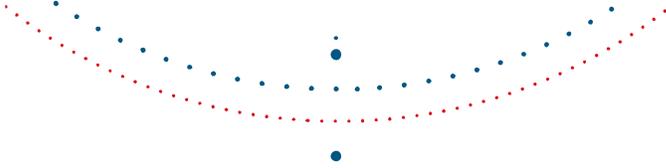
In Canada, Aboriginal people are a group of citizens who have the distinction of coming under the sole jurisdiction of only one level of government.<sup>5</sup> Section 91(24) of *The Constitution Act, 1867* states that the exclusive Legislative Authority of the Parliament of Canada extends to "Indians, and Lands reserved for the Indians". It was also by virtue of this section that the Parliament of Canada adopted the *Indian Act* in 1876 (R.S.C., 1985 c. I-5).

On the basis of this exclusive authority, Aboriginal affairs long remained almost the sole purview of the federal authorities, who in particular took charge of the administration of the system of reserves on the basis of certain provisions of the *Indian Act*. But gradually, the provinces' responsibilities with respect to Aboriginal peoples have been addressed through case law on the

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<sup>4</sup>Secrétariat aux affaires intergouvernementales canadiennes, 2017, *Quebecers: Our Way of Being Canadian. Policy on Québec Affirmation and Canadian Relations*, Québec City, Ministère du Conseil exécutif, p. 130.

<sup>5</sup>"[translation] Only Aboriginals have an existence that is not only legal but also constitutional: membership in this group is governed by specific criteria. The other visible, ethnic and cultural groups have no legal existence; membership is partly involuntary (determined by physical characteristics) and partly voluntary (determined by self-identification)." Bauer, J., 1994, *Les minorités au Québec*. Montréal, Boréal, p. 49.



constitutional distribution of powers. It was not until the 1970s that the principle was established that Indian reserves are not enclaves impermeable to the enforcement of provincial laws.<sup>6</sup>

Over the years, the courts have generally become more amenable to the involvement of the provinces in Aboriginal affairs within the framework of the exercise of provincial powers. But despite this trend, the exclusive authority of the federal government constitutes an objective fact that, as things stand, will always give that government a preponderant role with regard to reserve lands and will continue to circumscribe the role of the provinces.

In addition to these constitutional limitations, there are the practices that have crystallized over time in the context of intergovernmental relations. Historically, the federal government has exercised, on the basis of its constitutional authority and essentially through the reserves system, an encompassing responsibility for Aboriginal affairs, which has always meant the administration or funding of numerous public services for Aboriginal people, even though it must be acknowledged that the federal authority over Indians and the lands reserved for them does not explicitly oblige the Government of Canada to fund them.

The current division of responsibilities between the orders of government contains a number of grey areas. This problem has been demonstrated by a number of very specific cases cited in testimony before the Commission.<sup>7</sup> It sometimes results in regrettable episodes in which Aboriginal citizens either completely cease to receive certain services or receive services that fall below the standards of those provided to the general public.

Disputes over shared jurisdiction are of course less common when it comes to Aboriginal citizens who do not live on the land of communities recognized under the *Indian Act*. When such citizens express needs for services from the Government of Québec's service networks, these networks must provide them with services appropriate to their needs,<sup>8</sup> even though the federal government still has a responsibility to contribute to the well-being of Aboriginal people living off reserve.

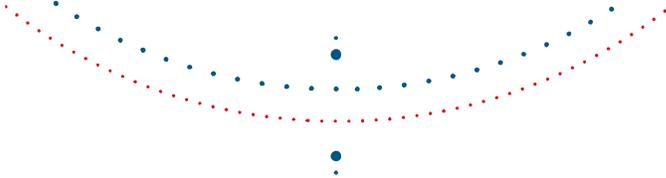
As can thus be seen, the constitutional framework within which the Government of Québec must deliver its services to First Nations and Inuit people adds an element of complexity to this

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<sup>6</sup>*Cardinal v. Attorney General of Alberta*, [1974] S.C.R. 695; *Four B Manufacturing Ltd v. United Garment Workers*, [1980] 1 S.C.R. 1031.

<sup>7</sup>Examples include the application of Jordan's Principle and its funding through 2019, the consequences of placements in off-reserve health-care institutions, and the inability of members of First Nations to access medications included in a Québec exception list, because of their inability to join the Quebec health insurance plan (RAMQ).

<sup>8</sup>The Government of Québec recognizes this responsibility for the population in its *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit* (see p. 1).



undertaking. Moreover, this framework is constantly evolving. But as things stand, certain of the Government of Québec's policy directions are nevertheless clear. They have been expressed in its recent *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022*.

On the one hand, the Government of Québec cannot substitute itself for the Government of Canada, not only because of certain limitations arising out of the constitutional framework, but also, and even more immediately, because the size of the challenges to be met demands the resources available from both levels of government.

But on the other hand, this does not mean that the Government of Québec is averse to making significant investments aimed at Aboriginal people who live on reserves. It is important to understand that the government is not opposed to this idea in principle. On the contrary, inasmuch as it considers improving living conditions in Québec communities a priority, it is prepared to deploy the broadest possible efforts, in a manner complementary to those of the Government of Canada, so as to participate meaningfully in strengthening the social safety net for the benefit of all Aboriginal citizens of Québec. In this spirit, the Government of Québec is already supporting major initiatives on reserves, including building and operating early-childhood centres and funding police services that report to band councils.

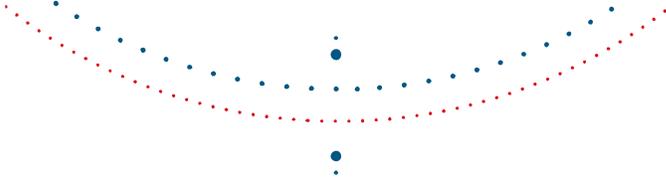
The Government of Québec is therefore prepared to intensify its contribution. But it will do so in a way that respects the Canadian constitutional framework and the federal/provincial realities arising from it. And in so doing, the Québec government will be careful neither to try to substitute itself for the Government of Canada nor to duplicate the initiatives and services delivered or funded by that government. The Government of Québec plans to carry out its activities in a complementary manner, taking a pragmatic approach based on collaboration, dialogue and good faith.

## **Organization of services on reserve**

Demographers, statisticians, sociologists and other researchers do not always agree on the composition and geographic distribution of the Aboriginal population—for one reason, because of the debate surrounding eligibility conditions for the federal Indian Register. But one thing is certain: in Québec, a very high proportion of Aboriginal people still live on reserves.<sup>9</sup> As explained earlier, the presence and preponderant role of the federal government therefore cannot be ignored, because in addition to the public services that Aboriginal people receive

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<sup>9</sup>On this subject, see Babeu, D., 2011, *Population indienne inscrite au Québec, 1998-2010. Faits saillants*, Montréal, Chroniques DIALOG, p. 2. It is generally agreed that for now, the proportion of Aboriginal people who live on reserves is still higher in Québec than in the other provinces of Canada. But current trends show that Québec's Aboriginal people are becoming increasingly mobile and that their numbers in urban centres are growing.



from the Government of Québec, they are entitled to receive services from a variety of federal departments and agencies that are responsible for meeting the Government of Canada’s obligations and commitments to the First Nations and the Inuit.

It is, however, primarily through Indigenous and Northern Affairs Canada (INAC) that the federal government has delivered services on reserve that are provided by provincial governments everywhere else.<sup>10</sup> The band councils thus in a sense act as service providers on behalf of the federal government. Their powers are of course far more extensive than those of municipal councils in Québec, because they are responsible for delivering education, health care, social services and many other services.

But as many observers have found, the federal government often has difficulty in delivering quality services to residents of reserves in Canada. The Auditor General of Canada has identified certain structural obstacles to delivering federal public services to First Nations and to improving the quality of life on reserves. According to the Auditor General, these obstacles explain why the services provided on Indian reserves are rarely comparable to those provided by provinces and municipalities. In fact, the Auditor General writes that the federal government will have to manage to overcome these obstacles, or else “living conditions may continue to be poorer on First Nations reserves than elsewhere in Canada for generations to come.”<sup>11</sup>

The Government of Québec recognizes its own important role in the social development of Aboriginal communities and the general improvement of living conditions for the Aboriginal citizens of Québec. But it is clear that for any initiatives to be effective, each of the partners concerned must meet its responsibilities by investing the level of resources necessary to do the job. The needs are tremendous, and the commitment and cooperation of all stakeholders are required.

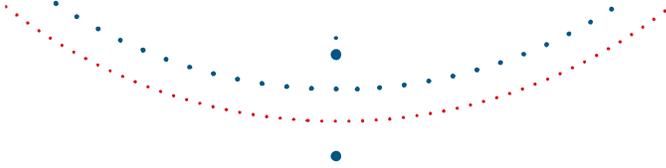
## **B) DIVERSITY AMONG ABORIGINAL COMMUNITIES**

In Québec, there are 11 Aboriginal nations (totalling about 104,633 people, or 1.27% of Québec’s population) living together with the Québec nation. From north to south and east to west, Québec has 14 Inuit villages and 41 communities inhabited by members of the Atikamekw, Abenaki, Algonquin, Inuit, Cree, Innu, Mi’kmaq, Mohawk, Huron-Wendat, Naskapi and Malecite

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<sup>10</sup>In August 2017, the Prime Minister of Canada, Justin Trudeau, announced his plan to dissolve Indigenous and Northern Affairs Canada (INAC) and create two new departments: Indigenous Services Canada and Crown-Indigenous Relations and Northern Affairs Canada. The documents that we are citing were published before this announcement, which is why we refer to INAC in the following pages.

<sup>11</sup>Office of the Auditor General of Canada, 2011, *Status Report of the Auditor General of Canada* (Chapter 4—Programs for First Nations on Reserves), Ottawa, p. 6.



First Nations.<sup>12</sup> All 14 of the Inuit villages are located in the northern region of Nunavik, while the 41 First Nations communities are scattered across all but three of Québec's administrative regions (Estrie, Chaudière-Appalaches and Laval). A very high proportion of Québec's Aboriginal people live in urban and peri-urban areas.

These Aboriginal communities vary greatly in their social and economic profiles. Some of these communities are rather prosperous, and their members enjoy living conditions that, on the whole, are comparable to those of other citizens of Québec. In fact, it is important to stress here some realities that tend to get overlooked. The sometimes alarmist discourse about First Nations and Inuit people in general that one hears throughout Canada can work against an understanding of the specific realities of Québec. This discourse tends to obscure not only the resilience and ingenuity of First Nations and Inuit people, but also the contributions that they make to Québec's social, political and economic life and the role that they play in its wealth and its development.

Nonetheless, it must also be clearly recognized that in some of Québec's Aboriginal communities, especially in remote or isolated areas, the situation is deplorable and even disturbing. Moreover, these areas are sometimes less well covered by Québec's public services network, and their residents—both Aboriginal and non-Aboriginal—do not always have access to the services to which they should be entitled.<sup>13</sup> In this regard, we can all agree that major efforts are required.

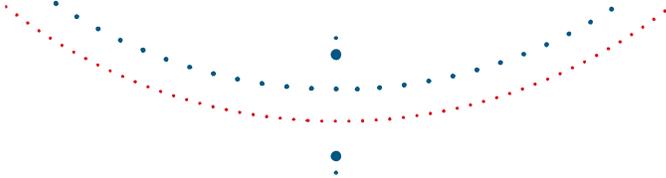
In northern Québec, the James Bay and Northern Québec Agreement continues to help improve living conditions for Aboriginal people.<sup>14</sup> The ratification of this agreement in 1975 enabled the Aboriginal peoples who signed it to gradually take control of public institutions and adapt them

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<sup>12</sup>SAA, 2011, *Amérindiens et Inuits – Portrait des nations autochtones du Québec (2<sup>e</sup> édition)*, Québec City, gouvernement du Québec, p. 5.

<sup>13</sup>In development efforts in northern Québec, particular attention needs to be paid to the differential impacts on the men and women who work there. The *Plan Nord Toward 2035 (2015-2020 Action Plan)*, coordinated by the Société du Plan Nord, aims to achieve economic development that is ethical, respectful of Aboriginal and non-Aboriginal communities and consistent with equality between men and women. It strives in particular to encourage women's participation in the labour market and to prevent violence against women in the areas concerned (see Secrétariat à la condition féminine, 2017, *Stratégie gouvernementale pour l'égalité entre les femmes et les hommes vers 2021*, Québec City, SCF).

<sup>14</sup>"We must not overlook the positive things in our lives. Our harvesting skills and intimate knowledge of the land and wildlife continue to define us. Our language remains strong. In 1975, our young leaders fought to achieve the James Bay and Northern Quebec Agreement (JBNQA). By no means perfect, the JBNQA has nonetheless provided us with institutions and access to financial resources. Over the years since, we have battled governments and industry at negotiating tables and in the courts with some amazing success and, in 2008, the *Nunavik Inuit Land Claims Agreement* came into effect, settling our rights in the marine area and islands offshore of Québec and Labrador. [...]. Rather than recite the wrongs of the past, we have decided we are looking forward and regaining control. (Nunavik Regional Board of Health and Social Services, 2014, *Parnasimautik Consultation Report*, Kuujjuaq, NRBHSS, p. 169).



to their needs and aspirations. These institutions are now responsible for administering the public services provided to Aboriginal people in the fields of health and social services, education, justice and policing (sections 14.01-22.7.10 of the agreement).<sup>15</sup> Obviously, serious problems persist in these fields in northern Québec, particularly in Nunavik, but this agreement has undeniably constituted a major step toward increased autonomy for the Aboriginal nations concerned.

In order to ensure the appropriateness and effectiveness of the public services provided to members of Québec's various Aboriginal communities, the diversity of the social and economic conditions in these communities and the resulting diversity in their needs must be taken into account. These needs are not the same everywhere. Moreover, the realities on the ground teach us that some problems that may at first seem similar do not necessarily call for identical solutions.

### C) SOME REVEALING DATA

It is also important to distinguish the Québec experience from the Canadian experience—a distinction that is sometimes obscured by aggregated data for Canada as a whole. Such data, which are reported at frequent intervals, can mislead observers and suggest potential solutions to them that are actually inappropriate for Québec. As the commissioners of the National Inquiry into Missing and Murdered Indigenous Women and Girls recently discovered for themselves, Canadian researchers have a relatively limited knowledge of the Québec experience.<sup>16</sup>

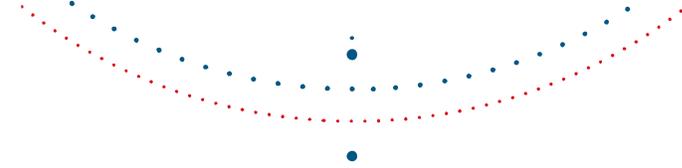
Objections are invariably raised to the use of statistics, especially when they lead to findings that are unexpected or counterintuitive. In addition, statistical data are revised regularly, as are the methods and indexes used by researchers, so it is reasonable to suppose that some phenomena may eventually be better documented or quantified than they are now. But at present, when the data for Canada as a whole are disaggregated, they consistently show that the Community Well-Being (CWB) index for First Nations communities in Québec is generally higher, if not far higher, than that for most First Nations communities elsewhere in Canada.<sup>17</sup> In fact, the disaggregated data show that although the social, economic and health-related problems with

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<sup>15</sup>The ratification of the *Northeastern Québec Agreement* (1978) has had comparable effects for the Naskapi of Kawawachikamach.

<sup>16</sup>Privy Council Office, 2017, *Our Women and Girls Are Sacred: Interim Report/The National Inquiry into Missing and Murdered Indigenous Women and Girls*, Vancouver, Privy Council Office, p. 69.

<sup>17</sup>The CWB index is a tool for examining the well-being of various Canadian communities. Various socio-economic indicators of well-being—income, education, housing and labour-force activity—are combined to produce a CWB value for each community. The resulting values are used to compare well-being in First Nations and Inuit communities with well-being in non-Aboriginal communities (see INAC, 2015, *The Community Well-Being Index: Report on Trends in First Nations Communities, 1981-2011*, Ottawa, INAC).



which First Nations must deal are often very serious, they are not so predominant in Québec as in the other provinces of Canada. Such is the case for unemployment,<sup>18</sup> for example, as well as for representation of First Nations children in the various Canadian child-protection systems,<sup>19</sup> homelessness in large cities,<sup>20</sup> and incarceration rates for Indigenous people.<sup>21</sup>

Such data of course do not relieve the Government of Québec of its responsibilities and should not be used to deny the difficult realities that compel it to vigorously pursue its efforts to improve Aboriginal people's quality of life. For it must be emphasized: as a general rule, the CWB index for Québec's Aboriginal communities is still far lower than that for the rest of Québec's population. Inuit communities, in particular, show an alarming deficit in education.<sup>22</sup> Despite the combined efforts of the Government of Québec and the Aboriginal and non-Aboriginal organizations that serve Aboriginal people, some communities are experiencing serious social and economic problems, and their members sometimes live in conditions that are unworthy of a prosperous, democratic society such as Québec's.

The situation is often intolerable, and more must be done. But the fact remains that when it comes to Aboriginal affairs, it is crucial to see the social and economic realities of Québec as they actually are, notwithstanding the aggregated data for all of Canada that may paint an even bleaker picture and hence bias our perceptions.

#### **D) INVOLVEMENT OF THE GOVERNMENT OF QUÉBEC**

A number of the witnesses at the Commission's hearings expressed serious concerns about the presence of discriminatory behaviours and factors in the delivery of Québec public services. Whether isolated or repeated, limited or extensive, any instances of such discrimination should be reported both by the people subjected to them and by the people who observe them, despite the reticence that they may understandably feel about doing so. Such discrimination, if confirmed, must be duly punished by the competent authorities, and help must be provided to the women and men who have endured it.

In the course of their duties every day, the professionals who work in Québec's public services system are called upon to take actions or make decisions that non-specialists (especially the

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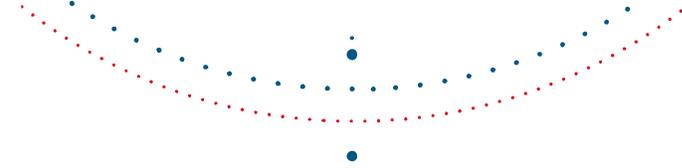
<sup>18</sup>FNILMAC, 2016, *Labour Market Conditions for First Nations and Inuit in Québec: Current situation and trends*, Québec City, Commission des partenaires du marché du travail, p. 22.

<sup>19</sup>First Nations Child & Family Caring Society, 2015, *Aboriginal Children in Care – Report to Canada's Premiers*, Ottawa, The Society, pp. 8-9.

<sup>20</sup>MSSS, 2015, *Plan d'action interministériel en itinérance 2015-2020 – Mobilisés et engagés pour prévenir et réduire l'itinérance*, Québec City, p. 25.

<sup>21</sup>Perrin, B., R. Audas, 2018, *Report Card on the Criminal Justice System*. Ottawa, Macdonald-Laurier Institute, p. 27.

<sup>22</sup>Kelly-Scott, K., 2016, *Aboriginal peoples: Fact sheet for Quebec*, Ottawa, Statistics Canada, pp. 5-6.



service users themselves) may have trouble in understanding and that may arouse their distrust, suspicion, indignation and even anger. But that does not necessarily make these actions and decisions discriminatory. The way that public services are delivered is determined by a great many different technical, operational and strategic considerations that are unrelated to the users themselves, whether Aboriginal or not, and this reality can sometimes be hard for lay people to grasp. In fact, the problems that Aboriginal people sometimes experience in obtaining the services to which they are entitled, and the frustrations that they experience at the real or alleged shortcomings in Québec’s public services system, cannot always be attributed to their having been subjected to discriminatory, differential or even racist treatment. For example, as the Commissaire à la santé et au bien-être du Québec (Québec’s commissioner for health and well-being) states regrettably, accessibility and continuity of care and services in Québec’s health and social services system are “very difficult”,<sup>23</sup> and that affects the entire population of Québec. As we hasten to stress unreservedly, this does not mean that some cases of discrimination (attributable to organizations or individuals) may not actually exist on a certain scale in the government services system.

Aboriginal people have access to the same public services as the other citizens of Québec—perhaps not always *de facto*, but certainly *de jure*. The SAA, MJQ, MSP, MSSS, MEES and SCF, among other Quebec ministries and agencies, thus collaborate with the Aboriginal and non-Aboriginal organizations serving Aboriginal people, to ensure that First Nations and Inuit people do in fact have access to the public services to which they are entitled, which means services that meet their needs.<sup>24</sup>

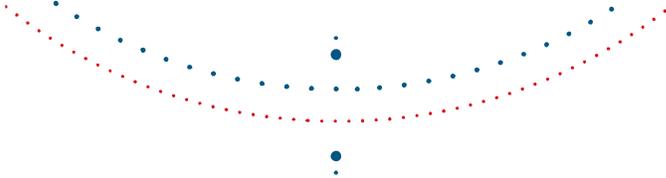
This increasingly fruitful collaboration benefits not only Aboriginal people themselves, but also Québec as a whole. To be sure, disagreements surface from time to time, and some controversial or particularly complex issues are still unresolved—for example, the respective roles of the federal and Québec governments. In this regard, it is now clear that the ministries and agencies of the Government of Québec must pursue a closer dialogue with the roughly 34 federal departments and agencies that provide services to the First Nations and the Inuit. There are already many channels for such communication between the ministries and agencies of the Québec government and their federal counterparts, in the form of statutory and *ad hoc* committees, working groups and other forums with varying degrees of permanence. These structures enable discussions and coordination in many fields, but the current state of affairs on the ground unquestionably shows us that some work still needs to be done in this regard.

That said, the Government of Québec is meeting its own rightful responsibilities to the First Nations and the Inuit. From 2005 to 2015, it provided over \$11.9 billion to organizations serving

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<sup>23</sup>Commissaire à la santé et au bien-être, 2016, *La performance du système de santé et de services sociaux québécois*, Québec City, p. 4.

<sup>24</sup>Section 4 of this brief discusses the activities of these organizations in greater detail.



the Aboriginal citizens of Québec.<sup>25</sup> These organizations in turn used this funding to carry out projects directly related to Aboriginal populations and communities.<sup>26</sup> In 2014-2015 alone, the Government of Québec also allocated \$30 million to Aboriginal people living off reserve and in urban areas.<sup>27</sup>

The government's relationship with Aboriginal organizations has long been centred on issues related to land, rights and self-government—fundamental matters that have always been important to Aboriginal leaders. But these leaders also face considerable social challenges that have an equally large impact on the health of individuals, families and the communities themselves. To be sure, the solutions to these problems are inextricably bound up with the answers that the parties ultimately succeed in finding to issues such as land claims, natural resource royalties and self-government. There is also wide agreement that the solutions to these social problems will be achieved in large part by meeting the challenge of revising the legal status of Aboriginal peoples in Québec society, as well as the no less crucial challenge of sharing the wealth generated by developing the land. However, these sensitive issues have not yet been resolved. They will be, sooner or later, but in the current state of affairs, one thing is certain: it is necessary to accord greater importance to the social and cultural needs of First Nations and Inuit people.

That is precisely the mandate that the Government of Québec has given itself with its *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022*. With a funding envelope of over \$150 million, this ambitious, innovative action plan duly acknowledges the political and historical context in which the Government of Québec must carry out the initiatives concerned. This Action Plan explicitly states the Government of Québec's intentions and sets out the policy directions that will guide the plan's implementation. These directions determine the plan's strategic priorities, which have in turn been translated into concrete measures in whose implementation Québec's Aboriginal people will be directly involved.

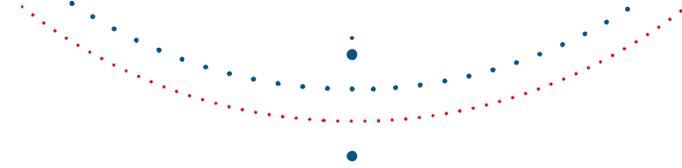
This is the first action plan that the Government of Québec has ever issued regarding Aboriginal social and cultural development. It has the innovative ambition of centralizing, in a single instrument, the relevant government initiatives for the benefit of the First Nations and the Inuit.

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<sup>25</sup>This figure consists only of amounts from regular and special assistance, grant, transfer and contract-awarding programs. It includes the amounts disbursed to agreement nations under various agreements signed with them, such as the *Paix des braves* and the Sanarrutik agreement. It does not include the amounts paid to Aboriginal people under universal programs (such as social assistance, family allowances and legal aid) or the amounts paid for services provided by programs of a similar nature (health insurance, social services, hospital services, etc.), because this additional spending has never been evaluated and listed (SAA, 2016, *Déboursés, aides et dépenses destinés aux Autochtones pour l'année 2014-2015*. Québec).

<sup>26</sup>*Ibid.*

<sup>27</sup>*Ibid.*, p. xiv.



In other words, the Government of Québec's activities in the social and cultural spheres will henceforth be structured by a comprehensive action plan and no longer scattered across the various initiatives of multiple ministries and agencies. The Québec government apparatus will, however, need to adjust to this unaccustomed way of working and will need a certain amount of time to do so.

This action plan also represents an evolutionary approach. This means that over the five years covered by the plan, it will be able to accommodate measures that the ministries and agencies may not have been able to incorporate when it was first released. Most important, this also means that this plan will remain open to initiatives that may be devised subsequently with or by Québec's Aboriginal communities. This plan may also, of course, incorporate and implement new measures that may be proposed by the Commission.

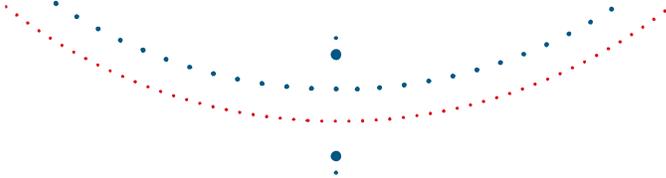
This action plan is distinctive not only because it is evolving and openly collaborative, but also because it establishes fundamental government policy directions on an array of topics pertaining to Aboriginal social and cultural development. In this action plan, the Government of Québec takes due note of the singular context in which it will be carried out: the often complex political and institutional relationship that the Government of Québec maintains with the First Nations and the Inuit. The Government of Québec unreservedly accepts the following responsibility: to contribute significantly to the future progress of Aboriginal societies so that together we can better build the Québec of tomorrow.

### **3. INTERACTIONS OF QUÉBEC MINISTRIES AND AGENCIES WITH ABORIGINAL PEOPLE**

#### **A) COMMON ISSUES**

Some of the problems raised in the testimony before the Commission involve several ministries and agencies simultaneously. The solutions may therefore have to be developed on the macro-governmental scale, or, more simply, may require better coordination among the various government entities concerned.

Testimony from many witnesses showed just how important it is for government employees to have an adequate knowledge of Aboriginal realities. Ignorance of these realities unquestionably constitutes one of the primary causes of Aboriginal citizens' bad experiences with employees who deliver public services. Recognizing this situation, various ministries and agencies have begun providing their staff with quality training on Aboriginal experience, cultures, history and realities. But to reach as many of its employees as possible, the Government of Québec is currently developing a complete, diversified training program that will be accessible on line.



Other witnesses spoke to the difficulties associated with Aboriginal citizens' lack of knowledge and understanding of how government services operate. The Government of Québec is aware that further efforts will be needed to make Aboriginal citizens more familiar with the services available and to guide them through the administrative procedures that may be required to access them. Several ministries and agencies will be involved in meeting the challenge of disseminating this kind of information to Aboriginal citizens in a form that is suited to their needs, expressed in plain language, translated into their languages and readily accessible.

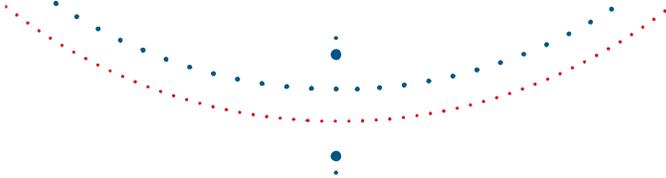
The Commission was also made aware of the importance of adapting certain services so as to better respond to Aboriginal people's values and needs. The Government of Québec is sensitive to the importance of providing services in a more culturally reassuring way. First, employees whose jobs may involve serving Aboriginal citizens must be capable of adjusting their actions to the differences among and specific characteristics of these individuals and must be able to adequately explain the meaning of the actions that they intend to carry out. Second, greater flexibility must be exercised in the way that these actions are usually carried out. Third and finally, in other cases, certain rules or procedures may need to be revised to take Aboriginal people's reality, culture and values into account.

Several witnesses at the Commission also spoke to issues related to the language barriers that sometimes arise between the professionals in the Québec public services system and the Aboriginal people whom they serve. The government wants to have access to more interpreters and to hire more First Nations and Inuit employees who speak Aboriginal languages themselves. Currently, the government is struggling to recruit and retain qualified Aboriginal employees (interpreters, translators, liaison officers, professionals, directors, managers, etc.). Everyone is aware that this is a challenge that must be met.

## **B) MINISTÈRE DE LA JUSTICE**

The Ministère de la Justice (MJQ) focuses its involvement with Aboriginal people in three main areas: 1) enabling Aboriginal communities and organizations to participate in resolving social conflicts; 2) making services related to the justice system more accessible and improving these services; 3) coordinating between the Aboriginal community and the various partners in the justice field. The MJQ is committed to seeking solutions and implementing measures that meet First Nations and Inuit people's needs and aspirations with regard to justice.

This ministry places great importance on promoting community justice, seeing it as an approach that not only encourages Aboriginal communities to play a greater role in solving their own internal conflicts but also helps to counter the overinvolvement of Aboriginal people with the justice system. The ministry is currently piloting Community Justice Committees in seven Aboriginal nations comprising 26 communities and has recently begun initiatives in urban settings. Funds allocated under the *Government Action Plan for the Social and Cultural*



*Development of the First Nations and Inuit* have supported additional projects working with the Aboriginal people of Montréal and Val-d'Or, as well as on the North Shore. Deployed in a spirit of partnership, this approach is funded in part by the federal government.

In addition to funding these initiatives, the MJQ collaborates, when it is appropriate to do so, with activities designated by the responsible Aboriginal organizations. The establishment of the Community Justice Committees also made it possible to enhance the Alternative Measures Program for Adults in Aboriginal Communities in 2015, by establishing new offences, including those committed in a context of conjugal violence.<sup>28</sup>

As part of its efforts to fight Aboriginal overinvolvement with the justice system, the MJQ has committed to implementing and supporting justice guidance programs in cooperation with the courts, in particular for Aboriginal offenders who are homeless or struggling with mental health problems or alcohol or drug dependencies. Various projects for such offenders have been targeted, and discussions continue regarding the deployment of justice guidance programs in Inuit, Cree and Innu (North Shore) communities, as well as in urban settings.<sup>29</sup>

It should be noted here that the MJQ, following the Public Inquiry Commission's provisional recommendation<sup>30</sup> concerning a moratorium on imprisonment for non-payment of fines in Val-d'Or, has granted funding to facilitate the implementation of a justice guidance program for homeless people, in which the Native Friendship Center in Val d'Or will play a central role.

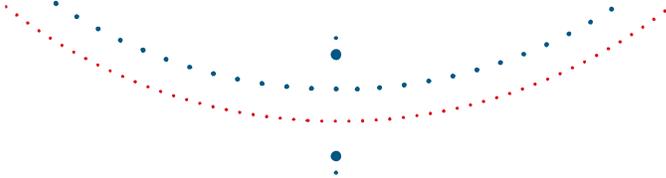
The activities of the itinerant court have increased substantially over the past decade, because of the growing number of case filings. The court's circuits cover most of the Aboriginal communities in Eeyou Istchee James Bay, Nunavik, Basse-Côte-Nord and the Schefferville area. For Inuit communities that the itinerant court still does not visit, the government pays the costs of transporting witnesses, victims and defendants not in custody to the closest village where the court holds sessions. As regards the preparation of defendants and witnesses, lawyers can sometimes meet with their clients during earlier sessions. But most often, such meetings take place during the week before the trial or, occasionally, in advance by telephone or videoconference. Videoconferencing is being used more and more often for certain legal proceedings, especially in the Abitibi judicial district, although it is agreed that this technological resource should remain complementary to the courts' regular activities.

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<sup>28</sup>This program was originally established in 2001.

<sup>29</sup>Particular reference is made here to the discussions aimed at establishing a substance addiction treatment program for the community of Puvirnituq and the Innu of the Sept Îles and Schefferville region under the jurisdiction of the Court of Québec, as well as justice guidance programs for vulnerable clients in Montréal and Val-d'Or.

<sup>30</sup>On September 20, 2018, the Commissioner recommended a moratorium on imprisonment for non-payment of fines and encouraged the creation of a justice guidance program for homeless people at the court in Val d'Or, in collaboration with the Native Friendship Center of Val d'Or.



The MJQ pays particular attention to the needs of Aboriginal victims: out of the 185 service points operated by the Crime Victims Assistance Centres (known by their French acronym, CAVACs), 46 serve Aboriginal people who are victims of crime. Main offices are located in two Aboriginal communities (Mistissini and Kuujuaq) and permanent service points in six (Puvirnituq, Chisasibi, Eastmain, Kuujjuarapik, Inukjuak and Salluit). There are 19 service points associated with the itinerant court, in addition to 17 other, mobile service points that travel in the community. Lastly, there are two Aboriginal police referral service points, one in an Inuit community and the other in Uashat Mak Mani-Utenam.

To assist Aboriginal victims of crime, the network of CAVACs employs workers from various backgrounds, about 15 of whom are Aboriginal, and who devote all or part of their time to assisting these clients. The CAVACs provide services in French, English and several other languages, including some Aboriginal languages (Inuktitut, Cree, Innu, Naskapi and Algonquin). In addition, to improve services to Aboriginal victims of crime, the CAVACs have established a committee on services to Aboriginal people, composed of the managers of the CAVACs serving areas with large Aboriginal populations,<sup>31</sup> along with the counsellor from the Bureau d'aide aux victimes d'actes criminels who deals with Aboriginal files. Lastly, funding is provided annually for initiatives with community organizations whose activities include assisting crime victims. Since 2012, the MJQ has thus supported a great many Aboriginal projects.

The MJQ is aware of the importance of the language barriers that sometimes arise between Aboriginal citizens and the courts and is constantly striving to improve the interpretation services that they provide.<sup>32</sup> As part of these efforts, the MJQ has revised an earlier ministerial directive so as to facilitate the hiring of Aboriginal-language interpreters in northern Québec.<sup>33</sup> The ministry is currently working with the Aboriginal community to improve the existing lexicons of terminology in Aboriginal languages and to translate new concepts. This initiative will focus first on the Innu and Attikamek languages but will subsequently be extended to the other Aboriginal languages used before the courts.

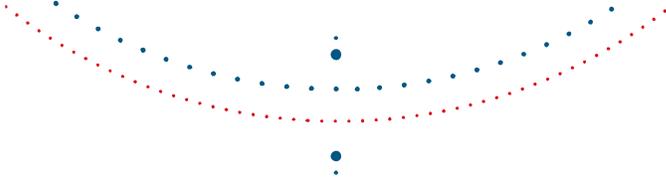
The MJQ is also aware that some Aboriginal citizens who have to deal with the justice system face major challenges in understanding this system, its processes and, more generally, the main laws that apply to them. That is precisely why the ministry supports Native Parajudicial Services of Québec, which serves urban areas as well as remote ones and whose main mission is to help defendants and their families and make them aware of the realities of the justice system. In

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<sup>31</sup>CAVAC Nunavik, CAVAC Cri, CAVAC Abitibi-Témiscamingue, CAVAC Côte-Nord, CAVAC Saguenay-Lac-Saint-Jean.

<sup>32</sup>The availability of court interpreters working in Aboriginal languages varies greatly from one region to another. There are definitely shortages from time to time, but they rarely result in postponement or cancellation of legal proceedings.

<sup>33</sup>MJQ, Direction générale des services de justice, Directive A-6, *Services d'interprètes et paiement des frais*, November 1, 1989, updated March 7, 2018.



addition, to address the special needs of Nunavik, a community justice centre has been established under the auspices of the Makivik Corporation. Other projects to disseminate relevant, understandable information about the justice system are being developed and will be carried out in collaboration with Aboriginal organizations.

Lastly, in 2015, the MJQ established a process that meets the general objectives arising out of the 1999 Gladue decision. This process is used to handle over 100 court requests for “Gladue reports” every year. Although many challenges are involved in providing training and professional development for the report writers, the MJQ is continuing its efforts to improve the service offered with regard to reports of this kind.

The MJQ accords special importance to discussions between the Aboriginal community and other justice partners with a view toward collaboration and joint action. Such discussions can certainly be held at the local and regional levels, but they can also be held at the ministerial, inter-ministerial and government-wide levels. The bodies that engage in these discussions can constitute effective vectors of change. In this regard, the Aboriginal Socio-Judicial Forum represents an excellent example.<sup>34</sup> Likewise, the Central Discussion Table on the Accessibility of Services for Aboriginal People in Urban Environments and the various local discussion tables that come under it provide important venues for discussion and collaboration on a variety of issues, including those related to justice.<sup>35</sup>

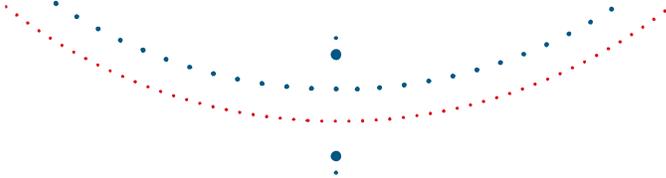
With the same goals in mind, the MJQ financially supports coordinators’ positions within Aboriginal organizations. These coordinators have expertise concerning social issues and are responsible for justice matters within their organizations. Organizations that the MJQ supports in this way include Québec Native Women Inc., the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC) and the Regroupement des centres d’amitié autochtones du Québec. These organizations thus have staff who are responsible for supporting local community justice projects and for collaborating to improve the regular services connected with the courts, in particular victims’ services, as well as the production of Gladue reports and interpreting. Mechanisms are also in place for collaborating with the Cree communities through the Cree Quebec Judicial Advisory Committee and the Working Group on Justice in Nunavik.

More time will most likely be needed to maximize the impacts of the many steps that the MJQ has taken in recent years and of those that it has recently committed to take in future. But the MJQ is firmly convinced that many of its initiatives have already helped to improve things and

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<sup>34</sup>Regarding the Aboriginal Socio-Judicial Forum, see page 39 of the *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022*.

<sup>35</sup>Regarding the discussion tables on accessibility of services, see page 39 of the *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit 2017-2022*.



will ultimately succeed in addressing most of the justice-related problems that were raised before the Public Inquiry Commission.

### **C) MINISTÈRE DE LA SÉCURITÉ PUBLIQUE**

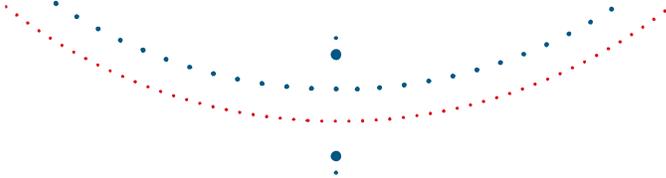
The mission of the MSP, in working with its partners, is to ensure public security in Québec. In order to accomplish this, it takes action in various fields, including oversight of policing and fire safety; prevention, detection and repression of crime; custody, monitoring and reintegration of offenders; and civil and private security. In addition to the Sûreté du Québec (SQ), which forms an integral part of the Ministry, the portfolio of the Minister of Public Security includes nine independent agencies, namely the Bureau des enquêtes indépendantes (BEI), the Bureau du coroner, the Comité de déontologie policière, the Commissaire à la déontologie policière, the Anti-Corruption Commissioner, the Commission québécoise des libérations conditionnelles (CQLC), the École nationale de police du Québec (ENPQ), the École nationale des pompiers du Québec and, finally, the Régie des alcools, des courses et des jeux. These agencies are governed by various statutes, such as the *Police Act* (CQLR, chapter P-13.1) or the *Act respecting the Québec correctional system* (CQLR, chapter S-40.1), upon which a number of codified regulations also depend.

Although it has taken action along these lines for some years already, during its various appearances before the Commission, the MSP clearly indicated its desire to better base its action on the reality of Aboriginal communities, and to increase their role in the reflection processes that it undertakes. Moreover it is with this in mind that it announced the creation of the Bureau des relations avec les Autochtones, which advises the ministerial authorities on Aboriginal matters, in addition to supporting the general directions in areas requiring specific expertise in this field. The Bureau is working to improve its range of services and its action priorities in the different fields of activity of the MSP, and in particular, is drawing inspiration from the work of the Commission.

#### **Correctional services and the Commission québécoise des libérations conditionnelles**

The *Act respecting the Québec correctional system* sets out the general principles that must guide the correctional services of MSP, the CQLC and their partners, particularly community organizations, in carrying out their respective mandates. Above and beyond its legal foundation, the Québec correctional system is continually developing, and is focusing on improving its practices in the area of managing its specific target groups, including First Nations and Inuit offenders.

Over the past several years, substantial efforts have been made within the correctional system to provide programs suited to the reality of Aboriginal individuals. A specific range of services is

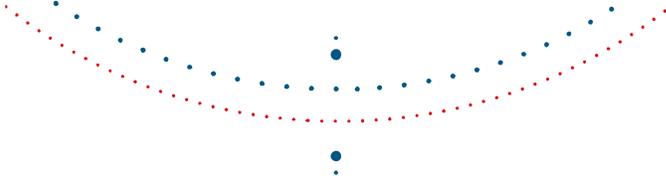


available in a number of correctional institutions and in the community for individuals serving non-custodial sentences, particularly in regions where there is a higher volume of these cases. These activities or programs, provided through specialized organizations in the Aboriginal sector, deal with different themes such as violence, alcohol and drug use, suicide prevention, healing, etc. Moreover, activities connected with the follow-up of offenders serving a sentence in the community are managed by staff within the Aboriginal communities, in partnership with the MSP. Also, activities such as visits by elders and the accompanied sharing of traditional foods are provided in certain correctional institutions. For the MSP, the work to further develop the range of services must be done in close collaboration with various communities or with the agencies or entities in the Aboriginal setting that possess expertise in this field. Nevertheless, these services remain dependent on the capacity and willingness of the different Aboriginal communities and agencies to provide these services in the province's correctional institutions.

Although most of the programs provided are intended for the entire prison population, persons in preventive custody do not always have access to them, among other reasons on account of the various inter-institution transfers and frequent trips for court appearances. These restrictions affect not only Aboriginal individuals, and do not in themselves constitute discriminatory or derogatory practices.

The MSP has implemented several measures with the goal of reducing transfers between institutions, particularly for Inuit persons. The agreement on organization of correctional services with the Makivik Corporation and the Kativik Regional Government (KRG), which favours the grouping together of accused and inmates from Nunavik in specific institutions (Amos et Saint-Jérôme), remains a major step forward. Together with the use of new technologies for court arraignments, these measures will enable the MSP to reduce the number of transfers between institutions for these particular groups of individuals, and thus to increase access to the various programs provided in correctional institutions.

One of the key initiatives of the MSP appearing in the *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit* is the measure for accompaniment in correctional institutions for Aboriginal individuals. This initiative will make it possible to increase access for Aboriginal persons in custody to broader measures in the community (permission for leave, parole) and will foster the continuation of social reintegration measures begun within the correctional institution, after their release. Important partnerships between the MSP and the Makivik Corporation, the Attikamek Band Council, the SPAQs (Native Para-Judicial Services of Québec) and the Centre résidentiel communautaire innu Kapatakan Gilles-Jourdain will give greater concrete reality to this approach in ten correctional institutions in Québec. Certain accompaniment staff will also be able to serve as interpreters to assist in the progress of persons in the custodial environment. The MSP is confident that their presence in the institutions will greatly facilitate communication between staff and inmates.



In this regard, much like certain other government ministries and organizations, the MSP faces a shortage of qualified Aboriginal interpreters and translators. However, it is precisely in the many interactions between staff and Aboriginal inmates that the language barrier is liable to cause harm to incarcerated individuals. Moreover, the Commission heard testimony from a number of witnesses concerning precisely this issue. In fact, the MSP has already had a number of documents translated into Inuktitut – (booklets, forms, brochures, etc.) – in addition to calling on Aboriginal organizations that can assist accused and inmates who have difficulty expressing themselves in English or in French.

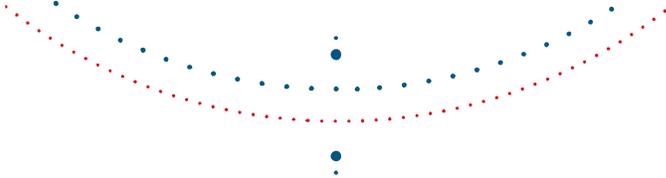
Alongside these various initiatives, the court clarification service, provided at the sentencing stage, was improved by correctional services in 2015. The pre-sentence report – Aboriginal component, created for these individuals, supports certain principles arising out of the Gladue decision (1999) and the Ipeelee decision (2012). In the same vein, the MSP is working to adapt its assessment processes to take into account Aboriginal specificities right from the beginning when an offender is taken into custody, as well as in the decision-making process for social reintegration.

Furthermore, the CQLC ensures that when an aboriginal offender appears before it, the risk and needs assessments take into account the systemic and cultural aspects specific to First Nations and Inuit. Its members also verify the offender’s ability to understand French or English and to speak one of these languages. If difficulties are identified in this regard, or if the Aboriginal person requests it, the CQLC hires an interpreter or has the decision translated, as needed. Finally, the CQLC members, whether full-time, part-time or from the community, receive training from time to time, particularly on the systemic and cultural context of Aboriginal people.

The same applies within the correctional services, where training activities on cultural realities and specificities of Aboriginal communities are organized at the local level, based on the specificities of each institution and the specialized personnel available. Although these specific training activities make it possible to take into account the diversity between different Aboriginal communities and to improve the collaborative links between these communities and correctional services, they are not currently subject to supervision or standards, and depend to a large degree on the collaboration of the Aboriginal communities themselves. The MSP intends to provide more structure for the training of its staff, both within the correctional system and in its other sections, and plans to benefit from the specialized training program that the SAA will soon be offering to its professionals in the public services network.<sup>36</sup> Greater standardization of programs and training should make it possible to review certain practices, in addition to

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<sup>36</sup>Secrétariat aux affaires autochtones, 2017, *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit, 2017-2022*, Québec, §1.1.18



facilitating the development and implementation of new services intended for Aboriginal accused and inmates.

In short, a range of services specific to Aboriginal persons is already available in a number of correctional institutions in Québec, and in the communities, for those serving a sentence in a non-custodial environment, in regions where the population of Aboriginal offenders has a higher degree of representation. For the MSP, social reintegration of Aboriginal and Inuit inmates relies on maintaining and developing partnerships with organizations rooted in the different communities. This is the vision that the MSP intends to pursue in continuing its efforts to adapt its interventions and thus to better respond to the needs of these users.

### **Training and supervision within the policing function**

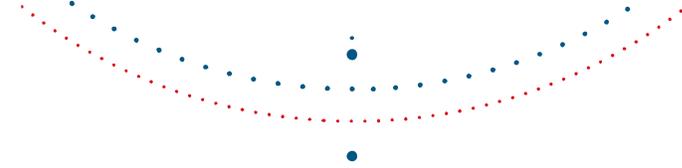
Much like the other components of the Québec public services network, police services are placing increasing importance on attaining cultural safety. The different police services within the province enjoy considerable autonomy, and several of them have already adopted plans for training and awareness-building on Aboriginal realities: indeed, the ENPQ has also upgraded the content of its initial training program in Police Patrolling.

Furthermore, the MSP has set up a Working Committee on the training of future Aboriginal police officers and police officers working in the Aboriginal communities, including investigative training. The committee's mandate is broad and will make it possible to take on various problems currently being experienced by different organizations. In particular, it will examine obstacles that exist on various levels for access to police training and actions to be carried out by stakeholders.

In addition to ensuring the keeping of the peace, engaging in law enforcement and the prevention of crime and other violations, and the conduct of investigations on crimes and other violations, it should be reiterated that police officers are required to act in the respect of the right to equality protected by section 15 of the *Canadian Charter of Rights and Freedoms* and by section 10 of the *Charter of Human Rights and Freedoms*. These two sections provide that the law applies equally to all without distinction, exclusion or preference based, for example, on race, colour or ethnic or national origin.<sup>37</sup> The *Code of ethics of Québec police officers* (chapter P-13.1, r. 1) for its part, determines the duties and standards of conduct of police officers in their relations with the public in carrying out their duties, and reiterates this concept. This code, which applies in particular to members of the SQ and to members of municipal and Aboriginal police services, stipulates that police officers must conduct themselves in such a way as to

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<sup>37</sup>Nadeau, A.R., 2018, *Droit policier québécois 2018-2019 – Loi sur la police annotée et règlements concernant la police*, 22<sup>e</sup> édition, Montréal, Éditions Yvon Blais.



maintain the trust and consideration required by their office by not committing acts or using injurious language based on race, colour, or ethnic or national origin (section 5.4). As acknowledged, however, by the Police Ethics Commissioner, “[translation] ... police officers are not immune to prejudice and stereotypes that may circulate,”<sup>38</sup> and it must be acknowledged that even today, cases of racial profiling and discrimination may occur, despite the progress that has been made in recent years, and despite the training provided.

This is why the *Police Act* provides various mechanisms for supervision of the policing function (police ethics, internal discipline, a criminal offence allegations system) which make it possible to provide responses to situations that are indeed unfortunate, but that may occur, while also providing guarantees of fair treatment for police officers. As a counterpart, these tools, particularly the ethics system, are often not well known to the population, particularly to the First Nations and to the Inuit. When they are known, they are perceived as being too complex or legally technical. They are also the subject of mistrust, and the collaboration of complainants is often difficult to obtain and to maintain throughout the process. The Ethics Commissioner has, in fact, begun a reflection process on the means that could, in the longer term, improve accessibility to this form of recourse and the understanding of the process by these persons.

In this same spirit, and based on the principles of transparency and impartiality, the MSP has recently brought in new initiatives, after consultation with various Aboriginal organizations, to handle allegations of a criminal nature involving police officers in cases where the alleged victim or the complainant is a member of a First Nation or of the Inuit Nation. A special unit within the BEI will now be responsible for investigating this category of allegations, and specific measures have also been taken to provide accompaniment for the victims and complainants (Aboriginal liaison and support officers) as well as to develop expertise within the BEI.

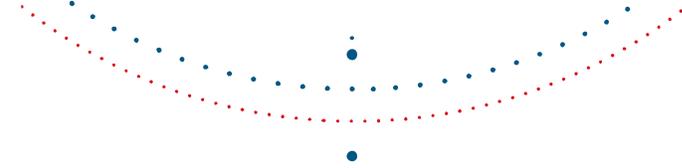
However, above and beyond these various control mechanisms, the MSP considers that the solution relies mainly on education, awareness-building and training, which constitute true vectors of change for a lasting and in-depth adaptation of methods. Since the MSP is not itself a provider of services, its role consists rather of assisting and better equipping police services, whether Aboriginal or non-Aboriginal.

## **Aboriginal police services**

In contrast to most other Canadian provinces, the Government of Québec prefers a model with police services in Aboriginal lands provided by Aboriginal people. The *Police Act* provides that the government “may enter into an agreement with one or more Native communities, each represented by its band council, to establish or maintain a police force in a territory determined

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<sup>38</sup>Police Ethics Commissioner, 2017, *Rapport de gestion 2016-2017*, Québec, Government of Québec, p. 5.



under the agreement” (CQLR, chapter P-13.1, section 90). Nearly the entire Aboriginal population of Québec (about 90%) is thus served by self-managed Aboriginal police services capable of fulfilling the needs and aspirations of the First Nations and of the Inuit. Aboriginal police forces thus act with the full independence granted them by the applicable legal framework, and the MSP exercises the same duties toward them as toward other police services.

The contribution of the federal government (52%) and of the Government of Québec (48%) allows for the financing of Aboriginal police services, which have available to them the Guide *des pratiques policières* (police practices guide) produced by the MSP.<sup>39</sup> The latter constitutes a support and reference document aiming to harmonize the guiding principles of police action in Québec. By relying on this guide, Aboriginal police services may thus adopt guidelines that reflect the directives while respecting the social, cultural and geographic realities of their communities.

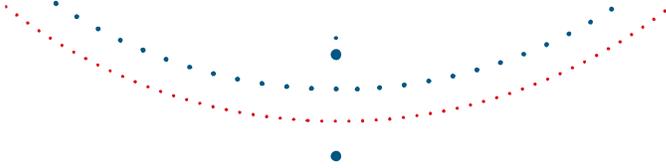
Over the past several years, the MSP has placed priority on the upgrading and professionalization of Aboriginal police services, and has assisted them in a number of ways. In contrast to the situation that existed at the beginning of the First Nations Policing Program, Aboriginal police officers are now nearly all police patrollers who have been properly trained at the ENPQ,<sup>40</sup> and the police services have now acquired a degree of organizational maturity. The MSP now intends to carry out the inspections of these organizations in accordance with the provisions of the *Police Act*. Indeed, an objective along these lines is provided in *the Plan stratégique 2017-2021* of the Ministère de la Sécurité publique. These inspections, which aim to contribute to achieving high standards of efficiency, fit within the broader framework of the actions taken by the MSP, which is currently increasing its efforts toward dialogue and cooperation with Aboriginal police services.

Much of the testimony heard, both from Aboriginal chiefs and from some chiefs of police, raised the underfunding of Aboriginal police services. In this regard, the situation has since improved considerably. Public Safety Canada has announced a substantial increase of 29.3 million dollars over five years, in the budget of the First Nations Policing Program (FNPP). This increase includes annual indexing of 2.75% beginning in 2019-2020. The Government of Québec has itself undertaken to increase its funding to the same degree, maintaining the 52%-48% ratio. In addition, the federal government has announced that the FNPP will be made permanent, which now allows for the conclusion of long-term agreements that may last up to ten years, thereby ensuring the stability of police organizations. Many communities have taken advantage of this

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<sup>39</sup> Ontario and Québec each cover 24% of the funding of the Akwesasne Mohawk Police Service.

<sup>40</sup> The ENPQ tuition fees are exactly the same for Aboriginal and non-Aboriginal recruits. The perceived gap is easily explained, however: Aboriginal police services do not contribute to the funding of the ENPQ, as opposed to other police services.



possibility. Moreover, certain communities whose needs were higher have benefited from increases of over 50% in their funding for the current year. The Government of Canada has also announced that for the 2019-2020 and 2020-2021 fiscal years, additional amounts will support up to 110 additional police officers in Canadian Aboriginal communities. The details have not yet been announced. The same is true of the announcement, also by the Government of Canada, of 4 billion dollars in investments for Aboriginal infrastructure.

Beyond the question of funding, that of the status of Aboriginal police services under the *Police Act* was also at the centre of discussion. In this area, the MSP preferred a flexible approach adapted to the reality of each of the communities, which is allowed under the current agreement-based model. Nevertheless, in the context of treaty negotiations, it continued to be open to adapting the applicable legal framework and is still doing so in the negotiations under way with the Attikamek and the Innu. It is also open to continuing the reflection process with the parties concerned in order to find a solution ensuring stability and fairness in the funding of self-managed Aboriginal police services. However, these are complex issues that involve many factors, including some that are of a constitutional nature, and will undoubtedly require an exhaustive and in-depth analysis that should be carried out with the main partners.

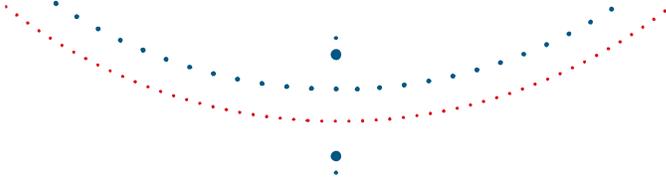
## Sûreté du Québec

“The Sûreté du Québec, the national police force, shall act under the authority of the Minister of Public Security and shall have jurisdiction to enforce law throughout Québec” (CQLR, chapter P-13.1, section 50). SQ police officers provide exclusive coverage of 1,041 cities, municipalities and territories spread out across 86 regional county municipalities, in addition to directly serving 11 Aboriginal communities and supporting 22 Aboriginal police services that serve the other 44 communities in Québec.<sup>41</sup>

In 2016, the SQ created the Bureau des affaires autochtones in order to build ties with Aboriginal populations and to foster consistent and integrated interactions. It also adopted a plan of action for the period 2016-2018, with the goal of optimizing the provincial deployment of Aboriginal liaison services, which are now done on nation-by-nation basis, rather than based on merely geographical considerations. This plan aims, among other things, to reinforce partnerships with Aboriginal communities and collaborators in the field as well as to perfect knowledge and improve interventions. Like many other police services, the SQ is currently exploring several avenues to support police officers in their day-to-day interventions with Aboriginal people in temporary or permanent situations of vulnerability (specialized training, awareness-building sessions, establishment of strategic partnerships, etc.). From this perspective, it has established a combined Aboriginal community police station in Val-d’Or, with

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<sup>41</sup>Sûreté du Québec, 2017, *Rapport annuel de gestion 2016-2017*, Montréal, p. 13.



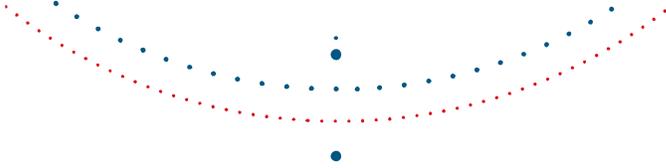
the collaboration of the SAA, the MSSS and the Association des policières et policiers provinciaux du Québec.

Historically, the SQ adopted a community-based approach, in the 1990s, and over the years, has developed an original model that is now studied around the world: the *Québec proximity policing model*. This model stands out among other things because of the “inclusion of a form of sponsorship intended to strengthen the ties with the communities and elected officials.”<sup>42</sup> This model still has room for improvement, or could be reinvented, so as to fulfill the expectations of Aboriginal communities, although the SQ has reinforced its network of Aboriginal liaison officers whose role includes, in particular, establishing and maintaining ties with elected and unelected members of Aboriginal communities and their police organizations, as well as with both Aboriginal and non-Aboriginal organizations that serve Aboriginal people. In the longer term, these liaison officers will be called upon to assist the Aboriginal peoples in different investigative processes. The SQ is in fact currently seeking to identify incentives that could facilitate the hiring of Aboriginal police officers, in addition to exploring the possibility of setting up interdisciplinary intervention teams able to better respond to the needs and aspirations of the First Nations and Inuit; the *Équipe mixte en itinérance – policiers et intervenants communautaires (EMIPIC)*, created in 2015, in collaboration with the *Centre intégré des services de santé et des services sociaux (CISSS)* in Abitibi-Témiscamingue, provides an example of actions recently taken by the police service. The SQ intends to carry out several other similar actions. As attested by the Government Action Plan for the Social and Cultural Development of the First Nations and Inuit, the SQ plans to set up an EMIPIC in Sept-Îles, for example, in addition to creating a working group on training for Aboriginal police officers working in Aboriginal communities, including investigative training. Chaired by the MSP, this committee, which includes three representatives of the *Association des chefs de police des Premières Nations du Québec*, held its first meeting this past July 19.

In short, the SQ is taking the necessary measures to strengthen its operational and strategic ties with Aboriginal communities. More time will be needed to establish a new relationship of trust or to restore ties that have been weakened or broken. Yet the SQ has given itself a mandate to exercise leadership with respect to Aboriginal matters. It now sees more clearly the importance of maintaining regular communication with its Aboriginal partners, as well as that of maintaining a watch function and ensuring the acquisition of knowledge and skills in the area of Aboriginal relations.

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<sup>42</sup>Lamontagne, S.L., 2003, “Le virage communautaire des organisations policières,” in Côté, R., Vennes, M. (dirs.), 2003, *L’annuaire du Québec*, Montréal, Fides, pp. 223-226.



## D) MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

The mission of the MSSS is to maintain, improve and restore the health and well-being of Quebecers by providing access to a range of quality and integrated health and social services, thereby contributing to the social and economic development of Québec.<sup>43</sup> Its role is to ensure the proper functioning of Québec’s health and social services system. This is an important duty to which the Government of Québec devotes considerable resources. Indeed, “health and social services represent the greatest share of public expenditures, amounting to nearly 50% of Québec’s overall spending programs in 2016-2017, and accounting for a substantial share of the GDP.”<sup>44</sup> Since the creation of the MSSS in 1985, the organization and governance of Québec’s health and social services network (HSSN) have undergone major changes, particularly in 2015, with the adoption of the *Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies* (CQLR, chapter O-7.2).<sup>45</sup>

Thus, since 2015, the HSSN has included 141 institutions comprising over 1,649 facilities (physical locations) throughout Québec. Of these institutions, 90 are in the private sector and 51 are publicly owned. The public network is composed of thirteen integrated health and social service centres (CISSS), nine integrated university health and social service centres (CIUSSS), five institutions for the northern or Aboriginal populations and twenty-four other institutions designated as “non-merged” (institutes, university hospitals, etc.). A considerable number of complementary, private, intermediate or community resources and social economy enterprises exist in addition to this institutional network: 1,447 general practitioners’ clinics, including 302 family medicine groups, 1,895 community pharmacies, 1,956 intermediate resources, including supervised apartments and group homes, 7,533 family-type resources, 1,832 private residences with senior citizens’ services and 3,425 community organizations, etc.<sup>46</sup>

This network of services places the Government of Québec in a good position with regard to the health of the population, the good results of its hospital care and the technical quality of the care provided, both in terms of safety and relevance, and in terms of best practices. A healthy relationship also exists between family physicians and their patients with regard to respect and

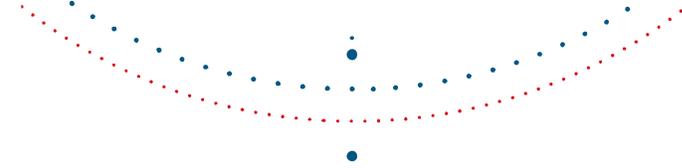
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<sup>43</sup>Gouvernement du Québec, 2018, *Mission, Ministère de la Santé et des Services sociaux* [online], <http://www.msss.gouv.qc.ca/en/ministere/mission/> (page consulted November 26, 2018).

<sup>44</sup>CSBE, 2016, *La performance du système de santé et de services sociaux québécois*, Québec, p. 4.

<sup>45</sup>Québec, 2018, *Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies: RLRQ, chapter O-7.2*, updated as of June 1, 2018, Québec, Éditeur officiel du Québec.

<sup>46</sup>Gouvernement du Québec, 2017, *Rapport annuel de gestion du ministère de la Santé et des Services sociaux: 2016-2017*, Québec, Direction des communications, Ministère de la Santé et des Services sociaux, pp. 22-24.



quality of communication.<sup>47</sup> That being said, accessibility, continuity of care and the range of services vary from one region to another.

Under the JBNQA (1975)<sup>48</sup> and the NEQA (1978),<sup>49</sup> The Cree, Inuit and Naskapi communities under agreement take charge of deployment and management of health services and social services in their respective lands. The Cree Board of Health and Social Services of James Bay, the Nunavik Regional Board of Health and Social Services and the CLSC Naskapi receive funding from MSSS in order to ensure the provision of these services within their respective lands. For these three nations, MSSS also assumes financial responsibility for the uninsured health services program, which primarily provides reimbursement of prescribed medication, medical transportation, eye care, dental care and medical supplies and equipment.

Throughout the territory of Québec, the Aboriginal population is covered by the *Act Respecting Health Services and Social Services* (CQLR, chapter S-4.2),<sup>50</sup> the *Health Insurance Act* (CQLR, chapter A-29)<sup>51</sup> and the *Hospital Insurance Act* (CQLR, chapter A-28).<sup>52</sup> According to section 91 of the *Constitution Act, 1867*, “Indians” and the land granted to them fall under the exclusive legislative authority of the federal government.<sup>53</sup> Accordingly, the Aboriginal communities referred to as non-agreement communities have the autonomy and responsibility to set up their own health services and social services according to arrangements and objectives that are suitable to them.

It is worthwhile to note the particular context surrounding the delivery and funding of health services and social services provided to members of the First Nations and Inuit. Indeed, in view of the financial involvement of the federal government in this field of activity in the Aboriginal context, the handling of service delivery by the communities through federal programs, the nature of the services provided and the places of residence of these user groups, different

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<sup>47</sup>CSBE, *op. cit.*, p. 54.

<sup>48</sup>Gouvernement du Québec, 1998, *Convention de la Baie-James et du Nord québécois et conventions complémentaires*, Québec, Les publications du Québec.

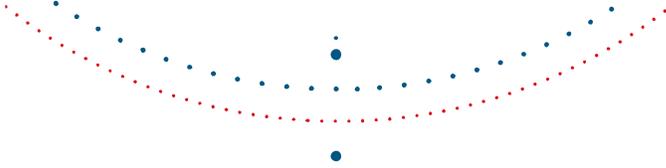
<sup>49</sup>Government of Canada, 1978, *Northeastern Québec Agreement*, Ottawa, Canadian Department of Indian and Northern Affairs.

<sup>50</sup>Gouvernement du Québec, 2018, *Act respecting health services and social services, CQLR, chapter S-4.2*, current version as of June 1, 2018, Québec, Éditeur officiel du Québec, p. 11.

<sup>51</sup>*Id.*, 2018, *Health Insurance Act: CQLR, chapter A-29*, current version as of June 1, 2018, Québec, Éditeur officiel du Québec.

<sup>52</sup>*Id.*, 2018, *Hospital Insurance Act: CQLR, chapter A-28*, current version as of June 1, 2018, Québec, Éditeur officiel du Québec.

<sup>53</sup>*Id.*, “*Constitution Act, 1867*,” *Justice Laws Website* [online], <https://laws-lois.justice.gc.ca/eng/Const//page-1.html> (page consulted November 26, 2018).



jurisdictions may be called upon to provide funding for the health services and social services provided to the Aboriginal population in Québec.<sup>54</sup>

During the Forum socioéconomique des Premières Nations in Mashteuiatsh, in 2006, MSSS made a commitment to foster the transfer of knowledge and expertise, to share training and information technology tools and to improve the links between the health services and social services of the Québec network and those of the communities.<sup>55</sup> The Direction des affaires autochtones (DAA) is mandated to coordinate Aboriginal files within MSSS, in the respect of ministerial directives. Various coordination mechanisms have been adopted for this, including the designation of officials responsible for Aboriginal matters in each of the HSSN institutions. The role that these officials are expected to play is to work in a manner complementary to the needs and priorities of each institution, to foster ties between the institutions and the regional and local authorities, the other officials responsible for the HSSN file, Aboriginal communities present in the territory and the DAA.

In spite of universal access to services provided by the HSSN, it has become apparent that a certain mistrust toward the institutions exists among the Aboriginal population. Bad experiences and prejudice perceived by certain Aboriginal people to be directed toward them represent obstacles to their uptake of health services and social services in the cities.<sup>56</sup> Hence, not only greater collaboration between Aboriginal organizations and HSSN institutions, but also the deployment of safe and relevant services within the institutions will be preferred means of ensuring greater accessibility of health services and social services for Aboriginal people.

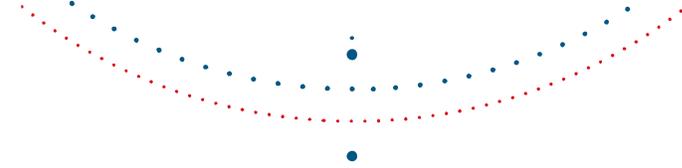
It is precisely in order to reduce this mistrust and to improve access to its services that MSSS has begun work aiming to develop guidelines that will enable the HSSN to adapt its methods and to deploy safe and relevant services. The HSSN will thus be acting on a complementary basis with the local and regional organizations that serve the members of the First Nations and Inuit. Several institutions are currently collaborating with these organizations to implement, deploy and support initiatives specifically aimed toward Aboriginal persons in an urban setting. The co-chairing of discussion tables on local accessibility of services for Aboriginal persons in urban settings, which is shared between Aboriginal friendship centres and the CISSS/CIUSSS of each city targeted, is an example of this renewed collaboration.

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<sup>54</sup>Gouvernement du Québec, 2007, *Delivery and funding of health services and social services for aboriginal people (First Nations and Inuit) - Frame of reference*, Québec, Direction des communications du ministère de la Santé et des Services sociaux du Québec, p. 12.

<sup>55</sup> *First Nations Socioeconomic Forum, 2006, First Nations Socioeconomic Forum Report: Acting now ... for the future*, Mashteuiatsh.

<sup>56</sup>Regroupement des centres d'amitié autochtones du Québec, *Planification stratégique régionale, Québec, 2015-2017, Stratégie pour les Autochtones vivant en milieu urbain*, Wendake, 2015.



The MSSS and the HSSN are also working to develop strategies to improve access to and continuity of addiction-related services for members of the First Nations and Inuit. These actions will enable the institutions targeted to improve the harmonization between the services provided, to adapt or design various tools aiming to improve the continuum of services, and to optimize the trajectory of services at the institutions, so as to better adapt it to the First Nations and Inuit user groups.

Within the HSSN, a certain number of institutions have been designated by the Minister of Health and Social Services to provide services to English-speaking users. In addition, each HSSN institution sets up a program for access to English-language services, taking into consideration the regional linguistic realities. Moreover, the institutions organize their interpretation and translation services differently and also have access to the services of the Banque interrégionale d'interprètes de Montréal (inter-regional interpreters bank).<sup>57</sup>

With regard to the issues surrounding youth protection, the Directors of Youth Protection (DPJ) at the HSSN institutions will submit a separate brief to the Commission. It is important to note that a first agreement was recently signed between the Government of Québec and the Conseil de la Nation Atikamekw, establishing a specific youth protection regime.<sup>58</sup> In addition, the *Act to amend the Youth Protection Act and other provisions* (Bill 99) aims to adapt the services to Aboriginal cultural realities.

The hearings before the Commission have made it possible to target certain issues connected with the provision of health services and social services. These issues raise the importance of taking into account Aboriginal cultural needs and realities in order to improve access to services. Several strategies applied by the MSSS and the HSSN aim to implement concrete actions in response to the issues raised. The collaboration work between the MSSS and its different partners, whether the HSSN, the federal government or Aboriginal organizations, must continue in order to properly respond to the political, administrative and legal issues relating to health services and social services.

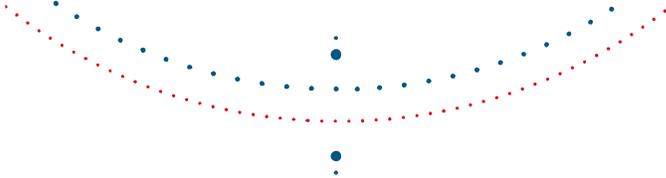
## **E) MINISTÈRE DE L'ÉDUCATION ET DE L'ENSEIGNEMENT SUPÉRIEUR**

The linguistic school system is governed in particular by the *Education Act* (CQLR, chapter I-13.3), and by various statutes governing pre-school education, primary, secondary and occupational education, college education and finally university education.

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<sup>57</sup>Gouvernement du Québec, 2016, "Banque interrégionale d'interprètes," *Santé Montréal* [online], <https://santemontreal.gc.ca/en/professionnels/services-et-outils/banque-regionale-dinterpretes/> (page consulted August 15, 2018).

<sup>58</sup>*Id.*, 2018, *Entente visant à établir un régime particulier de protection de la jeunesse pour les membres des communautés de Manawan et de Wemotaci*, Québec.



Under the *Indian Act* of 1882, INAC is mandated to build and administer primary and secondary schools in Aboriginal communities. In Québec, there are thus some thirty schools in non-agreement bands, spread out in different communities. In 1975 and 1978, the signing of the JBNQA and the NEQA led to the creation of the Kativik School Board, the Cree School Board and the Naskapi School. These agreements have now transferred responsibility for the education of Cree, Inuit and Naskapi Aboriginal students to the Government of Québec. The funding of these three educational organizations is divided between the governments of Québec and Canada as follows: for the Cree School Board and the Naskapi School, 75% from Canada and 25% from Québec; for the Kativik School Board, the ratio is reversed. These three educational organizations have the mission to provide educational services at the pre-school, primary and secondary levels as well as adult education. As regards the non-agreement nations, education is funded by the federal government through the band councils who, for their part, must provide educational services to Aboriginal students living within the community.

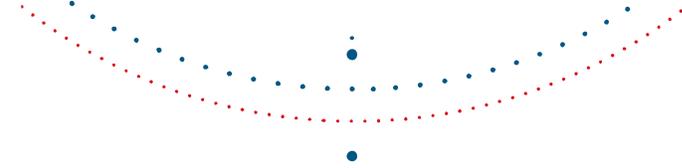
A number of Aboriginal students attend the linguistic school system. However, most attend a band school. This proportion stands at 95.2% at the preschool level and nearly 90% in primary school, and then 81.1% in secondary school. In post-secondary education, Aboriginal students generally attend institutions in the Québec system. Moreover, several cégeps and universities have set up services, programs and reception structures adapted to the needs of these students in order to facilitate their inclusion.<sup>59</sup>

The Aboriginal population in Québec is increasing; its demographic profile is considerably younger than that of the population at large, and its relative proportion will continue to increase a little more every year within Québec's student body. For this reason, the Government of Québec recently renewed its commitment to set up services adapted to the realities of Aboriginal pupils and students. As reflected in the Government Action Plan for the Social and Cultural Development of the First Nations and Inuit, the MESS thus supports some ten measures applying to school and higher education, representing nearly 20 million dollars of investment over the next five years. These new measures aim, for example, to allow for the hiring of resource persons to support Aboriginal students in their educational progress, to establish initiatives and projects aiming to improve retention and educational success of Aboriginal students, or to support the setting up of two pilot projects for residences for Aboriginal students.

The MEES aims to enable a larger number of Aboriginal students to acquire an educational profile comparable to that of other students in the linguistic school system that they attend. The MEES is in fact supporting several initiatives for training and awareness-building intended for the many professionals in the system. This is the case, for example, of the *Matinamagewin*

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<sup>59</sup>MESS, 2013, *L'éducation des populations scolaires dans les communautés autochtones du Québec en 2010*, *Bulletin statistiques de l'éducation*, n° 42, pp. 6-7



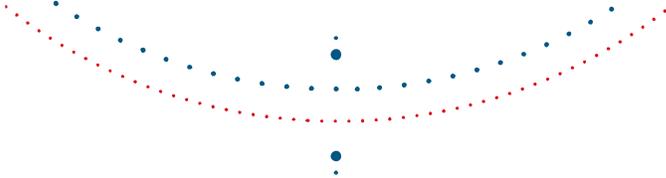
training program (UQAT), specifically connected with the Aboriginal educational context and intended for the school staff of the linguistic school boards who have to work with Aboriginal populations, or the project *Accompagnement à l'amélioration continue des pratiques pour soutenir le développement professionnel des enseignants œuvrant auprès d'élèves autochtones* (UQAC/Nikanite).

Since 2004, the MEES has been applying a budgetary measure within the *Règles budgétaires des commissions scolaires* (budgetary rules for school boards) to allow for the development of local projects aiming to build the awareness of non-Aboriginal students on Aboriginal realities. This measure is intended for institutions in the linguistic school system that wish to develop knowledge acquisition projects on contemporary realities, ways of life and traditions of Aboriginal communities. Aboriginal content is covered within the school curriculum, particularly in geography, history and citizenship education programs at the primary level. Particular emphasis has been placed on this subject in the secondary 3 and 4 history program review which covers, among other things, the period of the Aboriginal residential schools, the *Indian Act* and the signing of the main treaties and agreements in Québec. These changes were carried out in collaboration with Aboriginal organizations. With Québec's *Policy on Educational Success*, the MEES has also set up the Table nationale sur la réussite éducative des élèves autochtones (the Table), which is mandated to create an official forum of collaboration between the MEES and various organizations (educational, community-based, Aboriginal etc.), concerning the possible interventions to significantly improve student retention and educational success. Over the coming year, the Table will have the mandate to set up measures adapted to the needs of Aboriginal clientele in the MEES's strategy *It's all about the children* and in its Digital Action Plan.

## **F) SECRÉTARIAT À LA CONDITION FÉMININE**

The SCF supports the development and consistency of government actions aimed at achieving equality between women and men in Québec. It does not provide direct services to the population. On account of its limited structure, it does not include an Aboriginal affairs section, but has one official whose mandate is specifically devoted to First Nations and Inuit issues.

In view of its responsibility for coordination of government interventions in the area of sexual violence and spousal violence, the SCF is directly concerned with violence against Aboriginal women and girls, as well as by spousal and domestic violence experienced by the First Nations and Inuit. The available data on violence against women indicate that a specific situation has existed in Aboriginal nations for a number of years. Studies carried out in 2001 and 2002 demonstrated that members of Aboriginal populations in Canada were five times as likely to be



the victims of an offence of a sexual nature.<sup>60</sup> A report published in 2005 by QNW indicated that sexual assault is subject to a considerable taboo within First Nations.<sup>61</sup> More recently, a publication by the Conseil du statut de la femme (CSF), carried out in collaboration with QNW, revealed that Aboriginal women represented 16% of the women murdered in Canada between 1980 and 2012 (whereas they represent 4.3% of the female population),<sup>62</sup> that they accounted for 11.3% of missing women in the country in 2013,<sup>63</sup> and that Aboriginal women who are victims of spousal violence are “proportionally more likely to fear for their lives than non-Aboriginal women (52% compared to 31%).”<sup>64</sup> The Government of Québec does not tolerate any violence or discrimination.

In this context, the SCF has implemented various measures in recent years in order to strengthen the fight against sexual, spousal and domestic violence, and promotes the attainment of equality and complementarity between women and men. In particular, it has improved the partnership agreements concluded with Aboriginal women’s organizations and groups in the Nord-du-Québec region (the KGR, the Inuit Women’s Association of Nunavik, Saturviit, and the Cree Women of Eeyou Istchee Association) and is continuing to provide support to a number of initiatives developed and implemented by Aboriginal women’s groups. Among these initiatives, note the support for sexual violence prevention actions conducted by QNW in the northern development territories, support for the First Nations Forum on sexual assault organized by QNW and the FNLQHSSC, in the spring of 2018, or the support to the Inuit Women’s Forum in Montréal, organized in September 2018 by the Inuit Women’s Association of Nunavik, Saturviit.

The *Government Action Plan on Domestic Violence 2012-2017* included 135 commitments, 35 of which are specifically devoted to issues concerning Aboriginal nations. The activities carried out through this Action Plan have produced concrete results. They have made it possible to improve the training provided to partners in the policing, judicial and community sectors in order that they may better understand Aboriginal realities and be better equipped in the context of their interventions. In addition, this training has made it possible to encourage mobilization of Aboriginal communities to better counteract spousal and family violence.<sup>65</sup> In August 2018, the

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<sup>60</sup>Gouvernement du Québec, 2008, *Plan d’action gouvernemental 2008-2013 en matière d’agression sexuelle, Volet autochtone*, Québec, p. 12.

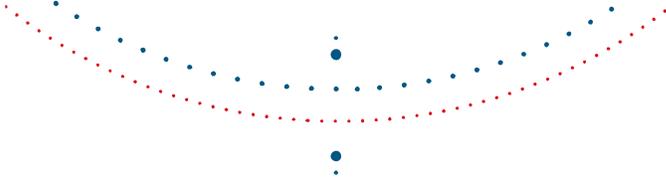
<sup>61</sup>QNW, 2005, *Projet Ussi-Inium, Étude sur l’abus sexuel chez les Premières Nations du Québec, Rapport final*, Kahnawake.

<sup>62</sup>Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, quoted in CSF, 2016, *À la rencontre des femmes autochtones du Québec*, gouvernement du Québec, Québec, p. 36.

<sup>63</sup>*Ibid.*

<sup>64</sup>SHINA, Maire, 2013, *Mesure de la violence faite aux femmes : tendances statistiques*, Juristat, February 25, quoted in CSF, 2016, *À la rencontre des femmes autochtones du Québec*, gouvernement du Québec, Québec, p. 38.

<sup>65</sup>SCF, 2018, *Bilan du Plan d’action gouvernemental 2012-2017 en matière de violence conjugale*, Québec, pp. 73-74.



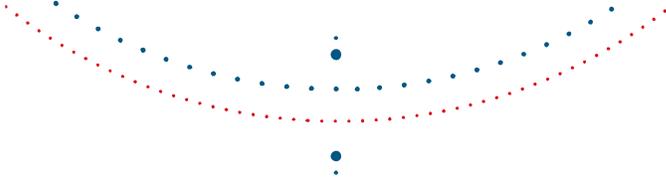
Government of Québec launched the *Plan d'action gouvernemental en matière de violence conjugale 2018-2023*. This plan aims to accomplish 56 new actions for the benefit of the entire population of Québec. In addition to these new actions, the ministries and organizations have made a commitment to develop and implement measures aiming to respond specifically to the needs of Aboriginal nations in Québec in the area of spousal and family violence. These specific measures will be developed following a collaborative consultation process with organizations representing the First Nations and Inuit. This process, begun in June 2018, will lead to the identification of action priorities and culturally relevant responses in the area of spousal and family violence. The SCF is responsible for coordinating this process, with the collaboration of the SAA. It will be recalled that in the budget speech of March 2018, the Government of Québec announced 14.4 million dollars of new funding over five years to finance measures devoted to Aboriginal people in the area of spousal violence.

With the implementation of the Government Action Plan for the Social and Cultural Development of the First Nations and Inuit, the SCF plans to finally create a forum for discussion between Aboriginal organizations and government ministries and agencies in order to prioritize the issues and approaches aiming to improve the living conditions of women of the First Nations and Inuit in Québec. In this regard, the Government of Québec recognizes that collaboration and co-construction with Aboriginal representatives are essential to implement concrete, culturally safe and relevant responses to the issues of violence against women and inequalities between women and men.

## CONCLUSION

The hearings held by the Commission constituted an opportunity for the Government of Québec to build a better awareness of its relations in the field with Aboriginal citizens. More concretely, this exercise provides it with the opportunity to review the actions and services that it provides or could provide in order to respond to the main issues and challenges that have been brought to light by the testimony from the different witnesses. By gaining an awareness of the concerns expressed by the witnesses, it was possible for many government stakeholders to better understand the viewpoint of Aboriginal people relating to their specific needs in the provision of public services.

In hearing this testimony, the Government of Québec was able to make certain observations. The most important of these is that the time has come for better understanding, on either hand, in order to eliminate obstacles created by mistrust, prejudice and ignorance. The deliberations of the Commission had an undeniable impact on the public at large; indeed the deplorable conditions and unacceptable situations that a number of our Aboriginal fellow citizens face were widely broadcast and were brought to the attention of the population. Quebecers know that things must change.



The Government of Québec will carefully examine the proposals that will be made to correct the systemic problems brought to light by the work of the Commission, and that will require organizational solutions (reassignment of human, material or economic resources, strategic reorganization, redeployment of services, staff training, etc.). The fact that certain allegations do not necessarily reveal systemic issues does not diminish their importance.

It should be reiterated that any discriminatory act must be reported by the witnesses and victims. Such acts must be duly punished by the competent authorities when they come to light, and the appropriate assistance must be provided to those who have suffered from them.

The establishment of high ethics and standards of conduct in the public services network is “[translation] an essential and high-priority” matter<sup>66</sup> to the Government of Québec. The Government formally requires professionals in the system to display integrity, honesty, impartiality and probity.<sup>67</sup> If the ethical standards and codes of conduct already in place ought to be reviewed in certain particular sectors of the system and in certain regions of Québec, as well as the monitoring and control mechanisms, the Government of Québec will devote particular attention to this. In the very near term, it would appear that sustained efforts will need to be made in order for the complaint mechanisms to be better known among the Aboriginal communities.

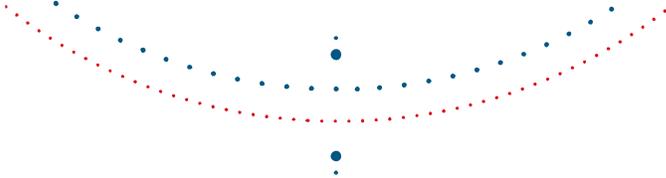
Solutions to the problems brought to light through the testimony received by the Commission require greater dialogue and collaboration effort between the different ministries and agencies involved, the Aboriginal organizations and communities and, in many fields, the federal government. Moreover, it has become clear that government initiatives can no longer be instigated without taking into account the priority needs defined by the Aboriginal communities themselves. Furthermore, additional work is needed to ensure that such initiatives are defined and orchestrated with the participation of the Aboriginal stakeholders.

The principle of cultural safety and relevance must therefore continue to guide governmental action. It must become concretely entrenched within the government service networks in Québec. The aim would be to maximize the accessibility and effectiveness of service delivery by these networks through the gradual and coherent adaptation of their actions. Ultimately, the goal would be to provide public services attuned to Aboriginal sensitivities, historical specificities and cultures, in order to eliminate the obstacles that too often hinder Aboriginal citizens when they face networks and services with which they do not identify, and that often reflect values and customs that are foreign to them. Here, it is essential for those providing public services in

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<sup>66</sup>Bernier, P., 2002, *L'éthique au sein du service public: un aspect de la gestion à moderniser, Éthique de l'administration et du service public*, vol. 4(1), p. 1.

<sup>67</sup>*Public Service Act*, CQLR, chapter F-3.1.1.



Québec to understand Aboriginal specificities and to acquire the appropriate skills.<sup>68</sup> In this regard, the Government of Québec is aware that actions along these lines must be continued or initiated.

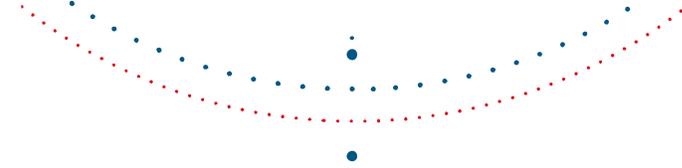
The Government of Québec cannot, however, act alone. Indeed it is acting in a context of shared responsibilities. If these are not always shared in the clearest way, at least it is necessary for each government to display an attitude of willingness, given the challenges being faced. Each party must approach its responsibilities not only in the restrictive framework of constitutional debates, but from the viewpoint of the well-being of the populations concerned, motivated by the primary intention of always seeking to provide the best possible services. The Government of Québec has no intention of impinging on the jurisdiction, responsibilities or prerogatives of the Government of Canada, nor does it wish to take the place of the Aboriginal organizations themselves. However, as it has already demonstrated by means of its Government Action Plan for the Social and Cultural Development of the First Nations and Inuit, it has the clear will to commit to moving forward, to the best of its potential, with the project of improving the living conditions of Aboriginal people in Québec. The respective contributions of both orders of government must add to one another and complete one another in accordance with their respective obligations, and not become bogged down in a conflict over areas of jurisdiction. Each party must fulfill its responsibilities.

With regard to the realities of Québec, the accounts delivered before the Commission point to difficulties concerning access to certain public services, in remote regions as well as in urban areas. Hence it is necessary to focus on the possibility of having to rethink or reorganize certain services in order to better fulfill the needs and aspirations of the First Nations and Inuit. These services could become more familiar to them, and in many cases, could be structurally better adapted to their cultural specificities and could also be offered by agents who are better informed and better equipped regarding these specificities. The Government of Québec is already working to make these improvements and intends to increase its efforts in this direction. However, this task must be carried out within a context that involves objective obstacles: the Québec public services network has organizational, structural and financial limitations that cannot be ignored or swept aside.

Owing to its concern to come to the assistance of the most disadvantaged Aboriginal populations, the Government of Québec is actively working to create, within Québec society, a state of equal opportunities, a state of fairness that will enable each citizen to bring together the conditions for his or her personal success and to build a fruitful and gratifying life. No doubt the Commission's recommendations will be able to contribute to orienting the Government of Québec and its Aboriginal partners toward this crucial task.

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<sup>68</sup>This orientation is already clearly put forward in the *Government Action Plan for the Social and Cultural Development of the First Nations and Inuit* (see pp. 14-15).



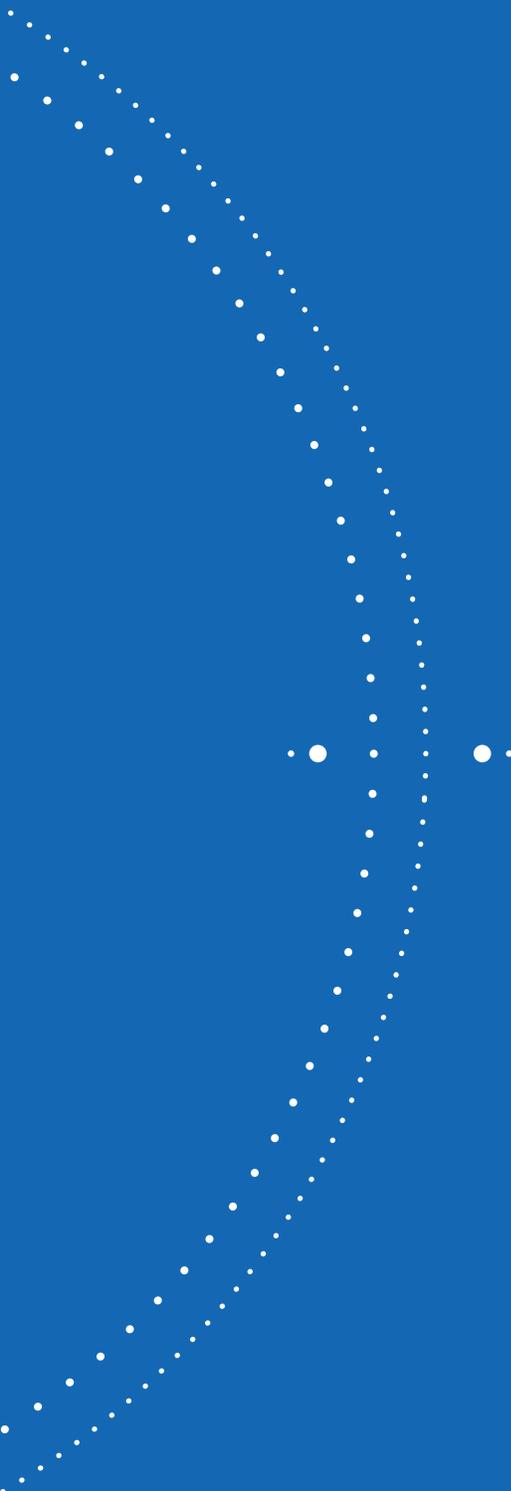
## ANNEX A

### LIST OF ABBREVIATIONS AND ACRONYMS

- INAC** Indigenous and Northern Affairs Canada
- BEI** Bureau des enquêtes indépendantes
- CAVAC** Centre d'aide aux victimes d'actes criminels
- JBNQA** James Bay and Northern Québec Agreement
- CISSS** Centre intégré de santé et de services sociaux
- CIUSSS** Centre universitaire intégré de santé et de services sociaux
- NEQA** Northeastern Québec Agreement
- CQLC** Commission québécoise des libérations conditionnelles
- CSF** Conseil du statut de la femme
- DPCP** Directeur des poursuites criminelles et pénales
- ENPQ** École nationale de police du Québec
- CWB** Community Well-being Index
- MEES** Ministère de l'Éducation et de l'Enseignement supérieur
- MJQ** Ministère de la Justice du Québec
- MSP** Ministère de la Sécurité publique
- MSSS** Ministère de la Santé et des Services sociaux
- HSSN** Health and Social Services Network
- SAA** Secrétariat aux affaires autochtones
- SCF** Secrétariat à la condition féminine







Secrétariat  
aux affaires  
autochtones

Québec 